

GETTING GEORGIANS BACK TO WORK

First Offender Act: Keeping the Promise: HB 162



The First Offender Act is Georgia's original Second Chance law, enacted in 1968 to prevent an isolated mistake from leading to a lifetime of barriers. Here's how it offers real opportunities for Georgians to succeed:

- 1 If a person has never been convicted of a felony before and is charged with certain offenses¹, judges have discretion to offer a First Offender sentence – typically probation with required conditions.
- 2 A First Offender case is **not** a conviction. If a person successfully completes their sentence, the case is “discharged,” meaning they are exonerated of guilt without any impact on their rights or liberties.²
- 3 People are told their case records **will stay private** and not appear on private background checks.
- 4 If a person does not successfully complete their sentence, the judge may enter a conviction.

The Problem: This law offers real second chances, but its promise to keep records private is failing.



- Private background checks have changed since the 1960's, and Georgia's law has not kept up.
- **Despite the promise of record clearance, court records can still appear on private background checks** – keeping in place the very barriers that First Offender was meant to prevent. People are denied employment, housing, and education during and after their First Offender cases.

The Solution: Bring the First Offender Act into the 21st Century. Seal court records at the time of First Offender Act sentencing to allow the Act to deliver on its promise. Avoid unintentionally sidelining talented Georgians from the workforce.

- Current law allows the court to restrict and seal GCIC and court records at sentencing; it mandates that GCIC restrict records at discharge. This leaves a loophole that enables private background check companies to report cases, despite the promise to keep records private.
- This bill requires restriction and sealing of GCIC and court records at sentencing. This way, private background check companies cannot report successful First Offender cases.
- Law enforcement and sensitive employers³ can still see relevant records, even when restricted and sealed.
- If someone's First Offender Act sentence is revoked, the case can become public.



HB 162 allows the First Offender Act to offer the true Second Chance it was intended to be.

¹Serious violent felonies, sex offenses, certain crimes against law enforcement or the elderly, and DUI are not eligible for First Offender sentencing. Individuals can only use a First Offender sentence once in their life. OCGA § 42-8-60.

²OCGA § 42-8-60(h).

³OCGA § 42-8-63.1



Since 2017, more than 55,000 Georgians have received a second chance thanks to the First Offender Act, and 98% of them have served their sentences successfully.

These changes will enable them to continue their success and contribute to their communities.

Record Sealing Works



Increases Public Safety

- Steady employment reduces recidivism by more than half¹
- A University of Michigan study found fewer than 1% of people were re-convicted of a felony within five years of record clearing²



Strengthens the Economy

- Wages increase by an average of 22% within one year of expungement³
- Benefits of expungement outweigh costs by \$5,760 per individual⁴

Want to learn more?

Visit GJP.org/advocacy or contact Ann Colloton, Policy & Outreach Coordinator at Policy@GJP.org or 404.827.0027 ext. 248



About GJP

Georgia Justice Project has assisted thousands of Georgians with a record who are working hard to get a better job and support their families. GJP has worked with legislators, businesses, and other stakeholders to successfully advocate for 24 changes to law that reduce barriers to reentry.

¹.Safer Foundation. Safer Foundation three-year recidivism study (2008).

². Prescott, J.J. and Starr, Sonja B., Expungement of Criminal Convictions: An Empirical Study (2020) Harvard Law Review.

³.Collateral Consequences Resource Center (2018). Michigan set-asides found to increase wages and reduce recidivism. Federal Sentencing Reporter, 3, 361-362. doi:10.1525/fsr.2018.30.4-5.361

⁴.Chapin, M., Elhanan, A., Rillera, M., Solomon, A.K., & Woods, T.L. (2014). A cost-benefit analysis of criminal record expungement in Santa Clara County. Stanford Public Policy.