

A NEW LEAF

A 'HOW-TO GUIDE' FOR SUCCESSFUL REENTRY
AFTER A CANNABIS CONVICTION.



DEDICATION

This legal guide was written in loving memory of Breonna Taylor, Philando Castile and all the countless Black bodies and souls taken too soon by the hands of the state in this so-called War on Drugs.



ACKNOWLEDGMENTS

This guide was authored by Root and Rebound staff members:

Eliana Green, (Equal Justice Works Fellow Sponsored by Hewlett Packard Enterprise and Morgan Lewis and Bockius LLP), Chloe Noonan, (Associate Director of Legal Education) and Zachariah Oquenda, (Berkeley Law Public Interest Legal-Policy Fellow).

Illustration and graphic design team:

Daphne Pastard, Niamh Rita, Nichole Graf, and Missy Reinikainen.

We would like to give a special thank you to our amazing team of expert readers and content contributors who lent their years of experience, expertise and resources to improve the content of this guide:

Kara Crutcher, Rodney Holcombe, Angel Pittman and Jesse Stout.

DISCLAIMER

Your Responsibility When Using This Guide:

When putting together A New Leaf, we did our best to give you useful and accurate information because we know that people who are currently or formerly incarcerated and those who support them often have difficulty getting legal information. However, cannabis is a relatively new legal industry with lots of regulations and laws that change frequently and are subject to differing interpretations. Root & Rebound does NOT have the resources to make changes to this informational material every time the law changes. If you use

information from A New Leaf legal guide, it is your responsibility to make sure that the law has not changed and applies to your particular situation. If you are incarcerated, most of the materials you need should be available in your institution's law library.

A New Leaf is not intending to give legal advice, but rather general legal information. No attorney-client relationship is created by using any information in this guide. You should always consult your own attorney if you need legal advice specific to your situation.

CONTENTS

09

EXECUTIVE SUMMARY

Root & Rebound and Viola partnered to create this toolkit because a conviction should not be a life sentence.

11

SECTION 1

Cannabis Legalization and The Criminal Justice Reform Movement

- 11 Introduction: Purpose and Goals of the Toolkit; How it Should be Utilized
- 12 Mass Incarceration and the War on Drugs
- 14 Legalization of Marijuana in California
- 21 Relief that Exists in California Now, Post-Legalization

25

SECTION 2

Employment

- 26 Reentering the Workforce – Three Essential Tips
- 29 Employment Pathways Generally
- 34 Employment in the Cannabis Industry

74

SECTION 4

Record-Cleaning

- 78 Overview of Record-Cleaning Options in California

56

SECTION 3

Other Important Pillars of Reentry

- 58 Getting I.D.
- 61 Housing
- 66 Community Supervision
- 67 Other Common Issues & Concerns

90

SECTION 5

Conclusion

EXECUTIVE SUMMARY

Root & Rebound and Viola partnered to create this toolkit because a conviction should not be a life sentence.

Viola is a premium cannabis brand rooted in giving back to minority communities and investing in those most harmed by the War on Drugs. Our focus is to promote social equity by increasing minority participation and ownership in the cannabis industry. Black people are 3.64 times more likely than white people to be arrested for cannabis possession.¹ Respectively, African Americans and Latinxs own just approximately four and five percent of the industry. With a goal to change these statistics, we are forming a coalition of minority investors who own and operate Viola. This structure is designed to create generational wealth for minorities and their families.

As a brand, it deeply troubles us that millions of primarily Black and brown people were incarcerated for marijuana-related activity, but continue to be stonewalled from participating in the now multi-billion dollar legal cannabis industry. This is a true disservice to the industry because we know that some of the most talented and experienced people in cannabis have a marijuana-related conviction!



While particularly disheartening due to the history of marijuana, we realize that discrimination against survivors of the War on Drugs is not unique to the cannabis industry but rather, is interwoven throughout society. We firmly believe that creating employment opportunities in the industry is a key step to repairing the economic harms of the War on Drugs, and we created Viola Cares to address some of the war's complex social harms. Viola Cares is our philanthropic arm, created to allow our brand to use its platform and dollars to create opportunities to undo the systemic oppression that victims of the War on Drugs face. We do this through supporting education, expungement programs and reentry tools.

For Viola Cares to be a success, we knew we had to strategically align ourselves with experts in the social justice space. To make our dreams a reality, we fostered a relationship with Root & Rebound — a national leader in reentry law and policy.

Root & Rebound (R&R) is home to lawyers and advocates who are committed to creating a more just and restorative society. We follow the expertise of the people mass incarceration

has most impacted and co-create solutions that address injustice and harm at every level. We work to build a better justice system by combining direct legal services with systems change work, embedding lawyers in communities, and transforming policy wherever we can. As radical optimists, we are part of a broad movement for racial and gender equity, justice, collective liberation, and intergenerational healing.

A New Leaf is our first collaborative project, and we could not be prouder of the wealth of research and resources Root & Rebound's expert legal team compiled for your benefit. We hope this Toolkit serves as a helpful "how-to" guide for your successful reentry after a cannabis conviction. Through the power of knowledge, we will do all we can to continue to positively impact victims of the War on Drugs. One community at a time. One flower at a time.

1. Edwards, Ezekiel, and Emily Greytak. "A Tale of Two Countries: Racially Targeted Arrests in the Era of Marijuana Reform." American Civil Liberties Union, 20 Apr. 2020. www.aclu.org/report/tale-two-countries-racially-targeted-arrests-era-marijuana-reform Accessed October 25, 2020.



INTRODUCTION

PURPOSE AND GOALS

OF THE TOOLKIT

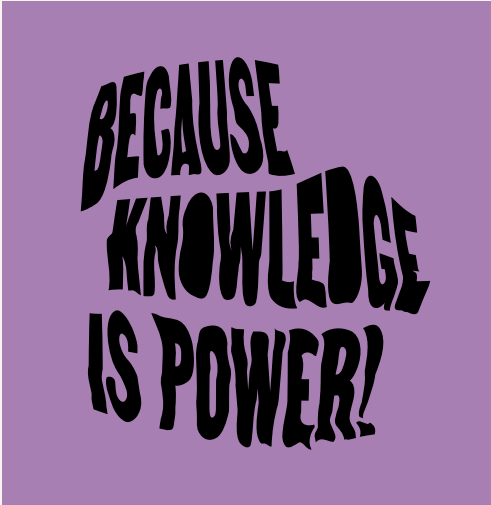
HOW IT SHOULD BE

UTILIZED

2. Wendy Sawyer and Peter Wagner. "Mass Incarceration: The Whole Pie 2020." Prison Policy Initiative. Published March 24, 2020. <https://www.prisonpolicy.org/reports/pie2020.html>.

3. Timothy Hughes and Doris James Wilson. "Reentry Trends in the U.S.: Inmates Returning to the Community After Serving Time in Prison." Bureau of Justice Statistics. Last Revised May 7, 2020. <https://www.bjs.gov/content/reentry/reentry.cfm>. (Finding "at least 95% of all state prisoners will be released from prison at some point; nearly 80% will be released to parole supervision.")

4. Christopher Ingraham. "More people were arrested last year over pot than for murder, rape, aggravated assault and robbery - combined." The Washington Post. Published Sept. 26, 2017. Accessed March 30, 2020. <https://www.washingtonpost.com/news/wonk/wp/2017/09/26/more-people-were-arrested-last-year-over-pot-than-for-murder-rape-aggravated-assault-and-robbery-combined/>.



WHO IS THIS TOOLKIT FOR?

This toolkit is written for people with marijuana-related convictions as well as other nonviolent drug convictions in all stages of reentry. Sadly, more than a half million people are currently incarcerated for a drug related offense.² These folks are our friends, family and community members—95% of whom will return home one day and will need support as they reenter society after release.²

This guide is written for them. This guide is written for you. This guide is written for community.

WHY SHOULD I USE THIS TOOLKIT?

If you have a marijuana-related conviction, you are not alone. In 2016, United States police arrested 574,641 people for marijuana possession — more than the combined number of arrests for all violent crimes.⁴

We understand it can be frustrating to have a cannabis-related conviction on your criminal record and difficult to navigate some of the legal barriers it creates in your life.

Designed to inform you of your rights and privileges under the law, this guide offers information, action steps, checklists, helpful hints, referrals, and resources. It gives you strategies to handle some of the obstacles your record creates and highlights forms of relief that may be available to you, including expungements and other kinds of record-cleaning. Additionally, the Toolkit provides tips for returning to the workforce and entering the legal cannabis industry.

This Toolkit is made to empower you, and to equip you with self-advocacy tools for successful reentry after your drug conviction.



MASS

INCARCERATION AND

THE WAR ON DRUGS

5. Chris Barber. "Public Enemy Number One: A Pragmatic Approach to America's Drug Problem." Nixon Foundation. Published June 29, 2016. Accessed May 7, 2020. <https://www.nixonfoundation.org/2016/06/26404/>.

6. "DEA History." U.S. Drug Enforcement Administration. Accessed May 7, 2020. <https://www.dea.gov/history>.

7. Nancy Reagan. "'Just Say No', Address to the Nation." CNN. Sept. 14, 1986. Available at <https://www.youtube.com/watch?v=IQXgVM30mIY>.

8. Anti-Drug Abuse Act of 1986, H. R. 5484, 99th Cong. Section 5 (1986). This act mandated a minimum sentence of five years without parole for possession of five grams of crack cocaine while it mandated the same for possession of 500 grams of powdered cocaine. This 100:1 disparity was reduced to 18:1 when the mandatory minimum crack needed to trigger the sentence was increased to 28 grams (one ounce) by the Fair Sentencing Act of 2010 under the Obama administration.

DO I NEED ANYTHING ELSE WHILE USING THIS TOOLKIT?

Roadmap to Reentry: A California Legal Guide

If you have specific legal questions about your criminal record's impact on issues such as housing, employment, family reunification, parole and probation, voting rights, your ID, public benefits, health care, or immigration status that go beyond what is discussed in this Toolkit, Root & Rebound offers additional resources that may help. *This includes the California Roadmap to Reentry, an encyclopedic "know-your-rights" legal guide.*

Our Toolkit is meant to be a specialized guide for readers with drug-related convictions. You can use it in conjunction with the *Roadmap to Reentry*, which is available for free on rootandrebound.org.

WHAT IS THE WAR ON DRUGS?

Today, one in three Americans has a criminal record, and this alarming statistic is largely due to the War on Drugs. The United States officially announced the War on Drugs on June 17, 1971. President Richard Nixon declared that drug abuse in the U.S. was "public enemy number one" and that the only solution was to "wage a new all-out offensive." Like any other war, the War on Drugs required a military. So, in 1973, Nixon created the Drug Enforcement Agency.

Under the Reagan administration, the war drastically expanded, beginning with First Lady Nancy Reagan's "Just Say No Campaign." Launched in 1981, the educational campaign created national fear of an alleged urban drug epidemic's repercussions, and it led to the creation of harsh and racist federal mandatory minimum prison sentences. The war resulted in unjust and arguably illegal discrimination based on race between people with drug offenses in similar circumstances. It focused on terrorizing urban communities of color by way of militarized S.W.A.T. raids and disproportionate sentencing schemes.¹¹

9. Elizabeth Hinton, LeShae Henderson, and Cindy Reed. "An Unjust Burden: The Disparate Treatment of Black Americans in the Criminal Justice System." Vera Institute of Justice. Published May 2018. Accessed May 7, 2020. Page 6. <https://www.vera.org/downloads/publications/for-the-record-unjust-burden-racial-disparities.pdf>.

10. "War Comes Home: The Excessive Militarization of American Policing." ACLU. Published June 2014. Accessed May 7, 2020. Available for download at <https://www.aclu.org/report/war-comes-home-excessive-militarization-american-police>.

11. "DEA History." U.S. Drug Enforcement Administration. Accessed May 7, 2020. <https://www.dea.gov/history>.; Elizabeth Hinton, LeShae Henderson, and Cindy Reed. "An Unjust Burden: The Disparate Treatment of Black Americans in the Criminal Justice System." Vera Institute of Justice. Published May 2018. Accessed May 7, 2020. Page 6. <https://www.vera.org/downloads/publications/for-the-record-unjust-burden-racial-disparities.pdf>.

Between 1978 and 2005, California's prison population grew by a startling 600%, largely due to the popularity of lengthy sentences for nonviolent drug offenses.¹² While whites and African Americans use drugs at similar rates, African Americans are six times more likely than whites to be incarcerated for drug charges.¹³

During a 1994 interview, Nixon administration domestic affairs advisor, John Ehrlichman, stated that the War on Drugs was solely motivated by the desire to destabilize the administration's two enemies: the [Vietnam] antiwar left and Black people. Most notably, he stated:

“We knew we couldn’t make it illegal to be either against the [Vietnam] war or Black, but by getting the public to associate the hippies with marijuana and Blacks with heroin, and then criminalizing both heavily, we could disrupt those communities. We could arrest their leaders, raid their homes, break up their meetings, and vilify them night after night on the evening news. Did we know we were lying about the drugs? Of course, we did.”¹⁵

12. Peter Wagner. "Tracking State Prison Growth in 50 States." Prison Policy Initiative. Published May 28, 2014. Accessed May 7, 2020. <https://www.prisonpolicy.org/graphs/incrates/CA.html>. (The briefing includes "California incarceration rate, 1978 to 2012" and cites to Bureau of Justice Statistics, Corrections Statistics Analysis Tool.)

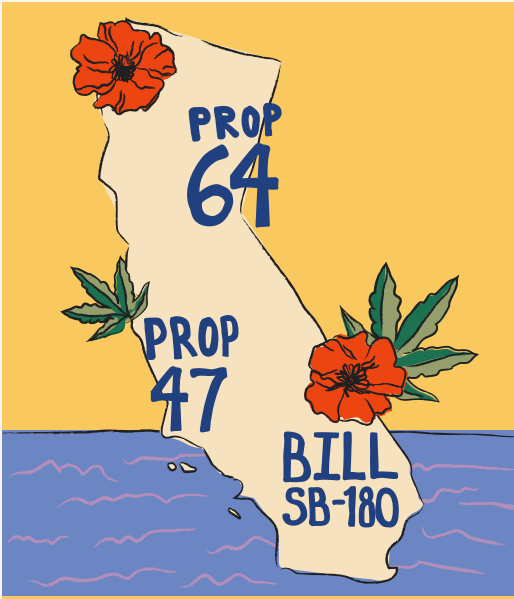
13. "Criminal Justice Fact Sheet." NAACP. Accessed May 7, 2020. <https://www.naacp.org/criminal-justice-fact-sheet/>.

14. Dan Baum. "Legalize It All: How to Win the War on Drugs." Harper's Magazine. April 2016. <https://harpers.org/archive/2016/04/legalize-it-all/>.

15. Dan Baum. "Legalize It All: How to Win the War on Drugs." Harper's Magazine. April 2016. <https://harpers.org/archive/2016/04/legalize-it-all/>.

In the last decade, in an effort to repair these unspeakable harms, the State of California has made several changes to state drug laws. Many of these changes may benefit you! We created this guide to make the changes in law accessible, and to ensure that the promise of decriminalizing drug use and ending mass incarceration is truly realized.

LEGALIZATION OF MARIJUANA IN CALIFORNIA



16. Cal. Health & Safety Code § 11361.8; Cal. Health & Safety Code § 11361.5; "Making Proposition 64 Marijuana Conviction Relief Automatic: A Community Resource Guide." Code for America. <https://info.codeforamerica.org/clear-my-record-community-resource-guide>; See also "Clear My Record." <https://www.clearmyrecord.org/>. (Clear My Record is a free nonprofit service for people with a criminal record in select California counties, including counties of San Diego, San Francisco, Alameda, Solano, Contra Costa, Fresno, Santa Barbara, and Santa Clara, among others.)

17. "Criminal Justice Fact Sheet." NAACP. Accessed May 7, 2020. <https://www.naacp.org/criminal-justice-fact-sheet/>.

18. Eli McVey. "Chart: Percentage of cannabis business owners and founders by race." Marijuana Business Daily. Published Sept. 11, 2017. Accessed May 7, 2020. <https://mjbizdaily.com/chart-19-cannabis-businesses-owned-founded-racial-minorities/>.

WHAT IS PROPOSITION 64?

California voters passed Proposition 64 (known as Prop. 64) on Nov. 8, 2016. It legalized adult use (for ages 21 and over), possession, transportation, and sharing of an ounce (28.5 grams) or less of marijuana and up to eight grams of marijuana concentrate.

Under the change in law, it is also legal for adults over the age of 21 to grow six or fewer marijuana plants on private property, out of public view. Additionally, Prop. 64 reduced many marijuana-related offenses from felonies to misdemeanors, and it reduced several offenses from misdemeanors to infractions.

Take a look at the graph beginning on pg. 21 for details on which marijuana-related activities are legal and the new decreased penalty for other marijuana-related activity.

Prop. 64 is retroactive, meaning if you have a marijuana conviction from before the change in law happened, you can benefit from the new policies! This includes many record-cleaning options so that you can move forward in life—in some cases, as if your conviction never happened.¹⁶

THE LEGAL CANNABIS MARKET AND UNDERREPRESENTATION OF MINORITY OWNERSHIP

Prop. 64 also regulated the legal cannabis industry. In the United States, cannabis is a multibillion-dollar industry. There is a wide range of employment opportunities in cannabis and in industries that support cannabis. While African Americans and Latinxs are disproportionately criminalized for cannabis and other drug-related offenses,¹⁷ African Americans own only 4.3 percent of the booming legal cannabis industry, while Latinxs own 5.7 percent.¹⁸

Viola is working hard to change that narrative and to increase minority participation and ownership in the industry. Through education, equitable offerings, and incubation programs, the Viola Cares initiative will create thousands of jobs, hundreds of new business owners, and expanded industry diversity by increasing representation, developing industry-based curricula, facilitating community-building and providing employment opportunities.

WHAT IS PROPOSITION 47, AND HOW COULD IT HELP ME?

After being passed by California voters, Proposition 47 (or Prop. 47) became effective in November 2014. It changed state law so certain nonviolent offenses that could previously be charged as felonies or “wobblers” (either a felony or misdemeanor) can now only be charged as straight misdemeanors.¹⁹

Prop. 47 does not give you back your gun

rights if you lost these rights due to your conviction.¹⁹ Prop. 47 also does not remove the conviction from your record; it simply reduces it to a lesser offense. Under Prop. 47, simple possession of pretty much any controlled substance is a straight misdemeanor.²⁰ If you have a felony conviction for simple drug possession, you may be able to get it reduced to a misdemeanor. Prop. 47 is retroactive, which means it also applies to past convictions. As a result, you may be able to get your past felony convictions changed to misdemeanors, if they meet the legal requirements! Unlike Prop. 64, applicants seeking to change their record under Prop. 47 must navigate the process on their own.

Prop. 47 does not give you back your gun rights if you lost them due to your conviction.²¹ Prop. 47 also does not remove the conviction from your record; it simply reduces it to a lesser offense, which can reduce the stigma associated with the offense and provide you greater opportunities to housing and employment.

IMPORTANT: The deadline to file Prop. 47 applications has been extended to November 4, 2022! Spread the word.

19. Cal. Const., art. 2, § 10(a); Cal. Penal Code § 1170.18.

20. Cal. Penal Code § 1170.18; Cal. Health & Safety Code §§ 11350, 11357, 11377.

21. Cal. Penal Code § 1170.18(k).

22. California Senate Bill No. 180 (Oct. 11, 2017). Legislative Session 2017-2018. Codified under Cal. Health & Safety Code § 11370.2. https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB180.

23. Cal. Health & Safety Code § 11380.

24. “New Laws on Gun and Drug Enhancements.” Prison Law Office. Published October 2018. <https://prisonlaw.com/wp-content/uploads/2018/10/Enhancements-October-2018.pdf>. (This is a “General Delivery” letter published to assist the public in recent changes in laws from pending criminal justice reform bills.)

25. In re Estrada, 63 Cal.2d 740 (1965); People v. Millan, 20 Cal.App.5th 450 (2018); People v. McKenzie, 25 Cal.App.5th 1207 (2018).

DRUG SENTENCING REFORM: WHAT IS SENATE BILL SB 180 AND HOW CAN IT HELP ME?

Before Senate Bill 180 (SB 180) passed, California law required certain sentencing enhancements to be applied to people convicted of drug-related offenses who had prior drug-related convictions.²² Sentencing enhancements add additional punishments simply based on having a prior convictions history, like drug-related convictions. SB 180 limited when a court could impose sentencing enhancements. Since Jan. 1, 2018, courts may only impose sentencing enhancements for prior felony convictions involving specific controlled substances that were committed with the help of a person under 18 years of age.²³

SB 180 is NOT retroactive, which means it will not apply to criminal cases that are already final.²⁴ But if any part of your case was still on appeal when the law took effect on Jan. 1, 2018, you may be able to benefit from SB 180.²⁵ Additionally, if you have a prior drug conviction and pick up a new case, the court will no longer be required to impose a three-year sentencing enhancement if you are convicted, unless your case involves a minor.

REENTRY : MYTHS, COMMON QUESTIONS AND CONCERNS

1. *I can never get a job because employers will always see I have a drug conviction.*

False! People with records can and do find employment! Check out our employment chapter for more information on your employment rights and our record-cleaning chapter for more information on getting your drug conviction expunged or dismissed.

2. *Can I clean up my criminal record history?*

Yes. You can check out our record-cleaning chapter for more details! While the word expungement literally means “to completely erase or remove a conviction,” the word is often colloquially used to refer to any form of record-cleaning. Under most circumstances “true expungements” are not an option under California law. People convicted of certain crimes may have their conviction dismissed, or their arrest sealed—which means that the criminal incident is hidden from the public, but remains on their Record of Arrest and Prosecution (RAP sheet) and is not actually destroyed.²⁶

However, California offers one true form of expungements to people with marijuana records who were arrested or convicted for possessing, giving away, offering to give away, transporting, offering or attempting to transport 28.5 grams

or less of marijuana.²⁷ Any records relating to your conviction or arrest for the offenses mentioned above must be physically destroyed and permanently obliterated within two years of the date of your conviction, or the date of your arrest if you were never convicted.²⁸ The Department of Justice must delete the marijuana-related entry from your RAP sheet so that it appears that the arrest or conviction never occurred.²⁹

3. *I can never work in the marijuana industry due to my marijuana conviction.*

Not true! It is possible to get into the cannabis industry, even with a drug conviction!

While there are state level background checks for individuals who want to get a license to own a cannabis company, California state law specifically states that convictions for the possession, sale, manufacture, transportation or cultivation of drugs are not considered substantially related to the qualifications and functions of holding a license and thus cannot be the sole reason you are denied a license (unless your conviction involved a minor).³⁰

However, a few counties in California, such as Santa Barbara County, currently have local regulations that conflict with the state law. If you are in one of these counties, you should contact a lawyer to advise you on whether you are likely to be denied based on your background check, and what your options are if you are denied the license.³¹

Folks looking for entry-level positions in the marijuana industry do not undergo a state-level background check. *Our Employment section has more information on county-*

level requirements. You should be aware that regardless of minimum requirements set by the government, an individual employer may independently choose to conduct a background check. After fully reviewing your qualifications as a candidate and conducting an individualized assessment of your conviction history, an employer may choose to disqualify you based on certain convictions. Learn more about your employment rights under the Fair Chance Act in our employment chapter.

4. *Can I smoke in a moving car?*

No. Similar to rules concerning alcohol, you are not allowed to possess an open container of a cannabis product while you are driving or in the passenger seat of a vehicle used for transportation.³³

Having an open container of marijuana in a car is an infraction, and you could be charged with a \$250 fine.³⁴ It is safer to leave any marijuana in its sealed, child-safe packaging or in the trunk when traveling. We say this because you have greater Fourth Amendment constitutional protections from unreasonable searches in your trunk as opposed to your vehicle’s passenger compartment, which has a much more limited degree of constitutional protection.³⁵

It is also illegal to be under the influence of cannabis products while driving. Doing so is a misdemeanor, and it is treated the same as driving under the influence of alcohol.³⁶ It is also illegal to smoke or take a cannabis product while driving or riding as a passenger of a vehicle.³⁷ Smoking while in a moving vehicle is an infraction.³⁸

We recommend that you do not smoke in your

vehicle even while temporarily stationary. Regardless of shifting policies in favor of cannabis, as a practical measure we have seen that even the smell of burnt cannabis in your vehicle may unfortunately serve as enough reasonable suspicion of criminal activity for the police to search the passenger compartment of your car.⁴⁰

5. *Can I smoke in public?*

No. You cannot smoke or ingest cannabis products in a public place. Doing so is an infraction, and you could be charged with a \$100 fine.⁴¹

You also cannot smoke cannabis any place where tobacco is prohibited. Doing so is an infraction, and you could be charged with a \$250 fine.⁴²

6. *Can I sell weed without a license?*

No. Selling marijuana without the proper business license is a misdemeanor with a penalty of up to six months in jail and/or a \$500 fine.⁴³ Beware that this offense can be charged as a felony if you have two prior convictions for sales of marijuana⁴⁴ or certain other aggravating circumstances.⁴⁵ If these aggravating circumstances apply, you can be convicted of a felony with a two-, three-, or four-year prison sentence.⁴⁶

Opening or maintaining a place that is used to sell marijuana without a license or illegally sell other drugs can be charged as either a misdemeanor or a felony offense.⁴⁷ Making a space available to unlawfully manufacture or store a controlled substance (including

marijuana) can be charged as a misdemeanor or felony on your first offense.⁴⁸ Your second and any subsequent conviction for violating this law is a felony with a possible sentence of two, three or four years in prison.⁴⁹

7. **Can my employer drug test me?**

Yes. Your employer can ban you from smoking marijuana and can drug test you. An employer has a right to maintain a drug- and alcohol-free workplace. Prop. 64 does not affect an employer's ability to make a policy banning employees from using marijuana,⁵⁰ nor does it affect rules that state it would be negligent to do certain jobs while under the influence of marijuana.⁵¹

8. **Can I smoke weed if I am under 21?**

No. Only adults over the age of 21 may possess and use recreational marijuana. Adults who are at least 18 may purchase, possess and use medical marijuana with the proper medical recommendation.

Much of the information in this guide is written with adults in mind. The penalties for marijuana-related offenses committed by children vary based on the offense. Most of the time, however, children will be subject to some combination of drug education, counseling, rehab, and community service. If, on the other hand, you are an adult convicted of a cannabis offense that involves children, the penalty can be a serious felony conviction.

9. **Can a cannabis-related conviction or working in the legal cannabis industry affect my immigration status?**

Yes. Federal law governs immigration policies.⁵² Cannabis is still a Schedule I controlled substance, and it is federally illegal.⁵³ According to a 2018 Immigrant Legal Resource Center (ILRC) report titled, "Immigration Risks of Legalized Marijuana,"

"A noncitizen who admits to an immigration official that she possessed marijuana can be found inadmissible, denied entry into the U.S., or have her application for lawful status or even naturalization denied. Depending on the circumstances, it can make a lawful permanent resident deportable. This is true even if the conduct was permitted under state law, the person never was convicted of a crime, and the conduct took place in her own home."⁵⁴

In other words, negative consequences on your immigration status from conduct involving cannabis can be severe, but will depend on your unique background and current status.

Consider these general tips for avoiding negative immigration consequences related to cannabis convictions or working in the cannabis industry:

- (1) Stay away from marijuana until you are a U.S. citizen.
- (2) If you need medical marijuana, consult a lawyer first.
- (3) Do not carry marijuana-related cards, stickers, T-shirts, etc.
- (4) Do not post about marijuana on social media, or via text or email.
- (5) Never discuss conduct involving marijuana with police, immigration, border, consular, or law enforcement authorities — unless your immigration attorney has advised that it is safe to do so.⁵⁵

26. Cal. Penal Code § 1203.4.; Cal. Penal Code § 851.91.

27. Cal. Health & Safety Code § 11361.5.

28. Cal. Health & Safety Code § 11361.5(c).

29. Shall be prepared again so that it appears that the arrest or conviction never occurred.

30. Cal. Code of Regs. Tit. 16 § 5017 (2020). (The section details "Substantially related Offenses and Criteria for Rehabilitation.")

31. County of Santa Barbara. "Cannabis Business Licensing Criminal History Check & Security Plan." Accessed October 25, 2020. <http://cannabis.countyofsb.org/asset.c/93>.

32. Cal. Health & Safety Code § 11360(a)(2).

33. Cal. Health & Safety Code § 11362.3(a)(4); Cal. Veh. Code § 2322(b).

34. Cal. Health & Safety Code § 11362.4(b).

35. Arizona v. Gant, 556 U.S. 332 (2009); California v. Acevedo, 500 U.S. 565 (1991); New York v. Belton, 453 U.S. 454 (1981).

36. Cal. Health & Safety Code § 11362.3(a)(7); Cal. Veh. Code § 23152(f).

37. Cal. Health & Safety Code § 11362.3(a)(7); Cal. Health & Safety Code § 11362.3(a)(8); Cal. Veh. Code §23221(b).

38. Cal. Veh. Code §23221(c).

39. Officers may rely on their sense of smell to confirm their observation of contraband already in plain view. Arizona v. Hicks, 480 U.S. 321 (1987); Harris v. United States (1968) 390 U.S. 234, 236; see also People v. Foote (1962) 207 Cal. App. 2d 860, 865; People v. Chong Wing Louie (1957) 149 Cal. App. 2d 167, 170; People v. Bennett (1967) 28 App. Div. 2d 526.

40. United States v. Givan, 320 F.3d at 458 (2003) (Noting that an officer who develops a reasonable, articulable suspicion of criminal activity may expand the scope of an inquiry beyond the reason for the stop and detain the vehicle and its occupants for further questioning.")

41. Cal. Health & Safety Code § 11362.3(a)(1); Cal. Health & Safety Code § 11362.4(a).

42. Cal. Health & Safety Code § 11362.3(a)(2); Cal. Health & Safety Code § 11362.4(b).

43. Cal. Health & Safety Code § 11360(a)(2).

44. Cal. Health & Safety Code § 11360(a)(3)(B).

45. Cal. Health & Safety Code § 11360(a)(2).

46. Cal. Health & Safety Code § 11360(a)(2).

47. Cal. Health & Safety Code § 11366.

48. Cal. Health & Safety Code § 11366.5(a).

49. Cal. Health & Safety Code § 11366.5(b).

50. Cal. Health & Safety Code § 11362.45(f).

51. Cal. Health & Safety Code § 11362.45(e).

52. For official guidance from the U.S. Citizenship and Immigration Services (USCIS) on bars to naturalization and admissibility, see USCIS Policy Manual, Vol 12., Part F, "Chapter 5 – Conditional Bars for Acts in Statutory Period." Updated April 7, 2020. Accessed April 9, 2020, <https://www.uscis.gov/policy-manual/volume-12-part-f-chapter-5>. (Showing that convictions or admissions of conduct related to controlled substances, except simple possession of less than 30 grams of marijuana, bar an applicant from naturalization. Immigration and Nationality Act (INA) 101(f)(3) and Code of Federal Regulations (CFR) §§ 316.10(b)(2)(ii), (iv).)

53. Immigrant Legal Resource Center (ILRC) provides a California Quick Reference Chart that discusses the law governing the intersection of immigration and crimes, especially as applied to California law. Updated March 12, 2019. Accessed April 9, 2020. <https://www.ilrc.org/chart>.

54. Kathy Brady, Zachary Nightingale, and Matt Adams. "Practice Advisory: Immigration Risks of Legalized Marijuana." Immigrant Legal Resource Center. January 2018. https://www.ilrc.org/sites/default/files/resources/marijuana_advisory_jan_2018_final.pdf. Page 1. [For details of each potential immigration-related consequence of convictions or admissions of conduct involving cannabis, see the full ILRC report, including Section III ("Removal Grounds Triggered by Marijuana") and Section IV ("Strategies to Defend Immigrants from Becoming Inadmissible for Admitting to Marijuana-Related Conduct").]

55. Kathy Brady, Zachary Nightingale, and Matt Adams. "Practice Advisory: Immigration Risks of Legalized Marijuana." Immigrant Legal Resource Center. January 2018. Page 2. https://www.ilrc.org/sites/default/files/resources/marijuana_advisory_jan_2018_final.pdf.

RELIEF THAT EXISTS IN CALIFORNIA, POST– LEGALIZATION

56. Cal. Health & Safety Code § 11361.5.

57. Judge J. Richard Couzens (ret.) and Justice Tricia A. Bigelow. “Proposition 64: ‘Adult Use of Marijuana Act’: Resentencing Procedures and Other Selected Provisions.” Published November 2016. Page 56. <https://www.courts.ca.gov/documents/prop64-Memo-20161110.pdf>.

In the age of legalization, there are numerous opportunities available for you despite your marijuana conviction.


In fact, certain marijuana convictions cannot be considered by landlords and employers after two years following the conviction have passed.⁵⁶ For more information on this, read the record-cleaning section, employment section, and housing section of this Toolkit.

Even if your conviction is not eligible for this protection, drug convictions have special record-cleaning rules that provide greater benefits than are available for other convictions.

There are also unique opportunities for you to participate in the legal cannabis industry and even own your business with the assistance of Social Equity programs.

We hope that this guide opens your eyes to the world of opportunity and helps you turn over a new leaf on your road to reentry.

LEGALIZATION GRAPH	
LEGALIZED UNDER PROP 64	REDUCED PENALTY UNDER PROP 64
POSSESSION OF MARIJUANA (FLOWER)	H&S Code § 11357
21+ Adult Possession of < 28.5 g marijuana (adults)	18–20y Possession of < 28.5 g marijuana Infraction with \$100 fine

	Possession of > 28.5 g marijuana (adults 18 +) Misdemeanor (max 6 months jail and/or \$500 fine)
POSSESSION OF CONCENTRATED MARIJUANA	H&S Code § 11357
21+ Adult Possession of up to 8grams	21+ Adult Possession of more than 8 grams Misdemeanor (max 6 months jail and/or \$500 fine) 18 to 20 = < 4 grams is an infraction with \$100 fine; more than 4 grams is an misdemeanor (max 6 months jail and/or \$500)
	Children under 18 < 4 grams: 1st offense: 4 hours drug education + up to 10 hours CS; 2nd offense: 6 hours drug education + up to 20 hours CS
POSSESSION WITH INTENT TO SELL MARIJUANA	H&S Code § 11359
NOT LEGAL 	Adults 18+ Misdemeanor (max 6 months jail and/or \$500 fine). BUT it can be charged as a FELONY in certain aggravating situations. Children under 18 – 1st offense: infraction with 8 hours drug education + up to 40 hours community service 2nd or more: infraction with 10 hours drug education + up to 60 hours community service ⁵⁷
SALES OF MARIJUANA	H&S Code § 11360
NOT LEGAL	Sales to 21+ by Adult 18+ Misdemeanor (max 6 months jail and/or \$500 fine). BUT it can be charged as a felony in certain aggravating situations.

<div>NOT LEGAL</div> <div></div> <div>No Change in law under Prop. 64 for sales/giving away to a minor by an adult 18+</div>	<div>Sales/ giving away by child under 18 – 1st offense: infraction with 8 hours drug education + up to 40 hours community service 2nd or more: infraction with 10 hours drug education + up to 60 hours community service</div> <div>Sales to a minor: Felony (3/5/7 years) for sales to a minor under 14 if the adult is over 18. Felony (3/4/5 years) for sales to a minor over 14 if the adult is over 18.</div>
	<div>Giving away (not sold) < 28.5 g marijuana</div> <div>Infraction with \$100 fine</div>
<div>CULTIVATION OF MARIJUANA</div>	<div>H&S Code §11358</div>
<div>21+ Adult 6 plants or less for personal use</div> <div>BUT if (1) plants are visible to public or not in locked space =infraction +\$250 fine</div>	<div>More than 6 plants (18 +) Misdemeanor (max 6 months jail and/or \$500 fine BUT it can be charged as a felony in certain aggravating situations.</div>

SECTION 2

EMPLOYMENT



REENTERING THE WORKFORCE — THREE ESSENTIAL TIPS

58. See “Reentry Planning Toolkit: for people in reentry & people with arrest and conviction records.” Root & Rebound. Published 2018. Pages 37-44, 97. https://www.rootandrebound.org/wp-content/uploads/2020/02/RR-Reentry-Planning-Toolkit_CIPFIP-1.pdf.

People with criminal convictions, including cannabis and other drug convictions, can and do get jobs—it happens every day! They are employed in the workforce at all levels, from entry-level jobs to executive positions.

Later we will talk about general employment opportunities, including working for an established employer and starting your own business. But first you will want to consider three tips to best position yourself to succeed in meeting your personal employment goals.

1. *Prepare to Reenter the Workforce*
2. *Present Your Best Self*
3. *Know Your Rights*

PREPARE TO REENTER THE WORKFORCE

As with any task, you are more likely to succeed if you research and prepare before jumping in. An old carpenters’ saying sums it up pretty well: “Measure twice and cut once.” Thoughtful and diligent planning helps you to remember crucial steps, anticipate obstacles, and keeps you focused on your goals.⁵⁸

Unfortunately, some drug convictions pose unique challenges to getting certain jobs. Among them are jobs that require some kind of license (guard card, nursing license, etc.). We will talk more about them later in this section.

Rest assured, however, that having a drug conviction does not mean you are unqualified for a job. If you take steps to understand your rights, responsibilities, and limitations, you can arm yourself with the knowledge (and confidence) to secure the right position for you.

Begin planning by answering a few starter questions:

1. What types of jobs have you had in the past? What are you interested in doing now?
2. Do you still have a good relationship with any of your past employers?
3. While on probation, incarcerated, or on parole, did you or are you currently receiving any job or skills training?
4. Do any of the jobs you are interested in have restrictions based on your criminal record, or do they require an occupational license or certificate? If so, make notes about your research plan and prepare for any related barriers. If you are unsure of your answers to these questions, you may consider seeking the help of a trusted friend or loved one, or reaching out to a reentry attorney at Root & Rebound!

Answering the starter questions will help you to prioritize your long-term goals. With those goals in mind, you can begin the rest of your plan.

Before actually applying to any jobs, you will first need to get some documents.

1. **Government-Issued Identification Documents.** Ideally, you should have:
 - a California state ID, a California state driver’s license, OR a valid U.S. passport;
 - your social security number (SSN) OR your birth certificate.

2. **Authorization to Work** By law, you must be authorized to work in the United States. Employers should give you an I-9 form to submit before you start working.
3. **RAP Sheet** Your RAP sheet is a government-issued copy of your Record of Arrests and Prosecutions. You should request a copy of it from the California Department of Justice so that you can review it with a reentry lawyer. Reviewing your RAP sheet helps you to:
 - find the parts of your record you can “clean up”;
 - feel prepared to answer questions about your history and address any employer’s potential concerns; and
 - make sure your RAP sheet accurately reflects your record. Section 4 of this Toolkit provides more detailed information about RAP sheets, how to fix errors, and record-cleaning services for cannabis and drug convictions.

PRESENT YOUR BEST SELF

While you can’t control everything about your job search, there are many steps you can and should take to improve your chances of getting the job you want. Consider the following checklist to help put your best foot forward. This checklist can be organized into three phases of your job search: (1) before you apply, (2) during the job search, and (3) while applying for jobs.

BEFORE YOU APPLY

Beef Up Your Resume

- Make all voicemail greetings and social media profiles work appropriate.
- Create a professional email address.
- Explore and pursue volunteer opportunities.
- Pursue and/or complete any requisite education or vocational training.
- Participate in available reentry programs.
- Seek out local professional development and job readiness programs.
- Clean up your record.
- Meet with a reentry lawyer at a record-cleaning clinic.

DURING THE JOB SEARCH

Target your search

- Consider the type of jobs and employers you are interested in.
- Identify any jobs and/or professions your record might exclude you from.
- Compile a list of potential employers, prioritizing those with whom you have previous connections.

WHILE APPLYING FOR JOBS

Ace the Job Application

- Create a complete list of your previous work and volunteer experience.
- Create a list of personal and professional references.

- Ask for support and feedback when crafting your resume and completing application materials.

Ace the Job Application

- Review public job interview resources.
- Practice your interview skills with a trusted person or professional.
- Follow up with the interviewer after the interview.

If at any point you get stuck in any of these phases, seek help! It’s okay to ask for help from family, friends, and loved ones as well as professionals such as case managers or counselors.

KNOW YOUR RIGHTS

Getting a job can be difficult for anyone. For people with arrests or convictions, getting a job can sometimes be more difficult. Just remember, people with criminal records have rights, too!

A great deal of misinformation prevents qualified people with records from applying for good jobs. This is why it is so important that you know your rights and what you can do if you think those rights have been violated. Here are some general tips to remember about your rights and how to protect them.

Beware the “Blanket Ban”:

In most cases, it is illegal for employers to have blanket bans that exclude all applicants with criminal records or applicants with certain convictions. For example, an employer who

says something like “Felons need not apply” is most likely violating the law. Employers must conduct an individual assessment of each applicant that considers the:

- Nature and seriousness of the conviction
- Amount of time passed since the conviction
- Duties and responsibilities of the job

Legally Restricted Jobs:

While blanket bans are generally unlawful, some jobs have legal restrictions for people with certain convictions. Usually, legally restricted jobs include those with access to private or sensitive information (such as financial records), vulnerable people (such as children or the elderly), or high-security places (such as airports). Other jobs require licenses or certifications that have restrictions. Even though some roles with a particular employer may be restricted, you may still be hired for other jobs at the organization. For more information, read the following sections.

Expect a Background Check:

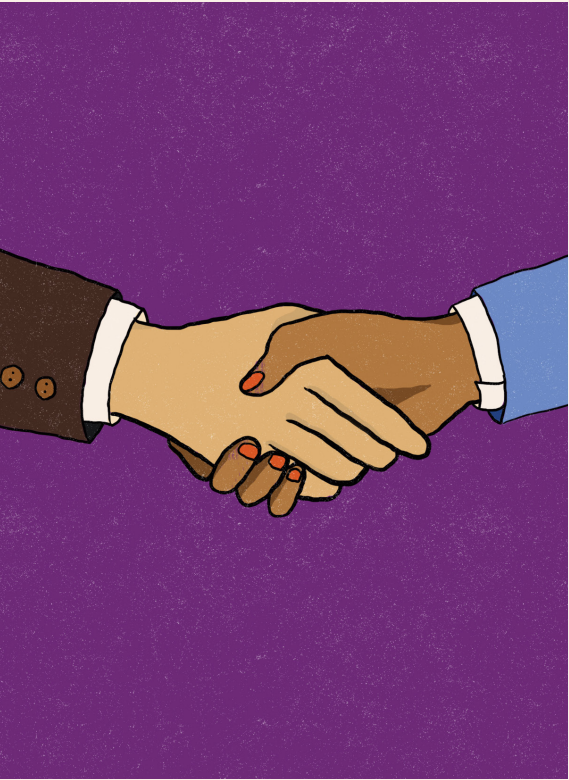
Most employers do run background checks, which is why it is so important to know your criminal record and what employers can and cannot see.

Generally, employers with five or more employees cannot ask about your conviction history on a job application or during a job interview. In fact, by law, employers in California must wait until they give you a conditional offer of employment to run a background check. For more information on your background check-related rights and how to protect those rights, see the section below on the Fair Chance Act.

Challenge Illegal Employment Discrimination:

If you suspect that an employer has violated your rights, it is important to gather any evidence. Keep track of job application materials, job postings, employer-written policies, and communications with the employer. Also, try to write down anything the employer says that may signal your rights are being violated. You can call Root & Rebound’s reentry legal hotline — any Friday from 9 a.m. to 5 p.m. PST at (510) 279-4662 — with any questions or concerns about employment discrimination based on your record.

EMPLOYMENT PATHWAYS GENERALLY



Many jobs can require specific education, credentials, vocational training, or occupational licenses. Some resources are readily available to anyone trying to navigate the traditional job market. Here are some examples:

Nonprofit Workforce Development

Organ-izations:

These organizations offer great job-readiness programs to help you gain professional skills, experience, and contacts with employers. They help with things like: on-the-job training, assessing your skills and talents, finding job opportunities, preparing a resume, and much more. Call Root & Rebound’s reentry legal hotline any Friday, 9:00 a.m. – 5:00 p.m. PST at (510) 279-4662, for a list of organizations near you.

America’s Job Centers of California:

These are job-readiness centers run by the state through the California Employment Development Department (EDD), a state agency that assists workers and employers. America’s Job Centers provide FREE services and resources to people looking for work, including: job counseling to figure out what jobs are right for you; free access to phones, fax machines, computers, and Internet; job search and resume writing workshops; community resources and referrals for training; and job fairs.

To find an America’s Job Center near you, go to www.edd.ca.gov/Jobs_and_Training/TCLobby.htm

To find job fairs and workshops, go to www.edd.ca.gov/Jobs_and_Training/Job_Fairs_and_Events.htm and follow the links to find events in your region.

The remainder of this section will introduce (1) jobs/business opportunities that are available and “reentry friendly,” (2) employment rights for people with drug convictions, and (3) occupational licensing barriers and opportunities.

WHAT KINDS OF JOBS ARE OUT THERE THAT ARE “REENTRY FRIENDLY,” AND HOW DO I FIND THEM?

Throughout your job search, keep in mind that finding traditional employment is not your only option. Several organizations provide services and support to individuals and families impacted by incarceration. Some of these organizations prioritize hiring, or partner with companies that prioritize hiring, formerly incarcerated people, including people with cannabis-related convictions and other drug convictions. It may be helpful for you to contact these organizations upon your release.

Also keep in mind that there are many other ways of working and earning legitimate income, and you may decide that one of these is a better option for you. Here are some other ways of working and earning an income that are different from traditional employment:

- 1. Consider self-employment or become an independent contractor
- 2. Start your own business
- 3. Join a worker-run cooperative business
- 4. Apply through a temp agency
- 5. Take short-term jobs or temporary positions to get your foot in the door.

If any of these alternative employment options may appeal to you, or you would like to learn more, call Root & Rebound’s reentry legal hotline any Friday from 9:00 a.m. – 5:00 p.m. PST at (510) 279-4662, and ask for resources to get started and know your rights.

WHAT IS THE FAIR CHANCE ACT AND HOW CAN IT HELP PROTECT MY RIGHTS?

On January 1, 2018, the Fair Chance Act (also called “Ban the Box”) became the law statewide in California. Under this law, both private and public (government) employers with 5 or more employees must follow these rules:⁵⁹

- Employers cannot ask about or consider your criminal record until after they have given you a conditional job offer.
- Employers must conduct an individualized assessment of your record, considering (1) the nature of the offense, (2) the time since the offense, and (3) the nature of the job duties. To take back your job offer, the employer must show that given these individual factors, the conviction(s) would directly and negatively impact your ability to perform the job duties.
 - Please note: Some cities and counties offer additional legal protections.
- Employers cannot have blanket bans that deny all applicants with criminal records or all applicants with a certain category of offense (for example, all people with felonies).
- Employers must notify you of your right

to respond to what they found in the background check before they take back a conditional job offer.

- If an employer decides to take back your job offer based on your criminal record, they must:
 - tell you the specific conviction(s) that led to their decision;
 - provide you with a copy of the criminal history information they used (such as a background check report or a website printout);
 - inform you that you have at least five days to respond to any errors and to provide proof of rehabilitation. This may include: evidence demonstrating that issues present at the time of your offense are resolved; evidence of training, education, volunteering, and work experience; and any information that places your conviction history in a less negative light. If you respond within five days to a notice that an employer plans to revoke a job offer, you then get an additional five days to submit the rehabilitation evidence.

59. “Fair Chance Act.” Assembly Bill No. 1008 (Oct. 14, 2017). Legislative Session 2017-2018. Codified as Cal. Gov. Code § 12952; See “Reentry Planning Toolkit: for people in reentry & people with arrest and conviction records.” Root & Rebound. Published 2018. Page 38. https://www.rootandrebound.org/wp-content/uploads/2020/02/RR-Reentry-Planning-Toolkit_CIPFIP-1.pdf; See also “California Employers’ Fair Chance Hiring Toolkit.” Root & Rebound. Published 2018. Pages 9-12. https://www.rootandrebound.org/wp-content/uploads/2020/02/California-Employers_-Fair-Chance-Hiring-Toolkit.pdf.

60. Cal. Lab. Code § 432.7(a).
61. Cal. Lab. Code § 432.8. [Minor marijuana-related convictions over two years old that an employer cannot ask about include, but are not limited to: marijuana possession, other than concentrated cannabis (Cal. Health & Safety Code § 11357(b) and (c)); giving away or transporting small amounts of marijuana, other than concentrated cannabis (Cal. Health & Safety Code §11360); possessing a device or paraphernalia for unlawfully smoking marijuana (Cal. Health & Safety Code § 11364); presence in the room, or aiding and abetting someone illegally using or smoking marijuana (Cal. Health & Safety Code § 11365); and unlawfully being under the influence of marijuana (Cal. Health & Safety Code §11350).]
62. 15 U.S.C. §§ 1681c(a)(2), 1681c(b)(3); Cal. Civ. Code § 1786 et seq.
63. “Roadmap to Reentry: A California Legal Guide.” Root & Rebound. Published May 2018. <https://www.rootandrebound.org/wp-content/uploads/2020/02/RoadmaptoReentry.pdf>. (See, “Chapter 5: Employment,” “Section V: Jobs & Professions Your Record Might Exclude You From.”).

WHAT IF THE JOB I WANT TO DO REQUIRES AN OCCUPATIONAL LICENSE?

You also have rights when employers use external companies to run background checks.

1. An employer must notify you that they will run a background check on you, get your permission to run the check, tell you how to request a copy of the report, and give you information about your rights.
2. A background check company cannot report, and employers cannot ask about or consider (1) arrests that never led to a conviction (unless the arrest is pending); (2) dismissed, expunged, or sealed convictions; (3) participation in court diversion programs;⁶⁰ (4) any juvenile records; (5) certain non-felony marijuana convictions that are older than two years;⁶¹ and (6) any other convictions older than seven years (unless another law requires employers of certain professions to look deeper into your background).⁶²

If you believe your rights have been violated, you can file a complaint with the California Department of Fair Employment and Housing. Learn more and file a complaint online at dfeh.ca.gov/complaint-process/file-a-complaint. Call Root & Rebound’s reentry legal hotline — any Friday from 9 a.m. to 5 p.m. PST — at (510) 279-4662 for more information and referrals.

Roughly 200 occupations require you to get a license or certification from the State of California. These are called occupational or professional licenses. Here is a list of some of the most common ones:⁶³

- Barber
- Cosmetologist
- Security guard
- Teacher
- Contractor
- Real Estate Agent
- Child Care Worker or Family Child Care Home Provider
- Nurse or Certified Nursing Assistant (CNA)
- Home Health Aide (HHA) or Personal Care Aide (PCA)
- Dentist, Dental Assistant, or Registered Dental Hygienist

- Physical Therapist or Physical Therapist Assistant
- Emergency Medical Technician (EMT) or Paramedic
- Pharmacist or Pharmacy Technician

Licensing Boards and Current Law:

To get licensed jobs, you must complete any necessary schooling and apply to the appropriate state licensing board. ***On July 1, 2020, a new law, AB 2138, went into effect.*** Under AB 2138, licensing boards and agencies must follow the rules below. Note that AB 2138 DOES NOT apply to all occupational licenses; AB 2138 only applies to Boards that follow Business and Professions Code § 480, which includes most Boards under the Department of Consumer Affairs (DCA). For a list of DCA regulated boards, visit https://www.dca.ca.gov/about_us/entities.shtml.

- Boards may deny a professional license if you have:
 - been convicted of a crime;
 - carried out any act involving dishonesty, fraud, or deceit while intending to benefit yourself or harm another; or
 - carried out any act which, if done by a licensed member of the profession, would be grounds for suspension or revocation of the license.⁶⁴
- Boards can consider only crimes and convictions that are “substantially related” to the occupation and which occurred within seven years of the license application (the seven-year clock starts only upon release from jail or prison).⁶⁵

- To determine whether a crime or conviction is “substantially related” to the profession, boards must consider all of the following criteria (and may add more):
 - The nature and gravity of the offense,
 - The number of years elapsed since the date of the offense, and
 - The nature and duties of the relevant profession.⁶⁶
- Boards can consider your whole criminal record, but cannot deny everyone with a criminal record.
- Boards cannot deny you a license solely based on a criminal conviction, if (1) you can provide evidence of rehabilitation,⁶⁷ (2) you have been granted clemency or a pardon,⁶⁸ or (3) the convictions were dismissed or expunged.⁶⁹
- Boards cannot deny you a license solely based on an arrest if the arrest resulted in a disposition other than a conviction (including infraction, citation, or juvenile adjudication).⁷⁰
- Boards can deny you a license for lying about, or forgetting to list, relevant information about your criminal record.⁷¹ That is why it is so important to get a copy of your RAP sheet and to know your criminal record before applying!

64. Cal Bus. and Prof. Code § 480 et seq.
65. Cal Bus. and Prof. Code § 480(a).
66. Cal Bus. and Prof. Code § 481(b).
67. Cal Bus. and Prof. Code § 480(b).
68. Cal Bus. and Prof. Code § 480(b).
69. Cal Bus. and Prof. Code § 480(c).
70. Cal Bus. and Prof. Code § 480(d).
71. Cal Bus. and Prof. Code § 480(e).

- If a board decides to deny you a license based on your criminal record, the board must notify you of the following:
 - The denial or disqualification of the license;
 - Any existing procedure to appeal the denial;
 - Your right to appeal; and
 - Your right to request a copy of your complete conviction history and correct errors.⁷²
- Boards cannot deny you a license based on your criminal record without first considering the rehabilitation evidence that you submit.⁷³

Licensing and Drug Convictions:

With these stipulations in mind, people with cannabis or drug convictions may want to be especially thoughtful when considering jobs that require handling or distribution of drugs. For example, licensing boards for nursing or dentistry may view drug convictions as “substantially related” to the work. As another example, driving-related occupations may be especially concerned with drug-related convictions that include driving while under the influence.

Trying to understand whether a conviction is “substantially related” to the occupation is not always clear, as each licensing board gets to decide what that means. So, it is important to check the rules of the licensing board to which you are considering applying.

If you are considering a career that requires an occupational license or you are currently going through a board’s licensing applications process, we highly recommend that you get

advice from a reentry lawyer. Call Root & Rebound’s reentry legal hotline — any Friday from 9 a.m. to 5 p.m. PST — at (510) 279-4662 for more information.

EMPLOYMENT IN THE CANNABIS INDUSTRY

CAN I WORK IN THE CANNABIS INDUSTRY WITH A CRIMINAL RECORD?

Yes, you can! There is currently no rule that requires a state level background check for entry level cannabis employees. Cannabis employers may still choose to run a background check on you, but most must follow the rules set forth by the Fair Chance Act. This means they must offer you a conditional offer of employment before running a background check on you.⁷⁴

Even though an employer may decide to run your record, background check companies are not allowed to report the following to most employers: Your participation in or your referral to a drug diversion program, any convictions you had expunged,⁷⁵ convictions over seven years old and certain cannabis convictions over two years old.⁷⁶

72. Cal Bus. and Prof. Code § 480(f)(3)(A)-(D).
73. Cal Bus. and Prof. Code § 481(c).
74. Cal. Gov. Code § 12952.
75. Cal. Gov. Code § 12952(a)(3)(B).
76. Cal. Gov. Code § 12952; Cal. Health & Safety Code § 11361.5; Cal. Health & Safety Code § 11361.7(a).

CAN I OWN A CANNABIS COMPANY WITH A DRUG CONVICTION?

Yes, you can! To get a license to own a California cannabis company, you must pass a state-level background check.⁷⁷ You may be denied a license for convictions that are “substantially related to the qualifications, functions, or duties of the business.”⁷⁸ However, there is good news. Unless your conviction involved a minor, convictions for the possession, sale, manufacture, transportation, or cultivation of drugs are not considered “substantially related,” and they cannot be the sole reason you are denied a license.⁷⁹

WHEN YOU SEE CONFLICTING LAWS, CALL A LAWYER

Cannabis regulation is a relatively new area of law, which has lots of rules that quickly change. California also has rapidly changing criminal justice reform policies, providing people impacted by the criminal justice system with added avenues of relief and legal protections. Sometimes local regulations and practices conflict with state regulations or broader reform policies. When you are navigating laws that conflict, make sure to call a lawyer!

For example, as mentioned above, unless your conviction involved a minor, convictions for the possession, sale, manufacture, transportation, or cultivation of drugs are not considered “substantially related,” and they cannot be the sole reason you are denied a license. Nevertheless, a few counties in California, such as Santa Barbara County, currently have

local regulations that conflict with the state law. If you are in one of these counties, you should contact a lawyer to advise you on whether you are likely to be denied based on your background, whether any new criminal justice reform policies provide you additional protections and what your options are if you are denied the license.⁸¹

When applying for a cannabis license with a criminal record, the licensing board will consider evidence you submit that shows you have been “rehabilitated.” This evidence includes the time that has passed since your conviction, whether your conviction has been dismissed, whether your conviction was for an offense that is now legal or has a lower penalty, the seriousness of the offense, and how well you complied with parole or probation terms.⁸² If you have any of this helpful information, make sure to submit it as evidence to the agency.

IMPORTANT! A conviction for any controlled substance felony after you are licensed is grounds for revocation of a license or denial of the renewal of a license.”⁸¹

77. Cal. Code Regs. tit. 16 § 5017.
78. Cal. Code Regs. tit. 16 § 5017.
79. Cal. Code Regs. tit. 16 § 5017(b).
80. Cal. Code Regs. tit. 16 § 5017(b).
81. County of Santa Barbara Cannabis Business Licensing Criminal History Check & Security Plan Accessed October 25, 2020 <http://cannabis.countyofsb.org/asset.c/93>

WHAT IF I APPLY FOR LICENSURE AND AM DENIED BECAUSE OF MY CONVICTION HISTORY?

If you are denied a license because of your criminal history, a licensing board must notify you, in writing, of:

- 1. the denial or disqualification of your license application,
- 2. any existing procedure the board has for you to challenge the decision or to request reconsideration,
- 3. your right to appeal the decision, and
- 4. your right to request a copy of the complete conviction history and to question the record’s accuracy.

You should review the criminal history and provide any missing information. For example, Penal Code Section 1203.4 dismissals are commonly missing from fingerprint background checks. You can provide proof of the dismissal to the board to challenge the record’s accuracy.

If the background check is correct, you have the right to appeal the decision by going before an administrative law judge. At the hearing, you can present evidence, witnesses, and testimony to show that your criminal history is not related to the license you are seeking and that you are rehabilitated.

CAN I WORK IN THE CANNABIS INDUSTRY WHILE I AM ON PAROLE OR PROBATION?

Check your probation or parole conditions, and check with your supervising officer. While there are no express blanket bans prohibiting people on probation or parole from participating in legal cannabis activity, you should check your probation or parole conditions for any specific restrictions that may apply.⁸⁴ Even though some cannabis activity is legal in California, your particular parole or probation conditions can stop you from certain legal activities if a condition is “reasonably related” to your conviction.⁸⁵

If you have a condition restricting you from legal cannabis activity, you can challenge the condition. However, if you are under supervision for a drug conviction, you are unlikely to win, since the court will likely say the condition is “*reasonably related*” to your conviction.

If you are unclear on whether your conditions restrict you from working in the industry or using cannabis products, we recommend that you reach out to a lawyer or your parole/probation officer for clarification. Remember, you lose most of your constitutional rights against searches and seizures while you’re on parole.⁸⁶ A parole/probation violation can result in going back to prison or jail. **Don’t risk it!**

In the California Roadmap to Reentry, our Parole, Probation & Community Supervision chapter has more information about:

- 1. challenging a parole condition set by Board of Parole Hearings (BPH);
- 2. challenging a parole condition set by the Department of Adult Parole Operations (DAPO) through the 602 administrative appeal process; and
- 3. challenging a formal probation condition.

The Roadmap to Reentry is available online at: www.rootandrebounce.org/resources. When viewing the Roadmap online, you can find the section with the relevant information in the Table of Contents at the beginning of the Parole, Probation & Community Supervision chapter. The Appendix in the same chapter also contains sample forms.

Spotlight on Cannabis Companies

WHAT KINDS OF BUSINESSES AND JOBS HAVE SPROUTED UP AROUND THE CANNABIS INDUSTRY? HOW DO I FIND THEM?

If you are interested in working with cannabis, you will be excited to hear that there is a wide range of opportunities to be involved in this industry. In general, the industry has two sectors: plant-touching companies that handle the cannabis flower itself, and ancillary or non-plant touching businesses that exist to support the cannabis industry but have no direct contact with the product.

This section describes the different types of companies in each of these sectors. It also highlights job positions that may exist within each of those types of companies.

82. Cal. Code Regs. tit. 16 § 5017(c).
83. Cal. Code Regs. tit. 16 § 5017(b).
84. People v. Tilehkooh, 113 Cal.App.4th 1433, 1443, 7 Cal. Rptr. 3d 226, 233 (2003); People v. Brooks (Cal. App. 2d Dist. Mar. 16, 2010), 182 Cal. App. 4th 1348, 107 Cal. Rptr. 3d 501, 2010 Cal. App. LEXIS 343, modified, (Cal. App. 2d Dist. Apr. 7, 2010), 2010 Cal. App. LEXIS 475.
85. People v. Lent, 15 Cal.3d at 486; 3 Witkin & Epstein, Cal. Criminal Law, § 563, p. 756.
86. Cal. Penal Code § 3067(d); People v. Williams, 3 Cal. App.4th 1100 (1992); See also U.S. v. King, 687 F.3d 1189 (2012).

1. PLANT TOUCHING			
TYPE OF COMPANY	DESCRIPTION	COMMON JOB POSITIONS	
Horticulture/Agriculture	Company creates marijuana plant	Breeder	Develops quality cannabis seeds by combining male and female plants to create specific marijuana strain or to enhance specific characteristics This job usually requires an agriculture background and/or hands-on experience with plant breeding
		Cultivator / Grower	Oversees cannabis crops from planting through harvest and ensures crops remain pest-free, while also managing warehouse grow lights and gardening schedule This job usually requires a biology background and/or hands-on experience
Processing	Company prepares plant for sale in stores	Trimmer	Manicures and prepares cannabis plant, and cuts marijuana flower and leaves from branches
		Packaging	Packages and labels products as well as rolling joints and stuffing cones
Manufacturer	Company makes edibles, topicals, vape pens, and other products from cannabis flower and concentrate	Extractor	Takes raw cannabis plant and transforms it into concentrates such as wax, shatter, and/or Co2/distillate for vape products, or to be made into topicals or edibles
		Edible Chef	Uses cannabis oils and butter in creative ways to infuse marijuana into food
Distribution	Company coordinates delivery of product from suppliers to retailers	Logistics	Schedules deliveries from warehouse to dispensaries
		Courier	Delivers wholesale goods from cultivators and/or warehouses to dispensaries This job may require a clean driving record, a driver's license, and proof of insurance. An employee might need their own vehicle, although some businesses have company vehicles
Dispensaries / Retail Companies	Standard consumer-facing store selling cannabis products	Purchasing	Researches products and (re)stocks store in accordance with customer demand to maximize store's profits
		Budtender / Sales Representative	Interacts with customers and helps them choose what products to buy For this job, customer service and sales experience are helpful.
		Brand Ambassador	Usually short-term contract position representing certain brand and setting up at events to advertise brand This role usually requires the employee to have a car, a clean driving record, a driver's license, and proof of insurance

1. PLANT TOUCHING (CONT.)			
TYPE OF COMPANY	DESCRIPTION	COMMON JOB POSITIONS	
Dispensaries / Retail Companies (cont.)	Standard consumer-facing store selling cannabis products	Compliance	<p>The cannabis industry is one of the most regulated industries, making compliance extremely important for a company to remain in business. All cannabis companies, both plant touching and non-touching, likely have some form of a compliance officer</p> <p>This position keeps track of all the latest regulations (state, county, and city) to make sure the business is compliant. Sometimes this includes going to town hall or city council meetings</p>
Testing Laboratories	Company performs lab tests on cannabis products to ensure consumption safety and compliance with health standards	<p>Testing for contaminants, viruses, bugs and other harmful factors</p> <p>A science background is preferred for these types of jobs.</p>	

<div> <div>2.</div> <div> <div>ANCILLARY BUSINESSES (NON-PLANT TOUCHING)</div> <div> <p>As the industry continues to grow, more and more non-plant touching ancillary companies are needed to support cannabis cultivation, processing, distribution and marketing. This section highlights those types of companies and job positions that do not have plant contact.</p> </div> </div> </div>		
TYPE OF COMPANY	DESCRIPTION	POSITIONS
Accounting Companies	Company aids with managing financials of cannabis-related company	<div> <div>METRC specialist</div> <div>Enters data, exports, counts and inventories using METRC software, which the state employs to track all cannabis materials, including waste/compost; and frequently interfaces with testing facilities and state representatives This job requires being detail-oriented.</div> </div> <div> <div>Data Analysis</div> <div>Prepares data reports on weekly product usage and marketing activity A data analysis position may be in any type of cannabis company.</div> </div>
Human Resources (HR) Departments or Companies	Finds, screens, recruits, and trains applicants, and administers employee-benefit programs	<div>Depending on role, ensures hiring process is legal and fair; supports employees as they navigate company systems; manages payroll, paid time off, employee benefits; and other administrative tasks</div> <div>A plant-touching company may have its own HR department, or it may outsource to an external non-plant touching HR and staffing company.</div>
Marketing	Carries out strategic functions involved in identifying and appealing to particular consumer groups; often includes activities such as advertising, branding, pricing, and sales.	<div> <div>Sales Rep/Account Manager</div> <div>Responsible for driving both sales and business growth through customer base</div> </div> <div> <div>Consulting</div> <div>Provides professional expert advice to companies, including making operation recommendations</div> </div> <div> <div>Office Assistant/Manager</div> <div>Ensures office runs smoothly and oversees administrative tasks (answering phones, filing receipts, invoicing, and organizing other documents and digital files) An office manager may be in any type of company, both plant-touching and non-plant touching.</div> </div> <div> <div>Security guard</div> <div>Maintains peace in retail store and ensures customers do not enter with weapons During store hours, most retail locations are required to have a security guard.</div> </div> <div> <div>Product retailing</div> <div>Creates and sells accessories and equipment customers might need for cannabis consumption, including bongs, pipes, vaporizers, papers, and other equipment</div> </div>

VIOLA AND INDUSTRY EQUITY PROGRAMS

To date, Viola has committed over \$500,000 to partner with, fund and guide six applicants through Phase 1 and 20 applicants through Phase 2 of our Social Equity Program in Los Angeles!

Read more about how you can get involved in Social Equity Programs on pg. 47.

**Entrepreneurship in Cannabis
BUSINESS LICENSURE**

**WHAT ARE SOME OF THE CHALLENGES
TO OWNING A CANNABIS BUSINESS?**

Entering the cannabis industry can be very challenging for entrepreneurs. It is a very expensive industry to participate in and requires following lots of frequently changing regulations.

Since cannabis continues to be federally illegal, many traditional funding sources, such as Small Business Administration (SBA) small business loans, are not available to cannabis entrepreneurs. Many first-time owners experience significant funding challenges due to the industry’s competitiveness and investors’ hesitancy to commit to investing in companies with little to no industry experience.

In response to this limitation — which has a huge impact on low-income communities and those impacted by the criminal justice system — we encourage you to participate

in Social Equity Programs managed by local governments. These programs are discussed on pg. 46.

You can also seek sponsorship from an equity incubator, which is a larger cannabis company that will provide you with resources in exchange for the state providing it with licensing benefits.

In addition to government-sponsored options, you can research private cannabis business accelerator programs (for example, Eaze’s Momentum program) to see if this kind of initiative would be right for you. These accelerator programs provide participants with funding, cannabis financial literacy, and business compliance assistance as well as networking opportunities. Find out more about Eaze’s business accelerator program at eaze.com/momentum.

IMPORTANT:

Business Accelerator programs are still a brand-new concept, and it may require some research to find a program that is a good fit for your needs. However, these programs create a great bridge into the industry and equip participants with the hardest tools to obtain- funding, space, cannabusiness literacy and access to networking opportunities.

**WHAT IS THE PROCESS FOR GETTING A
STATEWIDE CANNABIS LICENSE?**

Three California agencies regulate and approve different types of cannabis licenses. Each one has its own online application process with different requirements and resources tailored to the type of cannabis-related services for which you seek licensing.

Licensing approval at any of the agencies requires local authorization demonstrating approval of the proposed cannabis-related services. Check with your local jurisdiction before starting the licensing application, as local permits and approval require separate local processes.

The lead cannabis regulation agency is the Bureau of Cannabis Control, which licenses retailers, distributors, testing, labs, microbusinesses, and temporary cannabis event organizers.

The California Department of Public Health houses the Manufactured Cannabis Safety

Branch, which regulates and oversees licensing for manufacturers of concentrates and cannabis-infused edibles for medical and recreational use.

An overview of the licensing application process for a retailer and manufacturer license is as follows:

1. Pay Application Fee
2. Submit Annual Application
3. Obtain Local Verification via Local Permit Approval Process
4. Pass Administrative Application Review (with Background Check)
5. Pay License Fee

87. “Apply for a License.” California Cannabis Portal. Accessed May 21, 2020. <https://cannabis.ca.gov/apply-for-a-license/>.

88. “Apply for a License.” California Cannabis Portal. Accessed May 21, 2020. <https://cannabis.ca.gov/apply-for-a-license/>; see also Bureau of Cannabis Control. Accessed May 21, 2020. <https://www.bcc.ca.gov/>.

89. “Apply for a License.” California Cannabis Portal. Accessed May 21, 2020. <https://cannabis.ca.gov/apply-for-a-license/>; see also California Department of Public Health’s Manufactured Cannabis Safety Branch. “Licensing.” Updated Dec. 6, 2019. Accessed May 21, 2020. <https://www.cdph.ca.gov/Programs/CEH/DFDCS/MCSB/Pages/Licensing.aspx>.

The California Department of Food and Agriculture houses CalCannabis Cultivation Licensing, which licenses cultivators (growers) of medicinal and recreational cannabis. All cannabis licenses also require implementing a “track-and-trace” system to record the movement of cultivated cannabis through the distribution chain.⁹⁰ The application process for a cultivation license is as follows:⁹¹

1. Pay Application Fee
2. Submit Annual Application
3. Obtain Local Verification via Local Permit Approval Process
4. Pass Administrative Application Review (with Background Check)
5. Pass Scientific and Environmental Review
6. Pay License Fee

Industry Social Equity Programs

WHAT WAS SB 1294, THE CALIFORNIA CANNABIS EQUITY ACT?

The California Cannabis Equity Act of 2018 funded local cities and counties to provide for technical assistance and an expedited licensing process.⁹² This assistance is available to people who the War on Drugs has disproportionately harmed.⁹³ A person is usually eligible for these programs based on having a cannabis conviction prior to 2016, or living in an area that was disproportionately criminalized for cannabis.

The State of California realized that the War on Drugs, particularly cannabis prohibition, had a devastating and disproportionate impact on Black and Latinx communities.⁹⁴ The State

acknowledged that, as a result of cannabis-related convictions, people suffer long-term consequences: “The collateral consequences associated with cannabis law violations, coupled with generational poverty and a lack of access to resources, make it extraordinarily difficult for persons with convictions to enter the newly regulated industry.”⁹⁵ These individuals have a more difficult time entering the legal market due, in part, to a lack of access to capital (money), business space, technical support, and regulatory compliance assistance.

The Cannabis Equity Act was created to make sure that the people most harmed by cannabis criminalization and intergenerational poverty receive assistance to enter the multibillion-dollar legal market. The law requires the Bureau of Cannabis Control to post equity ordinances (rules) on the Internet.⁹⁶ You can access these rules at: https://bcc.ca.gov/licensees/local_equity.html.

In California, there are many Social Equity Programs. They operate in the city of Los Angeles, city of Long Beach, city of Oakland, city and county of San Francisco, city of Sacramento, city of San Jose, Humboldt county, city of Coachella, city of Palm Spring, and city of Rio Dell.

Los Angeles and Bay Area programs are summarized on the next page.

SETTING REASONABLE EXPECTATIONS

While these government initiatives to provide support through social equity programs are a huge step in the right direction, it is important that you remember that many of these programs are brand new, still improving, growing and figuring out how to provide you support.

90. “Apply for a License.” California Cannabis Portal. Accessed May 21, 2020. <https://cannabis.ca.gov/apply-for-a-license/>; see also California Department of Food and Agriculture’s Division of CalCannabis Cultivation Licensing. “Licensing Branch.” Accessed May 21, 2020. <https://www.cdfa.ca.gov/calcannabis/licensing.html>.

91. “Overview of the Commercial Cannabis Cultivation Licensing Process.” California Department of Food & Agriculture, CalCannabis Cultivation Licensing. January 2020. Accessed May 21, 2020. <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=177319>.

92. Cal. Senate Bill No. 1294 (Sept. 26, 2018). Enacted as the “California Cannabis Equity Act of 2018” (Effective Jan 1, 2019). Codified as Cal. Bus. & Prof. Code § 26240 et seq.

93. Cal. Senate Bill No. 1294 (Sept. 26, 2018). Enacted as the “California Cannabis Equity Act of 2018.” Effective Jan 1, 2019. Codified as Cal. Bus. & Prof. Code § 26240 et seq.

94. California Cannabis Equity Act of 2018, Senate Bill No. 1294, Legislative Session 2017-2018. (Citing the Legislature’s findings and declarations in Section 2(b).)

95. California Cannabis Equity Act of 2018, Senate Bill No. 1294, Legislative Session 2017-2018. (Citing the Legislature’s findings and declarations in Section 2(c).)

96. Cal. Bus. & Prof. Code § 26246(b).

LOS ANGELES SOCIAL EQUITY PROGRAM

Los Angeles county has two Social Equity Programs, one in the city of Los Angeles and one in Long Beach. The city of Los Angeles’s program has three applicant tiers with varying eligibility requirements and benefits. You can apply for the program on the City of Los Angeles Department of Cannabis Regulation’s website: cannabis.lacity.org/licensing/social-equity-program-4.com

97. Los Angeles Municipal Code § 104.20.
98. Los Angeles Municipal Code § 104.20(d).
99. Los Angeles Ordinance Number 185629, amending Los Angeles Municipal Code Section 104.20(d), http://clkrep.lacity.org/onlinedocs/2014/14-0366-S5_ORD_185629_07-02-2018.pdf.
100. Los Angeles Ordinance Number 185629, amending Los Angeles Municipal Code Section 104.20(d), http://clkrep.lacity.org/onlinedocs/2014/14-0366-S5_ORD_185629_07-02-2018.pdf.

Tier 1 applicants Eligibility requirements

- Must be low income +
- Have an arrest or conviction for a cannabis offense in California before 2016 or
- Lived for at least 5 years in a “disproportionately impacted area” as determined by your zip code +
- Must own at least 51% of the business

Benefits

- Business, licensing and compliance assistance; expedited renewal processing; program site specific conditions; the potential for fee deferrals if the City Council adopts a fee deferral program; and access to an Industry Investment Fund if established

Tier 2 applicants Eligibility requirements

- Must be low income +
- Live a minimum of five years in a “Disproportionately Impacted Area” ; this five years does not have to be consecutive.⁹⁸ or
- Has no income requirement but must be a current resident in a “Disproportionately Impacted Area”, and have lived in one for at least 10 years

- Must hold at least 33.33% of the business

Benefits

- Business, licensing and compliance assistance; expedited renewal processing; program site specific conditions.

Tier 3 applicants⁹⁹ Eligibility requirements

- Must provide tier 1 and 2 applicants with access to business space without rent, as well as business licensing and compliance support for a three-year period¹⁰⁰

Benefits

- Expedited renewal processing; and program site specific conditions.

WILL ANY CONVICTIONS DISQUALIFY ME FROM THE LOS ANGELES SOCIAL EQUITY PROGRAM?

Yes. Certain drug offenses will disqualify you for five years while certain violent offenses will disqualify you for 10 years from the day of conviction.

You will be disqualified from participating in the Los Angeles social equity program if you have:

- A conviction of **illegal volatile cannabis manufacturing** under Health and Safety Code Section 11379.6 for a period of **five years** from the date of conviction;¹⁰¹
- A conviction for violating any law involving distribution or sales of **cannabis or alcohol to minors**, for a period of **five years** from the date of conviction;¹⁰²
- A conviction for conducting any **illegal commercial cannabis activity** after April 1, 2018, for a period of **five years** from the date of conviction;¹⁰³
- A felony conviction for violating any state or local law involving the import, export, manufacture, distribution, or sales of **illegal drugs other than cannabis**, for a period of five years from the date of conviction; and/or
- A felony conviction for violating any State or local law involving **violent** crimes, sex trafficking, rape, crimes against children, gun crimes or hate crimes for a period of **ten years** from the date of conviction.

LONG BEACH SOCIAL EQUITY PROGRAM

Long Beach’s Social Equity Program has two tracks: one for equity business owners and one for equity employees.

All recreational cannabis companies in Long Beach that are not owned by at least one equity business owner must employ equity employees for a minimum of 40% of the business’s total work hours.¹⁰⁴ A cannabis company must implement this rule by its second year of operation, and it must comply with this rule every year.¹⁰⁵

In July 2020 the city of Long Beach announced changes to its equity program to offer participants additional support through direct grants. “The City of Long Beach established a direct grants program to provide additional assistance to equity applicants and equity businesses to gain entry into, and successfully operate in, the regulated cannabis marketplace. The purpose of direct grants is to offset non-City costs associated with completing each phase of the cannabis business license application and permitting process.”¹⁰⁶

101. Los Angeles Municipal Code § 104.03(c)(2).
102. Los Angeles Municipal Code § 104.03(c)(4).
103. Los Angeles Municipal Code § 104.03(c)(8).
104. Long Beach Municipal Code § 5.92.1540.
105. Long Beach Municipal Code § 5.92.1540.
106. Long Beach Office of Cannabis Oversight Social Equity Direct Grants Program accessed Oct 27,2020 <http://www.longbeach.gov/citymanager/cannabis-information/cannabis-social-equity-program/direct-grants-program/>

107. Long Beach Office of Cannabis Oversight Social Equity Direct Grants Program last accessed Oct 27, 2020 http://www.longbeach.gov/globalassets/city-manager/cannabis-information/cannabis-equity/cannabis-social-equity-direct-grants-application_final

108. Long Beach Office of Cannabis Oversight Social Equity Direct Grants Program accessed Oct 27, 2020 <http://www.longbeach.gov/citymanager/cannabis-information/cannabis-social-equity-program/direct-grants-program/>

109. Long Beach Municipal Code § 5.92.1520.A.3.

110. Long Beach Municipal Code § 5.92.1520.

111. Long Beach Municipal Code § 5.92.1520(b).

112. Long Beach Municipal Code § 5.92.1530.

Equity Applicants and Equity Businesses that have completed one or more cannabis business licensing direct grant milestones may submit a Cannabis Social Equity Direct Grants Application, along with supporting documentation to the Office of Cannabis Oversight. Grant funds will be available until funds are exhausted, or until the State mandated expiration of the grant program on August 31, 2021, whichever occurs sooner.

You can access an application to participate in Long Beach’s programs online at: <http://www.longbeach.gov/citymanager/cannabis-information/cannabis-social-equity-program/open-an-equity-business/>.

Equity Assistance Program Eligibility
Equity Employee

- Must have a net worth below \$250,000 and must have an annual household income of below 80% L.A. County area median income (AMI) limits
AND at least one (1) of the following:
 1. Have lived in a qualifying census tract in Long Beach for a minimum of three years¹⁰⁹
 2. Currently receiving unemployment insurance (UI) payments
 3. Was arrested or convicted of a cannabis-related crime in Long Beach, prior to Nov. 8, 2016, that could have been prosecuted as a misdemeanor or citation under current California law¹¹⁰

Equity Business Owner

- Requirements
 - Must own 51% of the business + fulfill all eligibility requirements set forth for Equity Employees¹¹¹
- Benefits
 - Expedited adult-use cannabis business permit application review; adult-use cannabis business permit application and compliance assistance; cultivation business license tax deferrals during the first year; expedited building plan check review; and waivers of City permitting fees¹¹²

EQUITY PROGRAM BENEFITS ¹¹³	
Application workshops	Get assistance on how to prepare and submit a complete cannabis business license application and learn strategies on how to increase opportunities for approval at each stage of the application process.
*Fee waivers	All zoning, application, plan check, inspection and other applicable City fees are waived for Equity Businesses. Fee waivers will cover City costs that Equity Businesses would otherwise incur through the cannabis business license application and permitting process, thus allowing Equity Businesses to conserve resources for other costs associated with opening a cannabis business in Long Beach.
*Direct Grants	Direct grants are intended to offset non-City costs associated with completing each phase of the cannabis business license application and permitting process. Equity Applicants and Equity Businesses who complete cannabis business licensing direct grant milestones are eligible to receive the grant amount associated with each milestone. To learn more or apply for a direct grant, please click here: Direct Grants Program.
Expedited application and plan check review	Equity Businesses will receive priority application review and facility plan check review, allowing them to move quicker through the application process. Equity Businesses who applied for an adult-use cannabis cultivation license may pay their first year’s taxes on a monthly payment plan instead of the full payment that is usually required prior to issuance of a cannabis cultivation business license.
Cultivation tax deferrals *Direct Technical Assistance (Coming Soon)	Equity Applicants and Equity Businesses will have access to business consulting services to start, sustain and grow a viable cannabis business in Long Beach.

113. Long Beach Office of Cannabis Oversight. “Social Equity Direct Grants Program.” Accessed October 27, 2020. <http://www.longbeach.gov/citymanager/cannabis-information/cannabis-social-equity-program/direct-grants-program/>

CANNABIS BUSINESS LICENSING DIRECT GRANT MILESTONES

Equity Applicants and Equity Businesses who complete the following cannabis business licensing direct grant milestones are eligible to receive the grant amounts associated with each milestone.

CANNABIS BUSINESS LICENSING DIRECT GRANT MILESTONES	GRANT AMOUNT
Pre-Application Milestone A: Equity Status Verification Issued Before July 23, 2020	\$5,000
Pre-Application Milestone B: Equity Workshop Scheduled or Attended Before July 23, 2020	\$5,000
Milestone #1: Cannabis Business License Application Review	\$20,000
Milestone #2: Completion of Conditional Use Permit (CUP) or Administrative Use Permit (AUP) Process	\$20,000
Milestone #3: Submittal of Facility Architectural Plans	\$35,000
Milestone #4: Issuance of Building Permit	\$50,000
Milestone #5: Final Building Sign-Off or Issuance of Certificate of Occupancy	\$20,000
Milestone #6: Issuance of Cannabis Business License	\$80,000

OAKLAND SOCIAL EQUITY PROGRAM

To qualify for Oakland’s Social equity program, you must:

1. Prove you make less than 80% of the Oakland Average Medium Income (AMI) -- (2018 AMI was \$62,750 for a one-person household and \$89,600 for a family of four);
2. Be an Oakland resident;
3. Either have a cannabis conviction in Oakland after November 5, 1996 or have lived for 10 of the last 20 years in the police beats with disproportionately higher number of cannabis-related arrests: you can use the City of Oakland’s online Police Beat Locator to see which beat you live in.¹¹⁴

Benefits of Oakland’s Social Equity program include industry specific technical assistance, business ownership technical assistance, no interest business start-up loans, and waivers from City permitting fees. You can access Oakland’s application online at: www.oaklandca.gov/topics/become-an-equity-applicant-or-incubator.com

General applicants can apply for permitting priority by becoming an social equity “incubator”. Incubators must provide social equity applicants a rent-free work space of at least 1000sq feet.¹¹⁵

DO I HAVE TO GET A BACKGROUND CHECK TO PARTICIPATE IN OAKLAND’S SOCIAL EQUITY PROGRAM?

Yes. All applicants for a cannabis license in the city of Oakland have to undergo a background check. However background checks must be limited to determining whether in the last **seven years** an applicant has been convicted or plead guilty to a **violent offense or crime of fraud** or deceit.¹¹⁶

SAN FRANCISCO SOCIAL EQUITY PROGRAM

The city of San Francisco has one of the most comprehensive Social Equity Programs that acknowledges how housing insecurity and lack of educational resources contribute to systemic poverty. To be eligible for San Francisco’s Social Equity Program, you must fulfill the **equity requirements** as well as **three of the six equity conditions**.¹¹⁷

This program’s benefits include not having to pay the \$5,000 licensing fee and possibly being able to partner with an equity incubator to receive free rent and technical assistance. You can apply for San Francisco’s Social Equity Program online at: officeofcannabis.sfgov.org/equity/applicant.

114. City of Oakland, Ordinance No. 13504 § 5.80.04550.
115. City of Oakland, Ordinance No. 13504 § 5.80.04550.
116. City of Oakland, Ordinance No. 13504 § 5.80.020.
117. City and County of San Francisco Police Code, Art. 16, Sec. 1604 can be accessed at https://bcc.ca.gov/licensees/socequity_sanfrancisco.pdf; See “Equity Conditions.” San Francisco Office of Cannabis. Accessed May 7, 2020. <https://officeofcannabis.sfgov.org/equity/applicant#equity-conditions>.

Equity Requirements

You must apply as a person (not a company) and have less than a certain amount of net assets, as determined by your household size. A one-person household cannot have net assets over \$193,500. Additionally, you must be one of the following:

- 1. the business owner;
- 2. at least 40% business owner and CEO;
- 3. at least 51% business owner;
- 4. a non-profit cannabis business board member, in which most of the other board members also qualify as equity applicants; or
- 5. an individual with a membership interest in a cannabis business formed as a cooperative.

Equity Conditions

In addition to fulfilling the equity requirements, you must also meet three of the following six equity conditions:

- 1. Have a household income below 80% of the average median income (AMI)
- 2. Have been arrested for or convicted of the sale, possession, use, manufacture, or cultivation of cannabis (including as a juvenile), from 1971 to 2016
- 3. Have a parent, sibling, or child who was arrested for or convicted of the sale, possession, use, manufacture, or cultivation of cannabis (including as a juvenile), from 1971 to 2016
- 4. Lost housing in San Francisco after 1995 through eviction, foreclosure, or subsidy cancellation
- 5. Attended school in the San Francisco Unified School District for a total of five years, from 1971 to 2016
- 6. Have lived in San Francisco census tracts for a total of five years, from 1971 to 2016, where at least 17% of the households had incomes at or below the federal poverty level

SCAMS AND PREDATORY PRACTICES

Beware of Predatory Practices

It may benefit you to have a larger cannabis company “sponsor” your equity licensing application, making it an equity incubator. Your equity incubator will receive cannabis licensing priority in exchange for providing you with business resources.

Like any other industry, cannabis has its share of bad actors. Beware of businesses that seek to use equity applicants to reap the equity program’s licensing benefits while secretly cheating you out of resources. Instances of predatory practices include:

- 1. Incubator companies that charge equity applicants for space and services they are already required to provide to applicants for free.

- 2. Incubators buying shares of an equity applicant’s company for a fraction of its worth. This frequently leaves the applicant with less than the number of shares they are required, by law, to maintain.

If you are considering applying for an equity license with a larger company as your incubator, make sure you:

- 1. know what services your incubator is required to provide for it to be eligible for the program;
- 2. know the benefits your incubator is receiving from participating in the program (this frequently includes priority licensing for providing you with resources);
- 3. know what percentage of your company you are required to own to keep your status as an equity licensee; and
- 4. know the economic value of the shares in your company to avoid predatory actors who want to buy your shares for a fraction of their worth.

CONCLUSION

California authorizes the largest and fastest growing legal cannabis market in the United States. A growing industry means more jobs. This section covered the many types of cannabis-related businesses and jobs available to all Californians. Even if you have a criminal record, you may still qualify to apply for cannabis industry jobs or for a license to start and run your own cannabis business.

The Cannabis Equity Act was created to ensure the people most harmed by cannabis criminalization and intergenerational poverty get support to enter the multibillion-dollar legal market. Because of the Cannabis Equity Act, jurisdictions that have a Social Equity Program may provide extra financial and technical support to qualifying applicants with past cannabis-related convictions.

Also, companies such as Viola have pledged to promote social equity and support minority participation in the cannabis industry by reinvesting in communities and individuals most affected by the War on Drugs.

To learn more about resources that support you in entering the legal cannabis industry, these websites are a great place to start:

- Minority Cannabis Business Association: <https://minoritycannabis.org>
- Supernova Women: <https://www.supernovawomen.com>
- Success Centers Equity for Industry: <https://successcenters.org/employment/urban-connections-program/equity-for-industry/>
- Eaze Momentum Accelerator: <https://www.eaze.com/article/momentum-cannabis-incubator-industry-equity>
- Hood Incubator Cannabis Business Accelerator: <https://www.hoodincubator.org/accelerator>

SECTION 3

OTHER PILLARS OF SUCCESSFUL REENTRY



GETTING ID

WHAT IS IDENTIFICATION OR ID?

Identification (ID) is proof of who you are — your identity. Government agencies, workplaces, service providers, schools, and other institutions issue ID cards for people who are members. Many forms of ID include a photo and important identifying information, such as your address or physical characteristics.

WHY IS ID IMPORTANT?

You need specific forms of ID to apply for many important resources and services, including housing, employment, education, medical care, public benefits, transportation, driving privileges, voting, banking, and licenses that allow you to work in certain types of jobs.

WHAT ARE THE MOST IMPORTANT KINDS OF ID, AND WHY?

As you (re)build your life in the community, there are 3 KEY DOCUMENTS for you to have.

1. U.S. Birth Certificate: This proves your age and legal presence in the United States. You need it to get most other forms of identification, including your California State ID card or driver's license.

2. Social Security Number/Card: A social security number (SSN) is required to apply for jobs, education programs, financial aid, and government services. You also need it to obtain other forms of ID, such as a state ID or driver's license.
3. California State ID and/or Driver's License: Both a California State ID card and driver's license prove your age and identity, and they may prove your legal presence in the United States. Either one can be used as an official photo ID. You will likely need one of these to open a bank account, to register to vote, and to apply for jobs, housing, or public benefits. State IDs and driver's licenses are generally considered the most commonly accepted forms of identification. A California driver's license is different from a State ID in that it gives you driving privileges, if you can meet all the state requirements.

WHERE DO I START?

If you do not have any of the three forms of ID listed above — your U.S. birth certificate, a social security card (or number), or a State ID or driver's license — you will have trouble proving your identity. In most cases, it will make the most sense to get your birth certificate first, then your social security card, and lastly, your state ID or driver's license. For in-depth guides to getting various forms of ID, see Root & Rebound's Roadmap to Reentry at: <https://www.rootandrebound.org/resources/ca-roadmap/>.

WHAT ARE OTHER USEFUL TYPES OF ID?

For most people, the three forms of ID above will cover all ID needs. Other forms of ID that you may want or need will depend on your unique life situation.

- 1. Naturalization Certificate: If you are a naturalized citizen, meaning you were born outside of the U.S. and later became a citizen, you will not have a U.S. birth certificate. Instead, you will need to obtain your naturalization certificate.
- 2. Tribal ID: A tribal ID proves your enrollment in a particular Indian (Native American or Alaska Native) tribe. It can be used as official photo ID for some places (such as federal buildings, airports, and banks) and certain services (such as the federal Indian Health Service), but not for other purposes. For example, it will not work for notary services in California.
- 3. U.S. Passport: This is necessary for traveling abroad and coming back to the United States. It is also considered an official photo ID.

- 4. ID for an Undocumented Person: If you are an undocumented person in the U.S., who was not born in the U.S., you may qualify for special types of IDs we have not mentioned. These IDs may be used under limited circumstances. For example, CA Assembly Bill 60 provides for some undocumented persons to access a driver’s license for limited purposes. Some cities also provide municipal ID, which may be used to access City services.
- 5. School ID or Library Card: You may get school-issued ID if you enroll in continued education at a community college, a trade school, or a university. School ID is usually required to access school resources and locations. Library cards are available for free from your local library. They provide access to free resources such as books, movies, computers, and the Internet.

For more information on how to obtain any of these documents, see Root & Rebound’s Roadmap to Reentry at: <https://roadmap.rootandrebound.org/the-building-blocks-of-reentry-getting-id-other-ke/>.

HOUSING

One of the most important factors of successful reentry is access to stable housing. The kind of housing someone has impacts whether they will be able to reunite with their family and children, secure employment, monitor their health needs, and access other important benefits.

But a severe lack of affordable housing across the United States, coupled with both legal and illegal restrictions on housing for people with criminal records, makes it incredibly difficult for many people to find stable housing.



HOW DO I LOOK FOR HOUSING WITH A RECORD?

Know your record and clean your record.

The first step in your housing search is to find out what is on your record because it can impact what housing you will be able to access. For more information on how to find out exactly what is in your criminal record, see Section 2 of this Toolkit, starting on pg. 25. For more information on cleaning your record, see Section 4 of this Toolkit, starting on pg. 74.

Learn what housing is available to you.

There are various types and forms of housing, including single-family homes or multi-family apartments, temporary or permanent housing, and market-rate or affordable housing. Your rights as a housing seeker can differ depending on who owns, operates, and/or funds the housing. It is also important to know the differences between “private housing” and “federally assisted housing,” and how they impact your housing rights and eligibility.

Private housing is owned, operated, and/or funded by a private entity such as a person or corporation. Generally, compared to federally assisted housing, private housing has fewer legal

restrictions for people with records. But private housing also gives landlords a lot of discretion in deciding who they rent to. In places without Fair Chance Housing laws, private landlords can often choose not to rent to people with criminal records. To learn more about Fair Chance Housing laws and what protections they can offer people with convictions, see the Fair Chance housing section below.

Federally assisted housing is housing that the federal government owns, operates, and/or funds. It may also be referred to as public or subsidized housing. Heavily regulated by federal law, this type of housing is usually reserved for people with low incomes, seniors (62 or older), people with disabilities, and military veterans. However, even if your income, age, or disability make you eligible for federally assisted housing, you will be denied if you have ever been convicted of methamphetamine production or an offense that requires lifetime sexual offender registry. You can be denied federally assisted housing if you were previously evicted from federally assisted housing for drug-related (including cannabis) offenses or if you, or anyone in your household, currently uses federally illegal drugs (including cannabis).

Apply to housing. After learning what is available to you, but before submitting your housing application, find out whether the housing you are applying for is private or federally funded. Then, begin your application process. As you are taking steps to apply for housing, here are some considerations to be aware of.

Know the housing type: As a general rule, if you must go through a public housing authority (PHA), a city, or a county to apply for housing or a housing voucher, the housing is likely federally assisted. If you are unsure whether you are applying to private or federally assisted housing, ask the listing agent, realtor, property manager, owner, or other contact listed on the housing advertisement.

Complete the housing application: It is common for landlords to request background information during the application process. Any landlord, whether it is the PHA, or a private individual or company, will have you fill out a housing application. Usually, the application will include questions about your identity, income, credit, housing and employment history, and possibly, your criminal record. Landlords can ask you to consent to a background check or even list your convictions on your application, unless you live in a city or county with Fair Chance Housing laws. Under statewide California regulations, landlords (1) cannot ask about arrests that did not lead to convictions; (2) cannot prevent you from applying if you have been convicted

of a felony; and (3) cannot deny you or treat you differently based on race, color, religion, sex, national origin, disability status, or familial status. To learn more about Fair Chance Housing laws and what protections they can offer people with convictions, see the Fair Chance Housing section below.

Know what to do if denied housing. If you are denied housing, you can and should ask why. If the landlord denies your application because of a background check, they must give you a copy of the report, if you ask for it. If they deny you because of other application information (not the background check), they are not required to tell you but you can, and should, ask anyway. If you think you were illegally denied housing, it is important to contact a lawyer. If you are low-income, you may qualify for free legal assistance. You may find a legal aid office near you by visiting lawhelp.org/

See our in-depth, step-by-step housing guide. If you would like a more in-depth, step-by-step guide for applying to different types of housing with a record, you may want to check out Root & Rebound's National Fair Chance Housing Toolkit: A National Know-Your-Rights Toolkit for Accessing Housing with a Conviction Record. You can download it at: <https://www.rootandrebound.org/resources/national-fair-chance-housing-toolkit/>.

HOW CAN CANNABIS RELATED CONVICTIONS AFFECT ACCESS TO HOUSING?

If you or someone in your household has a cannabis-related conviction, it can affect your access to housing. The extent to which it affects your access will depend on the type of housing you are applying to, the conviction and when it happened, and what city or county the housing is in. At the end of this section, you can learn about the benefits of Fair Chance Housing laws and what cities and counties have passed such laws.

Access to private housing with a cannabis record. Private housing landlords have a great deal of discretion in deciding whether to deny housing to someone with a criminal record. But you still have rights and protections under federal, state, and local law that you should be aware of.

Federal housing law and cannabis arrests and convictions: No federal laws allow landlords to discriminate against people with cannabis convictions who apply for private housing. Landlords may not deny you housing because of arrests, including those for cannabis-related offenses, that did not result in a conviction. Landlords may not have a blanket ban against people with records, nor can they single out any type of offense or conviction, including cannabis or other drug-related offenses. When the landlord considers your conviction history, they should consider the nature of the crime, the time

that has passed since the conviction, and the likelihood that the conviction creates a specific risk to the safety of property or neighbors. The standards a landlord applies to you, the landlord must apply to all applicants. If you get a background check, all applicants should get a background check.

There are a few exceptions to these rules. The federal rules generally do not apply to private housing with fewer than five units when the owner lives in one of the units. Private religious organizations can require applicants to follow a certain religion, if they are leasing apartments for non-commercial purposes. Private club organizations can require applicants to be club members.

California housing law and cannabis arrests and convictions: If you have a qualifying cannabis-related arrest or conviction that occurred after Jan. 1, 1976, all records of those arrests or convictions must be destroyed within two years of the conviction or the arrest. Qualifying cannabis-related arrests or convictions include offenses related to use, possession, and transport of certain amounts of cannabis or cannabis paraphernalia. This two-year rule means that the qualifying arrest or conviction will be removed from your record and should not come up on consumer background checks available to landlords. It is important to learn about your record, and get help from an attorney to check for and correct any errors.

Your landlord can prohibit recreational use and cultivation of cannabis: As we mentioned in Section 1 of this Toolkit, cannabis became legal under the passage of Prop. 64 (codified under Health and Safety Code Section §11357 et seq). Prop. 64 permits legal recreational use and cultivation of small amounts of cannabis in your private residence. But this law doesn't always apply to people who rent. The law leaves landlords the discretion to decide whether they will allow cannabis use and cultivation on their properties. In other words, if you are renting, you and your landlord must agree on the terms of recreational cannabis use and cultivation, or you may face a risk of eviction.

Accessing federally assisted housing with a cannabis record. Because cannabis is illegal under federal law, federal housing laws tend to treat cannabis-related arrests and convictions more harshly during the federally assisted housing application process. All landlords for federally assisted housing, known as public housing authorities (PHAs), must run a criminal background check on each adult applicant.

Will the PHA reject me if I have cannabis-related arrests or convictions? Your PHA will deny your application for federally assisted housing if you have been evicted from federally assisted housing for any drug-related (including cannabis) activity within the past three or five years (depending on the city or county where you are applying). Your PHA might deny your application for federally assisted housing if your background check reveals drug-related arrests or convictions, including those that are cannabis-related.

What if my arrests or convictions have been dismissed or expunged? The PHA might look at dismissed convictions; however, they are generally not permitted to review truly expunged marijuana convictions, which must be removed from your Department of Justice Record of Arrest and Prosecution (RAP sheet).¹¹⁸ Even if your cannabis-related arrests or convictions have been dismissed or expunged under California law, you should reveal them because the PHA can reject you for lying during the application process. You may explain that the arrests or convictions were dismissed or expunged.

Will the PHA consider my individual circumstances or evidence of rehabilitation? The PHA will consider many "mitigating circumstances," including evidence of rehabilitation. Mitigating circumstances are facts that put your criminal record in context and show that you will not commit crimes in the future. It is your job to explain your mitigating circumstances and to provide any evidence of rehabilitation.

What counts as mitigating circumstances, and how do I present the evidence? Obtain letters of support to show you will be a good tenant and will not commit crimes in the future. Credible letters can come from your parole or probation officer, teachers, employers, drug treatment

118. Cal. Health & Safety Code § 11361.5(c).

programs, social workers, neighbors, or current or prior landlords. The PHA will not give much credit to letters from family or close friends. You only submit the letters when the PHA asks you to consent to a background check.

What if my cannabis-related conviction is related to a mental or physical disability? One way this may come up is if your cannabis-related conviction was associated with medical cannabis use. Because cannabis is federally illegal, your PHA may not recognize this as a valid reason. Nevertheless, you may still ask the PHA to waive its admission criteria and to provide a reasonable accommodation, which is a policy change needed to allow a person with a disability to access housing. You should show that you have a disability, that the disability is relevant to your cannabis-related arrest or conviction, and that you are doing everything you can to manage the disability. Remember that past substance abuse, including cannabis or other drug-related addictions, can be a disability if you are in recovery and no longer using.

Can I appeal if my application is denied based on a cannabis-related arrest or conviction? You can appeal any PHA decision that denies your application. The PHA will send you a notice of denial in writing and must explain the reasons for denial. The PHA must also send you a copy of the criminal background check they relied on. You should check to ensure that the background check information

is correct. To appeal, you can request an informal hearing. In that hearing, your goal will be to present letters of support and to have witnesses speak about the positive changes you have made since your arrests or convictions. You can also have an attorney present.

What is Fair Chance Housing? Some cities and counties have passed local Fair Chance Housing laws. The goal of these laws is to give people with criminal records a fair chance to access housing by prohibiting landlords from asking about criminal history. As of the writing of this Toolkit, only a few California cities and counties have adopted these laws. Laws differ by each of the following locations:

- Berkeley
- Oakland
- Richmond
- San Francisco

To learn more about local Fair Chance Housing ordinances, visit the National Housing Law Project website at: nhlp.org/nhlp-publications/fair-chance-ordinances-an-advocates-toolkit/

COMMUNITY SUPERVISION

WHAT IS COMMUNITY SUPERVISION?

Community supervision is a requirement that may apply to you either as part of a sentence you serve after release from incarceration (parole) or as a sentence you serve instead of incarceration (probation). Under community supervision, a correctional officer monitors you while you live in the community. Community supervision subjects you to certain rules, such as where you can live and work, who you can contact, and people or places where you must regularly report.

WHAT TYPE OF SUPERVISION APPLIES TO ME?

- State parole (supervised by a state parole agent)
- Formal probation (supervised by a county probation officer)
- Informal probation (required to check in with the court if your address changes, if you are arrested, or to submit proof of completion of assigned classes or programs)
- Post-release community supervision, or PRCS (supervised by a county probation officer)
- Mandatory supervision (supervised by a county probation officer)
- Federal probation (supervised by a federal probation officer)
- Federal parole (very rare, and supervised by a federal probation officer)

WHAT CONDITIONS GENERALLY APPLY TO COMMUNITY SUPERVISION?

You must follow certain rules, called terms and conditions of supervision. These rules can include:

- when and where you are allowed to go and where you can live;
- who you can be around or contact;
- whether you must have a job;
- how you must report to and communicate with your parole or probation officer or the court;
- whether you retain rights to privacy (usually, rules permit police to search you, your home, and your belongings without a warrant, which impacts the people you live with).



119. See Cal. Code Regs. tit. 15 § 2513.

OTHER COMMON ISSUES AND CONCERNS

WHAT SPECIFIC CONDITIONS DO I HAVE, IF ANY?

Special or discretionary conditions are added when people are convicted of certain offenses. For example, a person convicted of drug possession may be required to attend outpatient rehabilitation or Narcotics Anonymous meetings. Other special conditions may include being required to abstain from all drugs and alcohol, to submit to regular drug testing, and to participate in mental health treatment.¹¹⁹

Because they impact all areas of life — employment, housing, school, and community reintegration — it is important that you get to know your terms and conditions very well. Familiarize yourself with your terms and conditions of supervision, and when you need it, seek out support from a loved one, a service provider, or a legal professional.

Cannabis or other drug convictions on your record may lead to additional issues or concerns, including looming court-ordered debt, barriers to child custody and family reunification, and denial of some public benefits. This section provides a brief overview of some common issues and concerns, and what you can do to prepare for and address them.

Credit and Court-Ordered Debt

The first step to taking control of your debt is to know the kind of debt you have and how much you owe. Once you know the debt status and amount(s) owed, you can begin taking steps to manage or possibly reduce your payments.

WHAT IS COURT ORDERED DEBT?	
There are generally three types of court-ordered debt: restitution, fines, and administrative fees. The court usually orders these payments at the sentencing hearing, and you can usually find information about the type of court-ordered debts you owe by looking at your court records.	
Restitution:	Money paid to the victim(s) to compensate them for harm caused. There are two types of restitution. The first is “victim’s restitution,” which is paid to a person, family, business, or government agency who suffered losses. The second form of restitution is called, “restitution fine.” It represents money paid to the California Victim’s Compensation Program as a symbolic debt to society.
Fines and Penalties:	Financial punishment for the act committed. Some fines may include drug program, alcohol education, or domestic violence fines. These are paid to the court as punishment.
Administrative Fees:	Costs of running the court and related agencies. This also may include costs of external organizations administering certain programming that the court or law may require, such as drug treatment programs or classes. These fees are different from the fines and penalties above. For example, as a penalty for a drug conviction, you may be required to pay a fine to the court. Then, you may also be required to enroll in drug treatment, which may include having to pay the treatment organization administrative fees for overseeing the program.

WHAT TYPE OF DEBT DO I HAVE?

You can call the criminal court in the county where you were arrested or convicted to learn more about the restitution, fines, and/or administrative fees you owe. The clerk should be able to explain how much you owe and whether your debt has been sent to collections. If your debt has been sent to collections, which usually means transferred to a private debt collector, the clerk should also know which collection agency took charge of your debt. If you still cannot determine the type of debt you have, the public defender or lawyer who represented you may be able to help.

WHAT CAN I DO TO MANAGE, REDUCE AND/OR WAIVE DEBT PAYMENTS?

You can almost always set up a monthly payment plan to reduce your debt. With the exception of victim’s restitution, you can ask a judge to reduce or to waive most fines and fees due to financial hardship and/or inability to pay. You can also request community service in exchange for reduced fines and fees.

Child Custody & Family Reunification

When the criminal justice system becomes involved in a person’s life in any way (even at the moment of arrest), it is very common for family-related courts to intervene in the family’s life, too. This is especially true if the person arrested is a parent or caregiver.

If you have child(ren), you may be working through questions about where your child will stay, and your legal rights during and after the time you spend, or have spent, in law enforcement custody.

WHAT ARE MY PARENTAL RIGHTS?	
Mothers:	If you gave birth to a child, you have the automatic right to care for that child unless (1) you voluntarily gave up your parental rights through adoption, or (2) the State limited or took away your parental rights.
Fathers:	<p>If you are the father, you have the exact same rights as a mother when it comes to care and custody of your child, as long as you have “established paternity.” Fathers usually establish paternity in one of two ways. (1) If the father and mother are married when the mother gives birth to the child, paternity can be automatically established, and (2) if the father and mother are unmarried, the father can establish paternity by being present for the birth and signing the birth certificate and a declaration of paternity. For unmarried fathers’ paternal rights, it is critical to establish paternity as soon as possible.</p> <ul style="list-style-type: none">• If you can “establish paternity,” you have the automatic right and obligation to care for the child unless (1) you voluntarily gave up your parental rights through adoption, or (2) the State limited or took away your parental rights.

WHAT ARE MY PARENTAL RIGHTS? (CONT.)	
Both Parents:	Both Parents: You both have the right to be involved in every important aspect of your child’s life, unless the court says otherwise. This includes the right to have frequent, regular contact with your child. Make sure your custody arrangement is written down in a court order. That way, if the other parent makes crucial decisions related to the child without your input or consent, you may have the right to pursue a contempt of court action. For more information, visit the California courts’ family law website at: https://www.courts.ca.gov/selfhelp-family.htm .
Grandparents:	Grandparents: If you are a grandparent, you do not have automatic legal rights to see or to care for your grandchild. But you can plan to see or care for them, and you can also ask the judge in court for custody or visitation if the child’s parent(s) are incarcerated or unavailable.

WHAT DO I NEED TO KNOW IF I BECOME SEPARATED FROM MY CHILDREN?

If the courts intervene in your child’s care or custody, the judge will use a legal standard to make decisions about your rights to care, custody, or visitation. Generally speaking, the legal standard is “what is in the best interest of the child.”

When you ask a court to give you custody or visitation rights, think about how you can show:

- (1) you have personal accountability;
- (2) you are able to be the parent your child needs you to be; and
- (3) why your involvement in the child’s life is in their best interest.

WHAT STEPS CAN I TAKE TO REGAIN CUSTODY OF MY CHILDREN?

While each family's situation is different, here are some general steps you can take.

1. Find out if there are any court orders that could limit or stop you from contacting your child(ren) or their caregiver (like a no-contact order, civil restraining order, or a criminal protective order). Violating court orders can have serious legal consequences and can prevent you from seeing your child(ren) in the future.
2. Find out if there are any conditions of your community supervision (parole or probation) that could limit or stop you from contacting your child and/or the child’s caregiver. Conditions of parole or probation usually have rules about where you can travel and who you can and cannot see.
3. [If applicable] Locate your child. If you don’t know where your child is living, you can learn more by (1) contacting family members or friends who may know where the child and/or caregiver is OR (2) contacting Child Protective Services (CPS) (if they became involved in the child’s case).

4. Find out if there are any court cases involving your child. Depending on the county in which your child is located, you may be able to access limited family law case information on the county court’s website. If that service is unavailable, you will have to search for family law records in person at the courthouse. The county court’s website will have information about where and how to do this. To locate your family court and resources available to you visit <https://www.courts.ca.gov/selfhelp-courtresources.htm>.
5. [If applicable] If there is a court case involving your child, you should contact the court clerk at the relevant county to request a copy of any court orders and other documents about the case.
6. [If applicable] If there is no court case involving your child, you may need to open a new case to ask the judge for more rights and responsibilities. This process is called filing a “petition” in court, and if you want to gain custody, visitation, or guardianship of your child, you may need to file a petition. To ask for help from your county’s Family Law Facilitator, visit <https://www.courts.ca.gov/selfhelp-facilitators.htm>.

WHAT DO I DO IF I OWE CHILD SUPPORT?

Separate from court-ordered debt, which is discussed above in this section, you may also have debt related to obligations to support your child(ren). Child support is a monthly payment a judge can order a parent to make to another parent or caregiver to cover the child’s care and living expenses. State law says that every parent must financially support their child. Usually, the parent who does not have custody of the child (or who has custody some of the time and earns more money) pays child support to the parent or caregiver who has custody of the child most or all of the time.

HOW DO I FIND OUT WHETHER I OWE CHILD SUPPORT AND HOW MUCH I OWE?

If you were ordered to pay child support, you likely received papers and records from your local child support agency (LCSA), or the child’s other parent or caregiver. If you do not have the papers and records, you can obtain copies from your LCSA. In addition to telling you how much child support you owe, your LCSA should also tell you when, how, and whom you must pay. To find the LCSA in your county, call 1-866-901-3212, or visit childsupport.ca.gov/find-my-local-agency/.

WHAT HAPPENS IF I FAIL TO PAY CHILD SUPPORT?

Failing to make timely court-ordered child support payments may have serious consequences, including the following:

- If you are employed, your employer will automatically take away a portion of your wages to pay your current and/or overdue child support obligations. This is also called “garnishing your wages.”
- Your child support payments can be automatically taken away from other income and benefits you may earn, including state or federal income tax refunds, workers’ compensation benefits, unemployment and state disability benefits, retirement benefits, and lottery winnings.
- Liens can be placed on your property and bank accounts to pay overdue child support. A lien is a claim that someone else has property or money that you possess or use. For example, a lien can be put on a house, and if the homeowner decides to sell the house, the proceeds of the sale must pay off the person who placed the lien before the homeowner gets any money.
- Your driver’s license, occupational license, and commercial or recreational licenses may be suspended, revoked, or denied.
- Your passport (used for traveling outside the U.S.) may be revoked or denied.
- Unpaid child support can hurt your credit rating and make it harder to get a loan, rent an apartment, or find a job.

- If you are unemployed and do not pay your child support payments, the judge may order you to apply to jobs each week and show proof to the court of your job applications until you get hired.
- If the judge finds you are able to pay but that you refuse to pay, the judge can have you arrested and jailed. This is usually only a last resort.

WHAT IF I NEED MORE HELP?

As with any of the issues or questions in this Toolkit, if you need assistance with child custody or child support do not hesitate to call Root & Rebound’s reentry legal hotline — any Friday from 9 a.m. to 5 p.m. PST — at (510) 279-4662.

Public Benefits & Health Care

Cannabis and other drug charges and convictions can affect access to certain public benefits and health care. Generally, your criminal record will NOT automatically prevent you from receiving public benefits. As of 2015, California no longer bans people with past drug-related felony convictions from receiving benefits through CalWORKS (cash assistance for families) and CalFresh (food stamps).

WHAT ARE PUBLIC BENEFITS?

“Public benefits” are government-funded programs that help people get basic life necessities. Public benefits are sometimes referred to as “welfare.” There are public benefits programs to help people get food, shelter, healthcare, childcare, cash for daily expenses, and support in emergencies. Each program has different procedures, rules, and requirements that you have to meet to qualify. Depending on your situation, you may qualify for several of the public benefits programs, just one, or none. For general reference visit cdss.ca.gov/.

<p>Basic Needs Cash Benefits:</p>	<p>Basic Needs Cash Benefits: Basic needs cash benefits programs, called General Assistance/General Relief (GA/GR) and CalWORKS, provide temporary and/or long-term financial (cash) aid to low-income people and families. Some counties may have special restrictions around these benefits. If you are a person with a drug-related conviction(s), contact your local county public benefits agency, usually the Department of Public and Social Services (DPSS). You can find your county DPSS’s contact information at: https://www.cdss.ca.gov/county-offices.</p>
--	---

WHAT ARE PUBLIC BENEFITS? (CONT.)	
Food Benefits:	Food Benefits: California provides food benefits through a program called CalFresh (food stamps). It provides money to low-income people and families to purchase food. Pregnant women, infants, and children may potentially be eligible for Women, Infants and Children (WIC), a program that provides food for pregnant women or mothers of young children. There are also hundreds of free food banks throughout California. To learn more, visit https://www.cdss.ca.gov/food-nutrition/calfresh .
Health Care Benefits:	Health Care Benefits: California provides free health insurance and coverage to low income people and families through a program called Medi-Cal. People who do not qualify for Medi-Cal may sign up for health care through the State's health care marketplace, Covered California. For more information, visit https://www.coveredca.com/medi-cal/ .
Work Services Benefits:	Work Services Benefits: People enrolled in CalWORKS are eligible for Welfare-To-Work, a program that helps them to train for and find employment. Find out more information and how to apply at: https://www.cdss.ca.gov/calworks .
Social Security Benefits:	Social Security Benefits: Social Security Benefits are for retired and/or disabled people, and their families. Through retirement benefits, Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI/SSP), qualifying people may receive monthly cash assistance. Social Security Benefits is a federal government program, but it has branch offices in most counties nationwide.
Veterans Benefits:	Veterans Benefits: The federal Department of Veterans Affairs (VA) provides benefits, such as health care, transitional assistance, and employment-related services, to former U.S. military service members.

HOW CAN I APPEAL IF MY APPLICATION FOR PUBLIC BENEFITS IS DENIED?

You can appeal a denial of public benefits, but there are limits. If you are denied public benefits or owe money for a previous “overpayment” (which occurs when the government pays you more than your eligible benefit amount), you should speak with a legal aid attorney as soon as possible.

SECTION 4

THE BENEFITS OF RECORD CLEANING FOR REDUCING REENTRY BARRIERS



WHAT ARE THE COLLATERAL CONSEQUENCES OF A CONVICTION?

If you are reading this Toolkit, you or a loved one likely has fallen victim to the War on Drugs and has a drug-related conviction. While most people are aware of the hardships incarceration can cause, the stress a criminal record causes extends to family and loved ones who were never incarcerated. People with arrest and conviction histories face difficulty securing employment, housing, licenses, and other basic needs. There is a web of 48,000 collateral consequences at local, state, and national levels.

Because of legal barriers, 50% of people coming out of incarceration will experience homelessness, 60% find themselves unemployed, and 67% are rearrested within three years. Even arrests with low-level convictions or without convictions can create lifelong barriers that stand in the way of successful reentry and future self-sufficiency. This section is designed to give you the tools to help navigate some of the consequences and barriers you may experience as a result of your drug conviction.

DO I HAVE TO REGISTER ON THE NARCOTICS REGISTRY?

If you were convicted of certain drug offenses,¹²⁰ you likely had to register at your local sheriff’s department on what is known as a narcotics registry.¹²¹ Thanks to California’s quickly changing drug laws, as of Jan. 1, 2020, you are no longer required to register.¹²² If you ever previously registered, your information is

still available to law enforcement officers but not the general public.¹²³

If you registered prior to the change in the law you likely provided your local police department with your finger prints, a recent photograph and information such as your address, date of birth, driver’s license number and the drug that was the basis for your conviction.¹²⁵

120. Cal. Health & Safety § 11590. (Repealed by AB 1261, effective Jan. 1, 2020.); See also In re Luisa Z., 78 Cal.App.4th 981 (2000) (Finding the juvenile court lacked statutory authority to order a juvenile to register as a narcotics offender.)
121. Cal. Health & Safety § 11590. (Repealed by AB 1261, effective Jan. 1, 2020.)
122. Cal. Health & Safety § 11590. (Repealed by AB 1261, effective Jan. 1, 2020.)
123. Cal. Health & Safety § 11594. (Added by AB1261, effective Jan. 1, 2020.)
124. Cal. Health & Safety § 11594. (Repealed by AB 1261, effective Jan. 1, 2020.)
125. Cal. Health & Safety § 11594. (Repealed by AB American Bar Association. “What is Expungement.” Published November 20,2018. Accessed October 12, 2019.)

UNDERSTAND YOUR RECORD: RAP SHEETS

What is a RAP Sheet?

RAP Sheet stands for Record of Arrests and Prosecutions. There are state RAP Sheets (which includes information in that specific state) and federal RAP Sheets (which includes information in all states). It is a government document that contains ALL information on someone’s involvement with law enforcement, including:

- arrests,
- convictions,
- juvenile adjudications,

- deferred entry of judgment, and
- other contact with the DOJ, such as information on a previous LiveScan.

Who can see my RAP Sheet?

Only a few people have access to your RAP Sheet. It is ILLEGAL for anyone to request your RAP Sheet if they are unauthorized to receive it. Like a social security number, you should keep your RAP Sheet CONFIDENTIAL. The following groups can see your RAP Sheet:

- law enforcement,
- judges,
- some employers that work with sensitive populations, like kids (you get a LiveScan), and
- licensing agencies.

How is a RAP Sheet different from a background check?

A RAP Sheet contains information from ALL contact with law enforcement, and only a few categories of people can see it (see above). A background check contains more limited information--convictions that haven't been dismissed, and adjudications that haven't been sealed, from the past 7 years. Most employers will have access to this, not your RAP Sheet.

Why should I get my RAP Sheet?

You should get your RAP Sheet to know exactly what is on it. There may be errors on your RAP Sheet, so you could get errors corrected. There may be ways to "clean up" your record, such as sealing your juvenile or arrest record, having convictions dismissed or having convictions reduced from felonies to misdemeanors or misdemeanors to infractions. It is important to get legal support (free through legal aid organizations) to understand and clean your record.

How can I get my RAP Sheet?

You can get your RAP Sheet at a LiveScan location. There, you will be fingerprinted and fill out a request for your state RAP Sheet to the California Department of Justice (DOJ) and your federal RAP Sheet to the Federal Bureau of Investigations (FBI). Be aware there will be fees for the LiveScan application and fees for the DOJ or FBI to obtain your RAP Sheet, but there are also fee waivers available!

GETTING A DOJ RAP SHEET

How To Get a California RAP Sheet from the Department of Justice (DOJ):

- STEP 1 - Fill out a "Request for Live Scan" form. For detailed instructions from the DOJ, visit: <http://oag.ca.gov/fingerprints/security>.
- STEP 2 - Get electronic fingerprinting (Live Scan).
 - Bring "Record Review - Request for Live Scan" form to a Live Scan Provider to have your fingerprints taken. For a list of fingerprint locations visit: <https://oag.ca.gov/fingerprints/locations?>.
- STEP 3 - You will receive your RAP sheet in the mail.

Important Information about Fees and Fee Waivers:

- The DOJ charges \$25.
- The Live Scan (fingerprinting) provider usually charges \$15-\$30.
- If you are currently receiving public assistance (including CalFRESH/food stamps, SSI, etc.), you can request a waiver of the \$25 fee from the DOJ, but you will still have to pay the Live Scan provider's fee. Fee waivers delay the process, so start as soon as possible!

- To Request a Fee Waiver: Send a cover sheet, fee waiver form and proof of public assistance to the DOJ at the following address:
 - DOJ - Bureau of Criminal Identification and Information Attention: Record Review Unit P.O. Box 903417 Sacramento, CA 94201-4170

Apply online at: oag.ca.gov/fingerprints/record-review/fee-waiver.

- If you are currently receiving public assistance (including CalFRESH/food stamps, SSI, etc.), you can request a waiver of the \$25 fee from the DOJ, but you will still have to pay the Live Scan provider's fee. Fee waivers delay the process, so start as soon as possible!
- To Request a Fee Waiver: Send a cover sheet, fee waiver form and proof of public assistance to the DOJ at the following address:
 - DOJ - Bureau of Criminal Identification and Information Attention: Record Review Unit P.O. Box 903417 Sacramento, CA 94201-4170

Apply online at: oag.ca.gov/fingerprints/record-review/fee-waiver.

OVERVIEW OF RECORD CLEANING OPTIONS IN CALIFORNIA

In general, cleaning up your criminal record can reduce many of the damaging effects associated with having a criminal history. Cleaning up your record can hide criminal records from certain people who run background checks on you. This means most private employers, private landlords, and other private individuals or companies will NOT be able to see much of the information in your record. Cleaning up your record may allow you to say you were never convicted of a particular offense, and/or it may restore many of the rights that you lost because of a conviction. Cleaning up your record makes it easier to rebuild your life, move forward, and maximize your opportunities for future success by minimizing some of the 48,000 collateral consequences of having a criminal record.

This section walks you through general record-cleaning options, and it also focuses on some options that are only available to your drug and marijuana convictions. In this section, we explain three ways to clean up your criminal history: dismissals, reductions and arrest sealings. We will also discuss "true" expungements which physically obliterates any records pertaining to your arrest / conviction and removes the entry from your Record of Arrests and Prosecutions. This remedy is uniquely available to certain types of cannabis convictions. If you need more detailed information on any of the section's subjects, please refer to "Understanding & Cleaning up Your Criminal Record," in Root and Rebound's Roadmap to Reentry, a more comprehensive legal encyclopedia that addresses all of your reentry needs.

You can find the CA Roadmap to Reentry online at: www.rootandrebounce.org/resources. When you look at the Roadmap online, look to the Table of Contents at the beginning of the Understanding & Cleaning up Your Criminal Record chapter to find the section with the information you need. You can also look at the Appendix in the same chapter for sample forms.

WHAT IS A CRIMINAL RECORD?

Your criminal record is a general term used to describe all of the information about any contact you have ever had with the criminal justice system. Your criminal record includes arrests, charges filed against you, convictions, pleas, acquittals, dismissals, sentences and any other documented contact you have with the criminal justice system.

WHAT IS “EXPUNGEMENT” IN CALIFORNIA?

The word “expunge” means to “erase or remove completely.”¹²⁷ Generally, the state of California does not offer true criminal expungements as a record-cleaning remedy. Within the criminal justice reform community, the word expungement is informally used as an umbrella term to refer to a dismissal¹²⁸ or arrest sealing¹²⁹ which hides a criminal incident from the public, but does not erase the incident from your RAP sheet as a true expungement would. As of the time this legal guide was written the state of California only provides one true form of expungement which is only available

for certain marijuana related convictions.¹³⁰ Records relating to a conviction or arrest for possessing, giving away, offering to give away, transporting, offering or attempting to transport 28.5 grams or less of marijuana are eligible for expungement two years after the arrest or conviction. These records must be permanently obliterated and erased from your RAP sheet so that it appears the arrest or conviction never occurred.¹³¹

WHAT IS A DISMISSAL?

A dismissal is a way to clean up your record by limiting the criminal history information that certain people can see in your background check.¹³² It relieves you of some of the consequences associated with your conviction. This remedy is also called a dismissal because your case is actually reopened by the court, the “finding of guilt” (your guilty or no contest plea, or guilty verdict) is withdrawn, and a plea of not guilty

is entered. The court then dismisses your case, and your record is changed to show a dismissal (under Cal. Penal Code § 1203.4, 1203.41 and 1203.42) rather than a conviction. Because getting your conviction dismissed hides it from certain people when they run a background check on you, most employers, for example, are NOT legally allowed to see a conviction that has been dismissed.¹³³ Additionally, most employers CANNOT ask you about, or even consider, a conviction that has been dismissed¹³⁴ when you apply for a job. A dismissal may also be seen as evidence of rehabilitation when you apply for housing.¹³⁵ For more information, see our Employment and Housing sections.

WHAT TYPES OF CONVICTIONS CAN BE DISMISSED?

Under the law, only certain types of convictions can be dismissed. Generally, the following types of convictions qualify for expungement (dismissal):

- 1. The CONVICTION is for an infraction, a misdemeanor, or a felony; AND
- 2. The SENTENCE imposed was county jail time, probation, a fine, or a combination of these.¹³⁶

Now, some low-level felonies where you served jail time under AB 109 (Realignment), or that occurred before AB 109 but would qualify under AB 109 sentencing today, can also be dismissed.¹³⁷

This means that as long as you were sentenced only to pay a fine, serve a term of probation, OR serve time in county jail — even for a felony — your conviction may be eligible for dismissal. In a small number of cases, you may also have served prison time.

In addition, generally, you must meet the following requirements for your conviction to be eligible for dismissal.

- 1. You are OFF probation or other type of supervision.
- 2. You have completed the terms of your sentence, including paying off any fines and restitution.
- 3. You are NOT currently charged with, serving a sentence for, or on a term of supervision for another offense.

128. Cal. Penal Code § 1203.4.
129. Cal. Penal Code § 851.91.
130. Cal. Health & Safety Code § 11361.5(a).
131. Cal. Health & Safety Code § 11361.5(c).
132. Cal. Penal Code § 1203.4.
133. Cal. Civ. Code § 1786.18.
134. Cal. Lab. Code § 432.7.
135. Cal. Civ. Code § 1786.12; cf. 24 C.F.R. § 960.203 (for public housing, PHA must consider specific mitigating factors (time, nature, extent, seriousness of applicant’s conduct) and may consider evidence of rehabilitation. Note: For government assisted programs, PHAs are only encouraged-but not required-to consider mitigating factors); cf. 24 C.F.R. § 982.553(d) and 24 C.F.R. §§ 5.903(f), 5.905(d) (If PHA proposes to deny housing based on applicant’s criminal record, it must first give applicant the opportunity to dispute accuracy and relevance of information); cf. 24 C.F.R. §§ 982.552(c)(2), 5.852 (suggested factors to be considered with criminal convictions.) Note: This list does not include dismissal/expungement/record cleaning remedies; see also, Lawrence R. McDonough and Mac McCreight, “Wait a Minute: Slowing Down Criminal Activity Eviction Cases to Find the Truth.” Vol. 41, Clearinghouse Review. Published May-June 2007. Pages 55, 76 (May-June 2007).
136. Cal. Penal Code §§ 1203.4, 1203.4a.
137. Cal. Penal Code §§ 1203.41, 1203.42.

138. Cal. Penal Code § 1203.4(a) (“In any case in which the defendant has fulfilled the conditions of probation for the entire period of probation, or has been discharged prior to the termination of the period of probation, or in any other case in which a court, in its discretion and the interests of justice, determines that a defendant should be granted relief available under this section, the defendant shall, at any time after the termination of the period of probation, if he or she is not then serving a sentence for any offense, on probation for any offense, or charged with the commission of any offense, be permitted by the court to withdraw his or her plea of guilty or plea of nolo contendere and enter a plea of not guilty.”)

139. Cal. Penal Code § 1203.4a.

140. People v. Butler, 105 Cal.App.3d 585 (1980). (Finding the Defendant discharged early from probation was entitled to mandatory dismissal of conviction, despite owing unpaid restitution.)

141. Cal. Penal Code § 1203.4(a).

142. In light of the decision in People v. Seymour, 239 Cal.App.4th 1418 (2015), it is unclear whether you can be denied mandatory dismissal because of unpaid fines and reimbursements. However, you cannot be denied mandatory dismissal because you still owe victim restitution.

143. See People v. Seymour, 239 Cal.App.4th 1418 (2015).

144. Cal. Penal Code § 1203.4(a).

145. Cal. Penal Code § 1203.4(c)(2).

MANDATORY DISMISSAL

If your conviction is eligible for dismissal and you meet certain additional requirements, the law says that the judge MUST dismiss your conviction. There are two situations listed below in which you can get MANDATORY dismissal of your conviction.¹³⁸

SITUATION #1 — If you received PROBATION:

Your conviction MUST be dismissed if BOTH of the following apply:¹³⁹

1. You received probation as part of your sentence;
2. You successfully completed probation (meaning, your probation was not revoked at any time and you were not convicted of any new crimes while on probation), OR you received early release from probation.¹⁴⁰

SITUATION #2 — If you did NOT receive PROBATION:

1. Your conviction was for an infraction or misdemeanor;¹⁴¹
2. You have fully complied with the requirements of your sentence, including paying fines and reimbursements that were part of your sentence;¹⁴² and
3. One year has passed since the date of your conviction without any new convictions.

DISCRETIONARY DISMISSAL

If your conviction is eligible for dismissal, but you do NOT meet the requirements for a mandatory expungement, you may still get a DISCRETIONARY dismissal. It will be up to the judge to decide whether or not to grant it.

SITUATION #1 – If you received PROBATION

1. You did NOT complete all the conditions of probation (for example, if you violated conditions of your probation, though just not paying victim’s restitution is not enough to deny a mandatory dismissal anymore)¹⁴³ AND you did NOT get an early release from probation;¹⁴⁴ or
2. You received probation for a conviction of any offense listed in California Vehicle Code sections 12810(a)–(e) (certain serious traffic violations).¹⁴⁵

146. Cal. Penal Code § 1203.4a(b).

147. People v. Gilbreth, 156 Cal.App.4th 53, 57 (2007). (“[O]nce a court has reduced a wobbler to a misdemeanor pursuant to . . . [Cal. Penal Code] section 17, the crime is thereafter regarded as a misdemeanor ‘for all purposes.’ This unambiguous language means what it says, and unless the Legislature states otherwise, a person such as [defendant] stands convicted of a misdemeanor, not a felony, for all purposes upon the court so declaring.”)

SITUATION #2 – If you did NOT receive PROBATION

1. You were sentenced to jail or a fine for a misdemeanor or infraction, and you were convicted of a new crime within a year of your release from jail;¹⁴⁶
2. You are dismissing a felony under Realignment or pre-Realignment.

I BELIEVE I AM ELIGIBLE FOR A MANDATORY OR DISCRETIONARY DISMISSAL. HOW DO I GET ONE?

In most cases, you will need to file papers in court and ask a judge to dismiss your conviction. This process is called filing a Petition for Dismissal. The process is basically the same for both mandatory and discretionary dismissals, with a few small differences. You will need to file the proper forms in the court where you were convicted, or where you transferred your probation to, and you may have a hearing in front of a judge (especially if you are requesting a discretionary dismissal). For a detailed explanation of each step, see Appendix K, at the end of the “Understanding Your Record” chapter of Root and Rebound’s Roadmap to Reentry.

REDUCING FELONIES TO MISDEMEANORS OR MISDEMEANORS TO INFRACTIONS

Certain felony convictions can be reduced to misdemeanors on your record. You can do this as part of getting the conviction dismissed, or you may be able to do it separately, even if you DO NOT get the conviction dismissed. Having a felony conviction on your record (even after the conviction has been dismissed) can be much more damaging than having only a dismissed misdemeanor. Reducing your felony “wobbler” conviction to a misdemeanor, whether or not you have it dismissed, changes your criminal record so that, going forward, you no longer have a felony conviction on your record.¹⁴⁷

If you were convicted of a felony “wobbler,” your conviction can be reduced to a misdemeanor under Penal Code Section 17(b). A “wobbler” is an offense that can be charged as either a misdemeanor or a felony. So, the offense “wobbles” between the two offense categories. You can find out if your conviction is a “wobbler” by reading the California Penal Code section listed on your RAP sheet. If it says the offense is punishable by a fine or time in the county jail (misdemeanor sentences), OR time in state prison or “imprisonment pursuant to subdivision (h) of Section 1170” (felony sentences), your offense is considered a “wobbler.”

Remember, felony “wobblers” are eligible for reduction and, ultimately, dismissal if:¹⁴⁸

- You were NOT sentenced to prison time for this conviction;
- You were NOT sentenced to county jail instead of prison under Realignment for this conviction;
- You were NOT sent to prison for a violation while on probation for this conviction;
- You were NOT convicted of an offense that is NEVER eligible for dismissal; AND
- You otherwise meet the requirements for dismissal for this conviction.

REDUCING MISDEMEANOR WOBBLЕТTES TO INFRACTIONS

Likewise, if you were convicted of a misdemeanor “wobblette,” your conviction can be reduced to an infraction if the offense can be charged as either a misdemeanor or infraction, and it is listed in California Penal Code Section 19.8.

WHAT ARE THE STEPS TO GETTING MY WOBBLER OR WOBBLETTE REDUCED?

If you want to reduce your felony conviction to a misdemeanor or your misdemeanor to an infraction AND get your conviction dismissed, it is generally very easy to do both at the same time! In fact, the petition for dismissal (Form CR—180) you must file to get your conviction dismissed has a box you can check to state that your conviction is also eligible to be reduced, and to request it.

WHAT IS PROPOSITION 47, AND HOW COULD IT HELP ME?

Proposition 47 (Prop. 47) is a law California voters passed that became effective in November 2014. Prop. 47 changed state law so that certain nonviolent offenses that previously could be charged as felonies or misdemeanors can now only be charged as straight misdemeanors.¹⁴⁹ Prop. 47 is retroactive, which means it also applies to past convictions. So, you may be able to get your past felony convictions changed to misdemeanors, if they meet the legal requirements! If you are still serving a sentence for a conviction that qualifies for Prop. 47, you may be able to get your sentence reduced. Contact your public defender/defense attorney for assistance.

148. People v. Moomey, 194 Cal.App.4th 850, 857 (2011). (Citing to authorities, “the commission of a wobbler is a felony at the time it is committed and remains a felony unless and until the principal is convicted and sentenced to something less than imprisonment in state prison (or the crime is otherwise characterized as a misdemeanor).”)

149. Cal. Const., art. 2, § 10(a); Cal. Penal Code § A

WHAT FELONIES DOES PROP. 47 REDUCE?

As long as you were not convicted of an offense listed on pg. 55 (see question, WHO CANNOT GET PROP. 47 RELIEF?), Prop. 47 generally helps to reduce the following offenses — past, current, and future:

- Second-degree burglary – Cal. Penal Code Section 459 (if underlying facts can meet the definition of shoplifting now listed in Cal. Penal Code Section 459.5)
- Forgery – Cal. Penal Code sections 470, 475, 476
- Forgery, writing bad checks – Cal. Penal Code Section 476a
- Grand theft – Cal. Penal Code Section 487
- Receiving stolen property – Cal. Penal Code Section 496(a)
- Petty theft with a prior – Cal. Penal Code Section 666
- Possession of drugs for personal use – Cal. Health & Safety Code Section 11350
- Possession of concentrated cannabis – Cal. Health & Safety Code Section 11357(a)
- Possession of meth – Cal. Health & Safety Code Section 11377

If you were or are charged with one of these offenses on or after Nov. 9, 2014, it can be charged only as a misdemeanor — NOT as a felony. If you were convicted of a felony for one of these offenses on or before Nov. 8, 2014, you may be able to ask a superior court judge to reduce it to a misdemeanor under Prop. 47. This involves a process called “reclassification,” during which you must fill out and file a petition with the superior court.

If you are currently serving a felony sentence in prison or jail, or are under supervision on probation, post-release community service (PRCS) or state parole for an offense you were convicted of on or after Nov. 9, 2014, you may be able to get your sentence reduced to a misdemeanor sentence. This process is called “resentencing”. For more details on how to file for resentencing or reclassification, see the “Understanding Your Record” chapter of Root & Rebound’s Roadmap to Reentry.

DEADLINE FOR RELIEF:
The deadline to file for relief under Prop 47 is November 4, 2022!
Spread the word!

150. felony violation of Cal. Penal Code §§ 261, 262, 264.1, 269, 286, 288, 288a, 288.5, or 289, or any felony violation of Cal. Penal Code §§ 207, 209, or 220, committed with the intent to commit a violation of Cal. Penal Code §§ 261, 262, 264.1, 286, 288, 288a, or 289. Cal. Welf. & Inst. Code § 6600(b).

151. As defined in Cal. Penal Code § 287.

152. As defined in Cal. Penal Code § 286.

153. As defined in Cal. Penal Code § 289.

154. As defined in Cal. Penal Code § 288.

155. As defined in Cal. Penal Code §§ 187-191.5.

156. As defined in Cal. Penal Code § 653f.

157. T.W. v. Superior Court, 236 Cal.App.4th 646, 650 (2015).

158. Senate Bill No. 393 (Oct. 11, 2017). Legislative Session 2017-2018. Available at https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB393.

159. No further charges can be brought when the statute of limitations for that crime has expired. See Cal. Penal Code § 851.91(a)(1)(A).

WHO CANNOT GET PROP. 47 RELIEF?

Unfortunately, you CANNOT use Prop. 47 to clean up your record if you have also been convicted of any of the following offenses:

- A “serious” or “violent” felony that qualifies as a “super strike” under California Penal Code Section 667(e)(2)c(iv);
- A “sexually violent offense” under the Sexually Violent Predator Law;¹⁵⁰
- Oral copulation¹⁵¹, sodomy¹⁵², or sexual penetration¹⁵³ with a person under 14 years old and who is more than 10 years younger than you;
- A lewd or lascivious act involving a person under 14 years old;¹⁵⁴
- Any homicide offense, including attempted homicide;¹⁵⁵ and
- Solicitation to commit murder.¹⁵⁶

You can petition a superior court for Prop. 47 relief if you were ever convicted of a felony for an offense listed in the previous question (see, WHAT OFFENSES DOES PROP. 47 REDUCE?), and you do not have a disqualifying offense listed below (see question, WHO CANNOT GET PROP. 47 RELIEF?). Both juveniles AND adults can get qualifying felonies reduced under Prop. 47.¹⁵⁷

WHAT DOES IT MEAN TO SEAL MY RECORD?

“Sealing” a record means that the documents related to your case — including your fingerprints — are closed up and kept confidential. If it is possible for you to seal a record, it is always a good idea.

SB 393, the change in law that went into effect on Jan. 1, 2018, gives Californians the right to petition or request to have their arrest and related records sealed if the arrest did not lead to a conviction.¹⁵⁸ SB 393 requires the court to seal records in most cases when there is no possibility that the prosecutor will bring any further charges.¹⁵⁹

160. Cal. Penal Code § 851.91.

161. Cal. Penal Code § 851.91.

162. Cal. Penal Code § 851.91.

163. Cal. Penal Code § 851.91.

164. Cal. Penal Code § 851.91(b)(1).

165. Cal. Penal Code § 851.91(b)(1).

166. Cal. Penal Code § 851.91(b)(1).

167. Cal. Penal Code § 851.91(b)(1).

AM I ELIGIBLE FOR RECORDS SEALING UNDER SB 393?

You may be eligible for record sealing under SB 393 if:

- You were arrested, but the prosecutor did not file charges against you within the time period they had to file (called, the statute of limitations);¹⁶⁰
- The prosecutor filed charges against you, but they were dismissed in court and cannot be refiled;¹⁶¹
- A judge or jury found you not guilty of all charges related to the arrest;¹⁶² or
- You were convicted, but an appeals court overturned your conviction on appeal and the case cannot be refiled.¹⁶³

HOW DO I GET MY RECORDS SEALED UNDER SB 393?

You can file a petition in the court where you were arrested or prosecuted at any time.¹⁶⁴ Your petition must include:

- Your name and birth date;
- The date of the arrest you want sealed;
- The city and county where the arrest took place;
- The law enforcement agency that made the arrest;
- Any other identifying information, such as the case number for the police report or the court case number;
- A list of the charges you were arrested for or charged with;
- A statement about whether you can have your record sealed as a matter of right or if your request is in the interests of justice (because of a pattern); and if your request is in the interests of justice, explain how the interests of justice would be served by granting the petition and include any supporting documents.¹⁶⁶

Serve a copy of your petition to the law enforcement agency and the prosecutor at least 15 days before any hearing that the court sets on your petition.¹⁶⁷

I COMPLETED A DIVERSION OR DEFERRED ENTRY OF JUDGMENT PROGRAM. CAN I GET MY RECORDS SEALED?

Probably. You may apply for record sealing if:

- The prosecutor invited you to participate in a diversion program instead of filing charges against you, and you completed the program;¹⁶⁸ or
- The court diverted you to a drug diversion or deferred entry of judgment program, and you completed it.¹⁶⁹

AUTOMATIC ARREST SEALING AB1076

If you were arrested on or after Jan 1, 2021 but were acquitted or never convicted of the charges, your arrest record may be automatically sealed.¹⁷⁰ You are eligible for this type of automatic arrest record relief if you were arrested for a misdemeanor and any resulting charges were dismissed¹⁷¹ or acquitted.¹⁷¹ Your misdemeanor arrest may also be eligible if no charges were ever brought and at least one calendar year has passed since the date of your arrest.¹⁷³

Arrest for certain low-level felonies, that have a penalty of county jail time rather than prison are also eligible for this form of relief.¹⁷⁴ These types of felony arrest are eligible if no charges were brought, at least three calendar years have passed since the arrest and the arrest did not result in a conviction. These types of felony arrest are also eligible if you were acquitted of any charges brought as a result of the arrest.

You may also be eligible for this type of arrest sealing if you were sentenced to certain drug diversion programs or a deferred entry of judgement.¹⁷⁵

168. Cal. Penal Code § 851.87.
169. Cal. Penal Code § 851.90.
170. Cal. Penal Code § 851.93.
171. Cal. Penal Code § 851.93 (A).
172. Cal. Penal Code § 851.93(B).
173. Cal. Penal Code § 851.93(B).
174. Cal. Penal Code § 851.93(C); Cal. Penal Code § 1170(h)(1)-(2).
175. Cal. Penal Code § 851.93(D).

RECORD CLEANING OPPORTUNITIES SPECIFICALLY FOR DRUG CONVICTIONS

As we mentioned earlier, convictions for drug offenses have a wider range of possibilities for cleaning up your criminal record. Below are some of the benefits of drug diversion programs as well as automatic expungements for cannabis-related convictions.

WHAT IS PROP 36 AND HOW DOES IT AFFECT MY CRIMINAL RECORD?

Proposition 36 is a probation program for people convicted of a nonviolent drug possession offense.¹⁷⁶ To participate in the

program you must enter a guilty plea to the drug possession charge, complete one year¹⁷⁷ of a community drug treatment program, drug tests and in certain cases vocational training, counseling and community service.¹⁷⁸ After successfully completing your probation under Prop 36, the court will dismiss the charges and the conviction and arrest will be treated as if they never happened.¹⁷⁹ Dismissal of your charges does not restore your gun rights.

While your Prop 36 conviction may be eligible for dismissal, as a practical matter, in many counties the court has not automatically dismissed eligible charges. If your conviction has not been dismissed, you have a right to file a petition to have your eligible charges dismissed at any time following the successful completion of the program.

DRUG DIVERSION: AUTOMATIC EXPUNGEMENT FOR DRUG CONVICTIONS

Penal Code 1000 drug diversion, also referred to as a deferred entry of judgement (DEJ), is similar to Prop 36. It gives individuals charged with a drug-offense related to personal use an opportunity to participate in drug education and treatment programs as a substitute for a conviction. Once you are referred to a drug diversion program, criminal proceedings are suspended between 12 and 18 months to give you an opportunity to successfully complete the program. If you successfully complete the program, no conviction is ever entered on your record, and the court automatically

dismisses the related charges.¹⁸⁰ You do not have to file a petition for expungement as you might under Prop 36.

IF I SUCCESSFULLY OBTAINED A DISMISSAL UNDER PROP 36 OR PENAL CODE SECTION 1000, DO I EVER HAVE TO DISCLOSE THE UNDERLYING CONVICTION?

In certain situations. In general, once you have a dismissal under Penal Code section 1000 or Prop. 36, you are not required to disclose the underlying conviction. However, the Penal Code does list exceptions to this general rule. You are required to disclose that you were convicted of a crime (even after dismissal) under the following circumstances:

- When applying for a job in public office OR as a police officer;
- When applying for a professional license through a state or local agency;
- When contracting with the California Lottery;
- When you are impaneled to serve on a jury¹⁸¹

176. Cal. Penal Code § 1210.1.
177. Cal. Penal Code § 1210.1(d)(3).
178. Cal. Penal Code § 1210.1(a).
179. Cal. Penal Code § 1210.1(e)(1).
180. Cal. Penal Code § 1000.1(a)(3).
181. Cal. Penal Code § 1210.1(e)(3).

RECORD CLEANING OPPORTUNITIES SPECIFICALLY FOR CANNABIS CONVICTIONS

Automatic Expungements for Cannabis Convictions

In a couple of limited cases involving marijuana convictions, your record will be cleared automatically, and you will not have to go through any special court process to get an expungement. This happens if you have any marijuana-related conviction for marijuana-related activity which is now legal due to Prop. 64.¹⁸²

CONVICTIONS FOR SIMPLE POSSESSION OF MARIJUANA MORE THAN TWO YEARS OLD

If you were arrested or convicted after 1976 for possessing, giving away, offering to give away, transporting, or offering or attempting to transport 28.5 grams or less of marijuana, then you may have added protections under the law.¹⁸³

Even if your conviction has not been formally dismissed, any records relating to your conviction or arrest for the offenses mentioned above must be destroyed within two years of the date of your conviction,

or the date of your arrest if you were never convicted.¹⁸⁴ This is the closest form of relief to a true expungement that California offers. We will call this an “expired record.”

Evidence of the expired record has to be permanently deleted, so that it looks like the incident never occurred.¹⁸⁵ This can be done by physically destroying the file, if it will not affect other records.

Even if records relating to your arrest or conviction are not properly destroyed within two years, these expired records cannot be considered accurate or relevant by any person or agency.¹⁸⁶ It is also illegal for any public agency to deny you any rights or privileges because of your expired records.¹⁸⁷ Once your records become expired, you can respond to questions about your criminal history by saying that you were never arrested or convicted for the offense.¹⁸⁸

AB 1793

As detailed in Section 1, in 2016 Prop. 64 made it legal in the state of California for adults over the age of 21 to possess and to give away (for free) no more than 28.5 grams of marijuana and no more than eight grams of concentrate. Under the law, you may also cultivate up to six cannabis plants on private property. While Prop. 64 did not legalize all cannabis-related activity, it did reduce the

penalty for many offenses such as possession for sale, transport for sale, and cultivation of more than six plants. Even though millions of people became eligible to request to have their marijuana-related record cleaned up, by 2018 only three percent of eligible people had filed for record cleaning. In 2018, former California Governor Brown acknowledged how difficult it can be to file for record-cleaning, and he signed into law AB 1793, The Cannabis Conviction Resentencing Act. This made it the government’s responsibility to help you clean your cannabis-related criminal record.

If you previously had a marijuana conviction for an offense that is now legal or has a lower penalty, you are in luck. The California Department of Justice and local district attorney (DA) offices are now responsible for automatically dismissing, or dismissing and sealing, convictions for any behavior that is now legal. They are also responsible for reducing cannabis convictions that now have a lower penalty. The DA had until July 2020 to decide whether to challenge a reduction/dismissal of your eligible conviction. If the DA did not challenge your reduction/dismissal, the court must automatically grant it.

While it is the government’s responsibility to eventually clean up all eligible California records, this can be a slow-moving process. People who proactively petition to have their records cleaned up still receive priority for review. If you still have a cannabis-related conviction on your record, and you think you may benefit from having it cleaned up, we recommend you go to clearmyrecord.org, or reach out to organizations such as Root & Rebound for assistance with record-cleaning services.

CONCLUSION

We hope this section has given you a better understanding of your criminal record, and the many options available to help you clean up your drug-related convictions to minimize their impact on your life.

182. Cal. Health & Safety Code § 11361.5; Cal. Health & Safety Code § 11361.9
183. Cal. Health & Safety Code § 11361.5.
184. Cal. Health & Safety Code § 11361.5(a).
185. Cal. Health & Safety Code § 11361.5(c).
186. Cal. Health & Safety Code § 11361.7(a).
187. Cal. Health & Safety Code § 11361.7(b).
188. Cal. Health & Safety Code § 11361.7(c).

SECTION 5

CLOSING AND NEXT STEPS



We hope this Toolkit provides you with helpful information, resources, and steps for navigating life with cannabis or other drug arrests or convictions. We hope some of the information empowers you in being your own best advocate!

We have said throughout this Toolkit that navigating life with a cannabis or drug conviction looks different to different people. Your individual circumstances, strengths, needs, dreams, expectations, and concerns are what matter when (re)building your life after arrests or periods of incarceration. Always remember that Root & Rebound is here to support you however we can, and we will do our best to point you to other resources when we do not have the answers.

WHAT IS YOUR ACTION PLAN?

While this Toolkit does not cover everything that could come up in your life situation, the goal is to provide useful conversation starters, suggested timelines, practical steps, and simple information about your legal rights with cannabis or other drug-related arrests or convictions.

An action plan will help you organize and prioritize your goals, needs, expectations, and concerns. You do not need to create your action plan alone, and we encourage you to seek help and advice from loved ones or service providers. Your action plan can include everything from big picture goals to very specific information about your plans for record-cleaning, housing, employment,

education, family reunification, health care, and more.

Consider the following list a reference guide. If you take nothing else from this Toolkit, consider working through these essential steps before moving forward.

KNOW YOUR RECORD

RAP SHEET

Knowing what is on your criminal record will to help shape your goals and expectations, and it is crucial to anticipating where you may face barriers in housing, employment, education, and more. You can learn about your record by requesting your Records of Arrests and Prosecutions (aka RAP sheet). More information on getting your RAP sheet is in Section 4 on pg. 74.

COMMUNITY SUPERVISION

In addition to knowing your general arrest and conviction history, you should find out whether you are on community supervision such as probation or parole. If you are, make sure you understand all the applicable conditions. They may include court-ordered drug treatment or therapy, or many other restrictions regarding the places you may go and people you may see. For more information on community supervision, turn to Section 3, starting on pg. 56.

COURT-ORDER DEBT

You also must find out what, if any, court-ordered debt (fines or fees) you have from either the documents the court gave you, or by calling the court clerk in the county you were

arrested in. Court-ordered debt can create a lot of problems like prevent you from getting housing or qualifying for certain assistance. And failure to pay may result in you owing more money or even getting arrested. For more information on managing court-ordered debt, see Section III starting on page 56.

CLEAN UP YOUR RECORD

After you learn the ins and outs of your record, the next step is to find ways you can clean up your record. Cleaning your record may significantly help your chances of accessing housing and employment. Record cleaning, as it is known, can mean a lot of different things. Some of the ways to clean your record are included here for reference. For more information on record cleaning, you can turn to Section 4, starting on pg. 74.

DISMISSALS AND REDUCTIONS

Among the most common ways you can clean your record if you have cannabis or other drug arrests or convictions are dismissals and reductions. Dismissals basically ask the court to seal an arrest, a charge, or a conviction on your record so that most people, such as private employers or housing providers, cannot see it when they run background checks. Additionally, people with certain offenses can seek to have the charges reduced from a felony to a misdemeanor or from a misdemeanor to an infraction. As the word implies, “reductions” are beneficial because they reduce the offense’s perceived seriousness, which in turn can reduce the stigma associated with the offense. For example, Prop. 47 allows people convicted of

felony drug possession for personal use or cannabis to have those charges reduced to misdemeanors.

EARLY TERMINATION OF COMMUNITY SUPERVISION

Another way to clean your record may be to seek early release from probation or parole. You can do this by filing certain petitions in the court. Being on probation or parole may disqualify you from getting certain jobs, traveling, obtaining public benefits, and more. Asking the court to terminate your community supervision can often include a request for a Certification of Rehabilitation (COR). In other words, you must prove to the court that you are rehabilitated. CORs and similar court orders written by the judge can be used to prove to employers and others that you are a reliable employee, for example.

KNOW YOUR LEGAL RIGHTS

People with criminal records have rights, too. Thanks to laws passed in California known as Fair Chance laws, people with criminal records have more protections when looking for and applying to new jobs. Knowing your legal rights may help you to identify illegal employment discrimination, and it will also give you the insight you need to prepare for whatever may come your way.

FAIR CHANCE ACT

This is a law passed in California that strengthens protections for people with criminal records who are looking for jobs. It establishes that most employers with

more than 5 employees cannot even ask about your criminal record until they extend you a conditional job offer. The law requires employers not make “blanket bans,” but rather that employers conduct an individualized assessment of applicants. Employers can run background checks on you with your permission, but they must notify you of your rights to respond to what they find. You have a right to respond and to demonstrate evidence of rehabilitation. This is why it is so important to know your record. For more information, including what offenses background check companies cannot share with employers, see Section II starting on page 25.

OCCUPATIONAL LICENSING

Many jobs require a license or certification from the state of California. These may include jobs like barber, security guard, teacher, nurse, real estate agent, and hundred of others. These jobs require approval by a licensing board, and they typically may deny applicants for criminal arrests or convictions. Your rights are discussed in detail in Section II starting on page 25.

DO YOU HAVE MORE QUESTIONS OR ANY CONCERNS BEYOND THOSE ADDRESSED IN THIS TOOLKIT?

This Toolkit does not stand alone. Root & Rebound offers numerous other resources, such as guides, toolkits, a weekly legal hotline, training, and clinics. Here are a few additional resources you may find most relevant or helpful and why.

<p>CALIFORNIA ROADMAP TO REENTRY</p>	<p>If you have individual questions about barriers related to reentry or involvement with the criminal justice system that we did not cover in this toolkit, then you may want to check out the Roadmap to Reentry. Root & Rebound publishes and updates an encyclopedic, know-your-rights reentry legal guide called the Roadmap to Reentry. It is available online, in print (on request), and for free in prison and jail libraries (where possible). Visit https://www.rootandrebound.org/resources/ca-roadmap/ to learn more.</p>
<p>REENTRY PLANNING TOOLKITS</p>	<p>If you are currently or recently incarcerated, and in need of a toolkit that is generally very helpful at building a “reentry plan” that expands on the topics we discussed here but in broader terms that apply to a variety of people including people with non-drug related arrests or convictions. These toolkits also are available for your family members/loved ones or any professional service providers supporting you. To learn more, visit https://www.rootandrebound.org/resources/reentry-planning-toolkit/.</p>
<p>MY EDUCATION, MY FREEDOM: A TOOLKIT FOR FORMERLY INCARCERATED AND SYSTEM-IMPACTED STUDENTS PURSUING EDUCATION IN CALIFORNIA</p>	<p>If you are currently and actively seeking to go back to school or enroll in college, then My Education, My Freedom is a free toolkit that goes into depth to help navigate many of the barriers that may arise for people with criminal records. To learn more, visit https://www.rootandrebound.org/resources/my-education-my-freedom/.</p>

<p>NATIONAL FAIR CHANCE HOUSING TOOLKIT</p>	<p>If you are concerned about your access to housing because of a criminal record, this toolkit offers a step-by-step guide for applying to housing with a record, an explanation of different types of housing, your rights applying to housing with a record, information on background checks, and your right to challenge a housing denial. In addition to the national toolkit, you can also get some state specific fact sheets by visiting: https://www.rootandrebounds.org/resources/national-fair-chance-housing-toolkit/.</p>
<p>TRAININGS</p>	<p>Public education is critical to Root & Rebound’s mission. That’s why we offer community-based and prison- and jail-based “know-your-rights” trainings. Our trainings allow us to share important reentry legal knowledge statewide with directly impacted people and service providers, which in turn allows us to learn directly from people on the ground about the most pressing needs for people with records in their community. We also partner with community organizations and government agencies to bring Root & Rebound’s legal trainings, direct services, and curriculum into our partners’ services, improving the outcomes for their clients.</p>
<p>CLINICS</p>	<p>Root & Rebound offers in-person legal clinics statewide, where people with records can sign up for a one-on-one appointment with a member of our legal team. We focus our clinics on issues and regions that are the most underserved, including in rural communities, with our tribal partners, and focusing on issues like family law, parole and probation, record-cleaning, and other hard-to-access legal services for people with past justice system involvement. To learn more about what clinics are available and where, visit https://www.rootandrebounds.org/get-support/.</p>

HOW CAN YOU CONTACT ROOT & REBOUND FOR FREE FOLLOW-UP SUPPORT?

If you have any questions about the information in this toolkit or would like to speak with someone on Root & Rebound's legal team, please call our free, weekly Reentry Legal Hotline, any Friday, from 9 a.m. – 5 p.m. PST at phone number (510) 279-4662 (we accept collect calls from people in custody); write us confidential, legal mail at: 1730 Franklin Street, Suite 300, Oakland, CA 94612 (ATTN: Katherine Katcher, SBN: 295448); or view our online resources at <https://www.rootandrebound.org/get-support/>.

Call the Reentry Legal Hotline:

(510) 279-4662

Write to Root & Rebound:

1730 Franklin Street, Suite 300,
Oakland, CA 94612
(ATTN: Katherine Katcher, SBN: 295448)

View Online Resources:

<https://www.rootandrebound.org/get-support/>