

# UNLOCK POTENTIAL, BREAK THE CYCLE: INVESTING IN FOSTER YOUTH THROUGH EXPUNGEMENT

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## RECOMMENDATION SUMMARY

To expand equitable access to juvenile record expungement for foster youth and reduce systemic barriers to adulthood, Congress should 1) direct the U.S. Department of Health and Human Services (HHS), in coordination with the U.S. Department of Justice (DOJ), to require that all Title IV-E transition plans include expungement education and support for eligible foster youth, 2) HHS and the DOJ should send a joint letter to all child welfare directors and juvenile justice offices with best practices for juvenile record confidentiality, data privacy, and record system modernization, and 3) Congress should request a U.S. Government Accountability Office (GAO) report on the cost of expungements for dual status youth as part of a larger review dual status youth issues and transition planning.

## EXECUTIVE SUMMARY

Nearly 50% of young people in foster care come into contact with the juvenile justice system, often due to trauma-related behaviors rather than criminal intent. These interactions create lasting legal and economic barriers that persist into adulthood. Even low-level or non-violent offenses can disqualify youth from federal student aid, limit access to affordable housing, prevent enlistment in the military, and hinder employment opportunities, particularly in fields requiring background checks.

While juvenile record expungement can mitigate these harms, existing processes remain fragmented, inaccessible, and rarely account for the compounded challenges faced by youth aging out of care. To address these disparities, Congress should require the U.S. Department of Health and Human Services (HHS) to include juvenile record expungement support in all Title IV-E transition plans and incentivize state-level adoption of automatic, standardized expungement policies. Targeted investments in court record modernization and interagency coordination with the U.S. Department of Justice (DOJ) are essential to prevent foster youth from being permanently disadvantaged by the very systems designed to protect and empower them.

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## PERSONAL REFLECTION

Growing up, I believed that hard work and resilience would eventually outweigh my past. As the first in my family to graduate high school and attend college, I thought I had left my childhood struggles behind. But in my late teens, I became involved in the juvenile justice system – a direct result of the instability and trauma I experienced as a child. Years later, while applying for new opportunities, I discovered how easily those records could resurface, exposing deeply personal history and overshadowing the person I had worked so hard to become.

Although I ultimately overcame these obstacles; I become a U.S. Army officer and served my country with pride. However, the experience delayed my career, cost me critical opportunities, and nearly derailed my dreams. Expungement would have made a profound difference. Foster youth deserve to be seen for who they are today, not judged forever by fragmented moments of adolescence shaped by circumstances beyond their control.

## THE PROBLEM & CURRENT LAW

Youth in foster care are overrepresented in the juvenile justice system. This is not always due to criminal intent, but as a result of trauma and systemic failure (Youth.gov, n.d.). These "dual system-involved" youth are often punished for behaviors like truancy or running away — trauma responses that demand support, not incarceration. Once involved, even minor, non-violent offenses can lead to records that persist into adulthood. Although juvenile records are intended to be rehabilitative and confidential, they often remain accessible to employers, landlords, schools, and the military.

Expungement laws vary widely by state. Expungement is the legal process of erasing or sealing a person's criminal or juvenile record, so it no longer appears in background checks or is accessible to the public. Most youth must navigate complex petition processes, attend court hearings, and pay fees. Many of these are burdens that are often unrealistic for young people aging out of care without legal support. As of 2019, only nine states offered strong confidentiality protections (Touro Law Review, 2019). In others, juvenile records may still be shared with schools, law enforcement, or employers.

Mental health records, often documented during moments of crisis, are frequently included in juvenile case files. These records, which are not protected under the Health Insurance Portability and Accountability Act (HIPAA), remain accessible to decision-makers across child welfare, education, and justice systems (U.S. Department of Health and Human Services, 2017). In many states, foster youth face additional barriers because juvenile records, even records including sensitive mental health information, can be legally shared with schools, employers, landlords, and military recruiters (National Juvenile Defender Center, 2018).

## THE PROBLEM & THE CURRENT LAW (CONTINUED)

Without consistent privacy protections, mental health histories can follow youth into adulthood which can create barriers to housing, education, scholarships, and military service, and compound stigma with long-term consequences. Youth with juvenile records face not only personal barriers but also impose significant public costs. Each foster youth aging out without adequate support and expungement opportunities costs taxpayers an estimated \$235,000 over their lifetime in incarceration, public assistance, lost earnings, and healthcare expenses (Annie E. Casey Foundation, 2011). A 2022 study by the Federal Reserve Bank of St. Louis found that individuals convicted as juveniles earn less and are less likely to be employed full-time a decade later. Conversely, states with robust expungement policies report increased stability and economic mobility.

Some states are leading the way. For example, California's SB 1296 provides legal aid to youth pursuing expungement (California Legislative Information, 2022). Michigan's "Clean Slate for Kids" law automates record clearance and has gained bipartisan support, including from business groups focused on workforce development. Modernized court technology has made automatic expungement more feasible and cost-effective. However, outdated and fragmented record-keeping systems in many states continue to complicate efforts to clear eligible juvenile records, creating technical and administrative barriers to expungement. Without federal guidance, progress remains inconsistent, and a youth's future continues to depend on where they grow up.

Embedding expungement support into federally required Title IV-E transition plans would create a consistent, natural pathway for youth to move forward. Federal action is needed to ensure that juvenile records do not lock foster youth out of the future they have worked hard to build.

## POLICY RECOMMENDATIONS

To expand equitable access to juvenile record expungement for foster youth and reduce systemic barriers to adulthood, Congress should:

- **Direct the U.S. Department of Health and Human Services (HHS), in coordination with the U.S. Department of Justice (DOJ), to require that all Title IV-E transition plans include expungement education and support for eligible foster youth.** This support should include access to legal services, assistance with filing, education about legal rights, and referrals to relevant resources. Embedding this in the transition process would ensure youth are not left navigating complex legal systems alone and would create a uniform baseline of support across states.

### **POLICY RECOMMENDATIONS (CONTINUED)**

- **HHS and the DOJ should send a joint letter to all child welfare directors and juvenile justice offices with best practices for juvenile record confidentiality, data privacy, and record system modernization.** This should include limiting access to sensitive mental health information in juvenile case files, prioritizing states for discretionary grants to modernize record systems, and promoting integrated data infrastructure to streamline expungement while protecting youth privacy.
- **Congress should request a U.S. Government Accountability Office (GAO) report on the cost of expungements for dual status youth as part of a larger review dual status youth issues and transition planning.**