



# Criminal Records Relief in Illinois

Expungement, Sealing &  
Others Forms of Mitigation

**Cabrini Green Legal Aid**

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# **Introducing Cabrini Green Legal Aid**

# Cabrini Green Legal Aid

1973: Ministry of LaSalle Street Church...



...supporting  
residents of the  
Cabrini Green  
Housing Project



Today: Cabrini  
Green Legal Aid



CGLA

# Cabrini Green Legal Aid

We provide **integrated legal and social services** that:

- ✓ Remove or prevent economic and educational opportunities;
- ✓ Preserve and access housing; and
- ✓ Strengthen families

Our work and client outcomes are strengthened through strategic partnerships with community-based organizations, system stakeholders and advocacy groups.

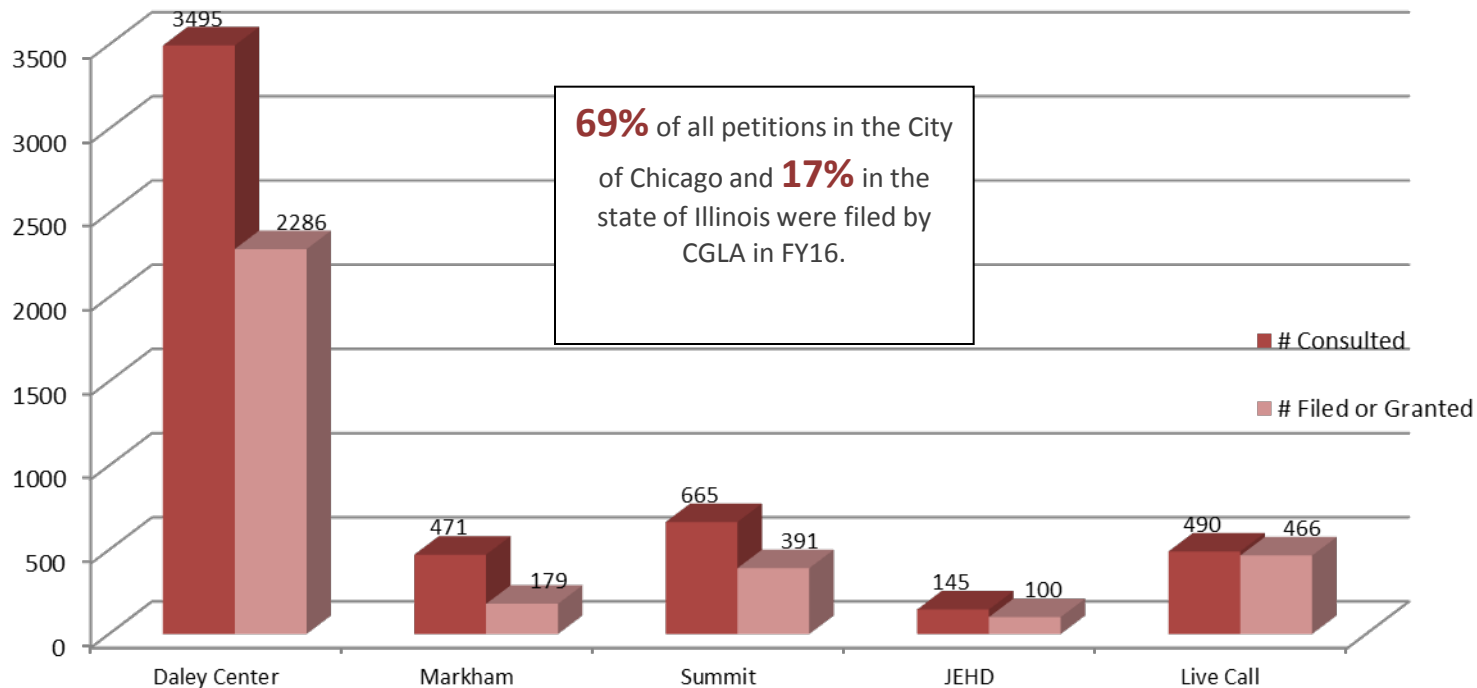


# CGLA Outcomes FY2016

## Criminal Records Help Desks

The Help Desks and Summit provided **5,266 consultations**, with **3,422 individuals** receiving pro se documents to file or representation in court.

### Clients Served at Help Desks by Location



**7,016 Clients**

**968**

clients accepted for full in-house legal services

**5266**

accessed Services through our Help Desks

**STRONGER**

**96%**

of clients left CGLA with improved legal standing regarding their record or case

**88%**

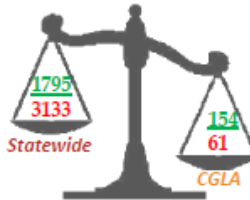
of evictions or voucher terminations were prevented

**89%**

of families experienced increased connection between a parent and their children

**A deeper look**

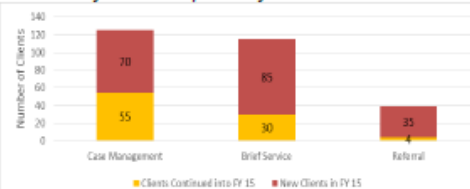
*CGLA clients petitioning for executive clemency are granted pardons 72% of the time, while the statewide grant rate is 36%.*



Of the 136 juveniles reaching a final disposition in FY16, **69%** had parole resumed (compared to 36% statewide) by the PRB and were released from juvenile detention.

There was a **63% decrease** from the first half of the year before the 2016 amendments to the Juvenile Court Act took effect. Whether it is from statewide legislative changes or advocacy work addressing more stabilized parole plans, the number of youth returning to DJJ while on after-care has decreased in the state of IL. This is a positive outcome because less young people are returning to incarceration.

*Client Support Services engagement includes full and brief services that can last for extended periods of time.*

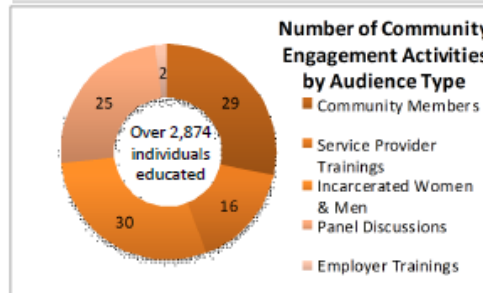


**Advocacy and Client Leadership**

*In FY15 CGLA's Leadership Council and Visible Voices Group presented 26 times about the impact of the criminal justice system on their lives and our community.*



6 trips to Springfield = 3 FY15 Legislative Wins



**CGLA's Pro Bono Over 16,000**

**CGLA's Top Referral Agencies**

The Cara Program	141
Southwest Chicago Pads	87
Safer	85
Growing Home	58
Breakthrough	30
Heartland HSC	28
Housing Opp. for Women	23
La Casa Norte	21

*When a parole revocation is based on a new offense, parole is revoked virtually every time. Of the 125 juvenile parole revocation cases, 91 were based on other alleged violations, where discretion and advocacy change the result of the proceeding.* **74%** Of cases where parole was resumed

**20%** (534) Percentage of in-house CGLA clients that are referrals from Partner Agencies

**CGLA's Impact**



# Who CGLA Serves

## People Impacted by the Criminal Justice System

### **People under correctional control**

Men, women and juveniles who are incarcerated, on parole or under supervision

### **People facing barriers to housing and employment because of alleged or past criminal activity**

Men, women and juveniles who are accused of committing crimes

Men, women and emerging adults who have juvenile and/or criminal records

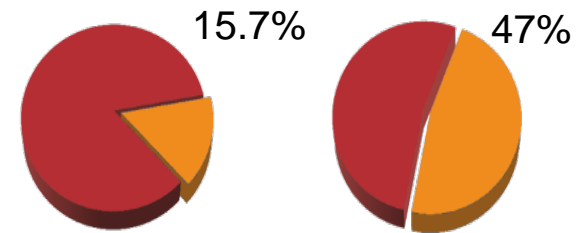
# “Why” CGLA Serves this Population



**One in three**  
Americans have been arrested by age 23, resulting in many job applicants having criminal records.

**48,000**

Number of collateral consequences nation-wide for past arrests and convictions.



Recidivism rates for those with full-time employment for one year following incarceration vs. rates for those without employment.





# The Impact on Our Community

**65%**



% of employers that will not hire someone with a criminal record

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**50%**



% reduction of likelihood of call back for a person with a criminal record

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**47%**



% of landlords that will not rent to a person with any criminal conviction



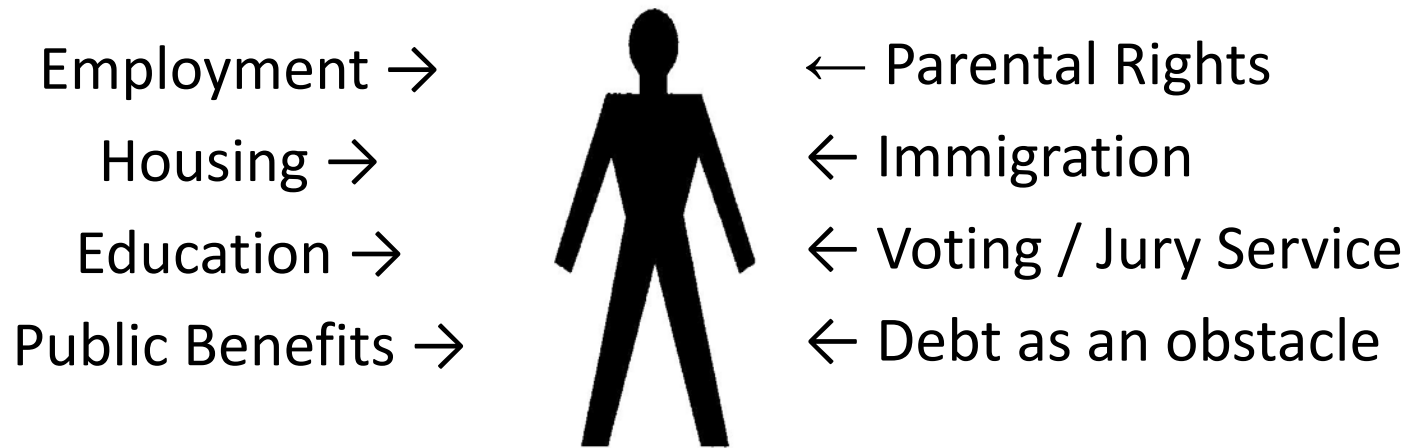
# The Impact on Our Community

## Benefits of This Workshop...In Your Words

- The clients will have more job opportunities allowing them to be more productive community members. *This is likely to reduce recidivism.*
- Learning about the process for criminal records relief will assist our program in providing our participants the resources needed to apply for and obtain records relief to obtain employment and housing. *These are barriers our participants face daily in working on rebuilding their place in the community.*

# **Collateral Consequences of a Criminal Record**

# What are “Collateral Consequences”?



## Fundamental Barriers to Successful Reentry

Legal and regulatory sanctions and restrictions that limit or prohibit people with criminal records from accessing employment, occupational licensing, housing, voting, education, and other opportunities.

# ABA Collateral Consequence Website

<https://niccc.csgjusticecenter.org/map/>

The screenshot shows the website's interface for selecting a jurisdiction. At the top left, there are logos for the ABA Criminal Justice Section and the National Institute of Justice. To the right of these logos is a navigation menu with the following items: PROJECT DESCRIPTION, USER GUIDE, RESOURCES, DISCLAIMER, and CONTACT US. Below the logos and menu, the main heading reads "CHOOSE A JURISDICTION" in large white letters, with the subtext "Search Multiple Jurisdictions" underneath. On the right side of the page, there is a list of "OTHER JURISDICTIONS" which includes: FEDERAL, DISTRICT OF COLUMBIA, PUERTO RICO, and U.S. VIRGIN ISLANDS. The central part of the page features a map of the United States with several states highlighted in a light blue color, indicating they are selected or available for search.

# What are “Collateral Consequences”?

Employment →



*“As we are all aware, employment is a huge topic when it comes to community corrections. Having a criminal background can make getting a decent job nearly impossible at times.”*

**Fundamental Barriers to  
Successful Reentry**



# How Do I Know if There is a Law Governing Employment?

Generally, employment requiring fingerprints is the flag that there is a law or rule governing employment with criminal records. Fingerprints are done through the Illinois State Police (ISP) and sometimes through the FBI as well, depending on the employer. Also, licensure is an indicator of statutory barriers.



## What Type of Barrier is It?

Is the barrier discretionary or mandatory?

Is it limited or lifetime?

Is it all offenses or limited offenses?

## Is Relief Available?

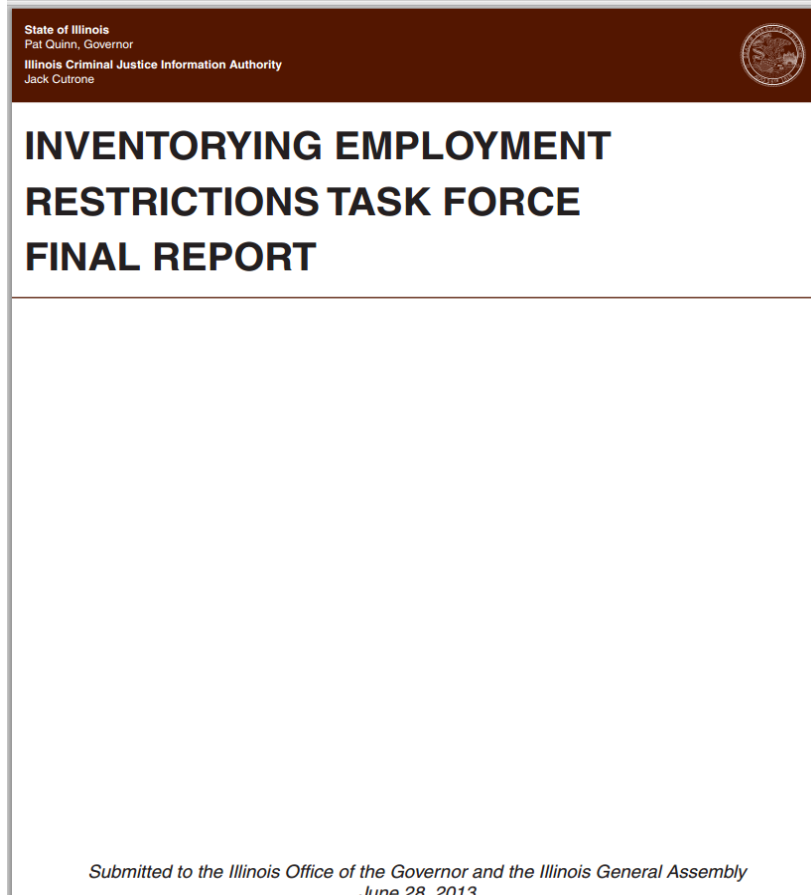
Are there are any waivers available for the barrier?

Is there a time frame for seeking the waiver?

Is a license required?



# Illinois Inventory on State Employment Barriers



**The Illinois General Assembly created the Task Force to Inventory Employment Restrictions, which released this report in June of 2013, listing each law, administrative rule, regulation and practice that restricted people with criminal records from employment through the State.**

<http://www.icjia.state.il.us/publications/inventorying-employment-restrictions-task-force-final-report>

**CGLA**

# Examples of Illinois Barriers

## Park Districts

(70 ILCS 1205/8-23)

- Can never work at a park district if convicted or adjudicated delinquent of a drug conviction in the last 7 years, or ever if Class X or sex crime.

## Health Care

(225 ILCS 46)

- Can never work in health care in an unlicensed position if convicted of any “disqualifying offense,” without a waiver from Dept. of Public Health.

## Schools

(105 ILCS 5/10-21.9)

- Can never work in schools – as a teacher, administrator, or volunteer – if ever convicted of a drug offense in the last 7 years or ever if a sex offense or Class X felony.

## Medical Practice Act

(20 ILCS 2105/2105-165)

- Any conviction for a forcible felony prohibits licensure as a licensed health care professional through the Illinois Department of Financial and Professional Regulation for a period of 5 years.

# What are “Collateral Consequences”?

*“We can assist our clients in removing felony charges from their records so they can have access to better jobs and housing.”*

Housing →



**Fundamental Barriers to  
Successful Reentry**

# One Strike Rule in Subsidized Housing

## 15. Termination of the Lease

will be subject to termination of the Lease.

- (c) The Lease may be terminated for:
1. Any criminal activity engaged in by the Resident, any member of the household, a guest, or another person under the Resident's control that threatens the health, safety or right of peaceful enjoyment of the premises by other Residents, CHA employees, agents of CHA, or persons residing in the immediate vicinity of the premises; or
  2. Any drug-related criminal activity on or off the premises performed by the Resident, any member of the household, a guest, or another person under the Resident's control.



# Type of Housing and Rules

Subsidized housing includes any housing for which the tenant receives some rental assistance from the federal government, including public housing, Section 8 Project-Based programs and Housing Choice Voucher Programs.

Two ways someone's criminal case can have a negative impact:

- (1) admission into subsidized housing &
- (2) termination or eviction from subsidized housing.

Each type of housing has its own specific section of federal regulations, but generally the rules related to criminal activity are very similar.

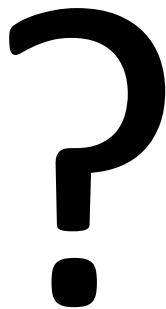


# General Restrictions



Two types of criminal conduct result in a **mandatory** denial or termination of assistance:

- (1) one's requirement to register as a sex offender; and
- (2) a conviction for the manufacture or production of methamphetamine on federally assisted housing grounds.



Three types of criminal conduct can result in a **discretionary** denial or termination of assistance:

- (1) Drug related activity
- (2) Violent criminal activity
- (3) Other criminal activity that "threatens the health, safety and rights to peaceful enjoyment of the premises by residents in the "immediate vicinity."

# What are “Collateral Consequences”?

*“Assisting clients to overcome barriers that interfere with bettering themselves as a ‘citizen’ are vital in program success.”*

Education →



**Fundamental Barriers to  
Successful Reentry**

# Federal Financial Aid

***If you've ever been convicted of a drug offense, you can never get federal financial aid.***

True

False

Maybe





Start A New  
FAFSA

Only barrier to federal financial aid for a specific period of time is a conviction for a drug offense WHILE receiving financial aid.



Must ascertain whether your client is currently receiving financial aid before pleading guilty to a drug conviction.





## Start A New FAFSA

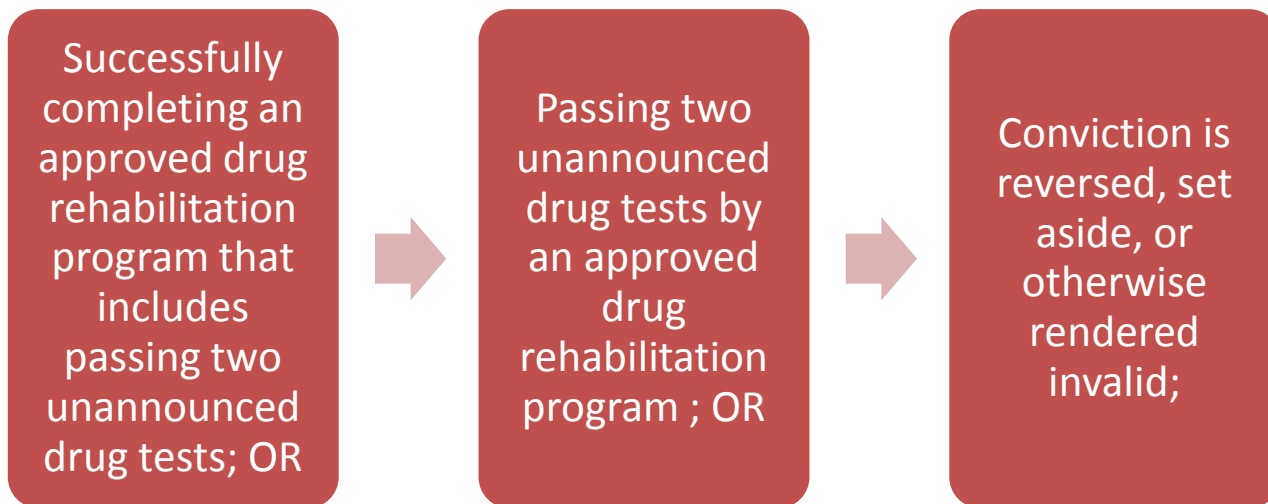
### Time frames for disqualification:

Offense	Possession of Illegal Drugs	Sale of Illegal Drugs
First	1 year of ineligibility from date of conviction	2 years of ineligibility from date of conviction
Second	2 years of ineligibility from date of conviction	Indefinite period of ineligibility*
Third	Indefinite period of ineligibility*	Indefinite period of ineligibility*



## Start A New FAFSA

Indefinite period of ineligibility continues unless:



# What are “Collateral Consequences”?

*“It's important to understand the impact of the sentencing and the burdens placed on the program participants during and following program participation.”*



← Parental Rights

**Fundamental Barriers to  
Successful Reentry**



# Custody & Visitation of Children



Are you currently going through any family law proceedings or is DCFS involved with your children?

- Nothing absolutely prevents custody and visitation (although any criminal record can be brought up or used by the court), except for:
  - Crimes against the child or other parent
  - Sex offenses



# Termination of Parental Rights





# Foster Care, Guardians and Adopters



Any felony conviction can affect

Certain felony convictions have time frames (eg. 10 years for drugs)

Certain convictions are lifetime barriers to foster care placement (eg. prostitution)

# What are “Collateral Consequences”?

*“This is a path to full citizenship and benefits the whole community.”*



← Voting / Jury Service

**Fundamental Barriers to  
Successful Reentry**



# Voting

***If you've ever been convicted of a felony, you cannot vote in the State of Illinois.***

*True*

*False*

*Maybe*

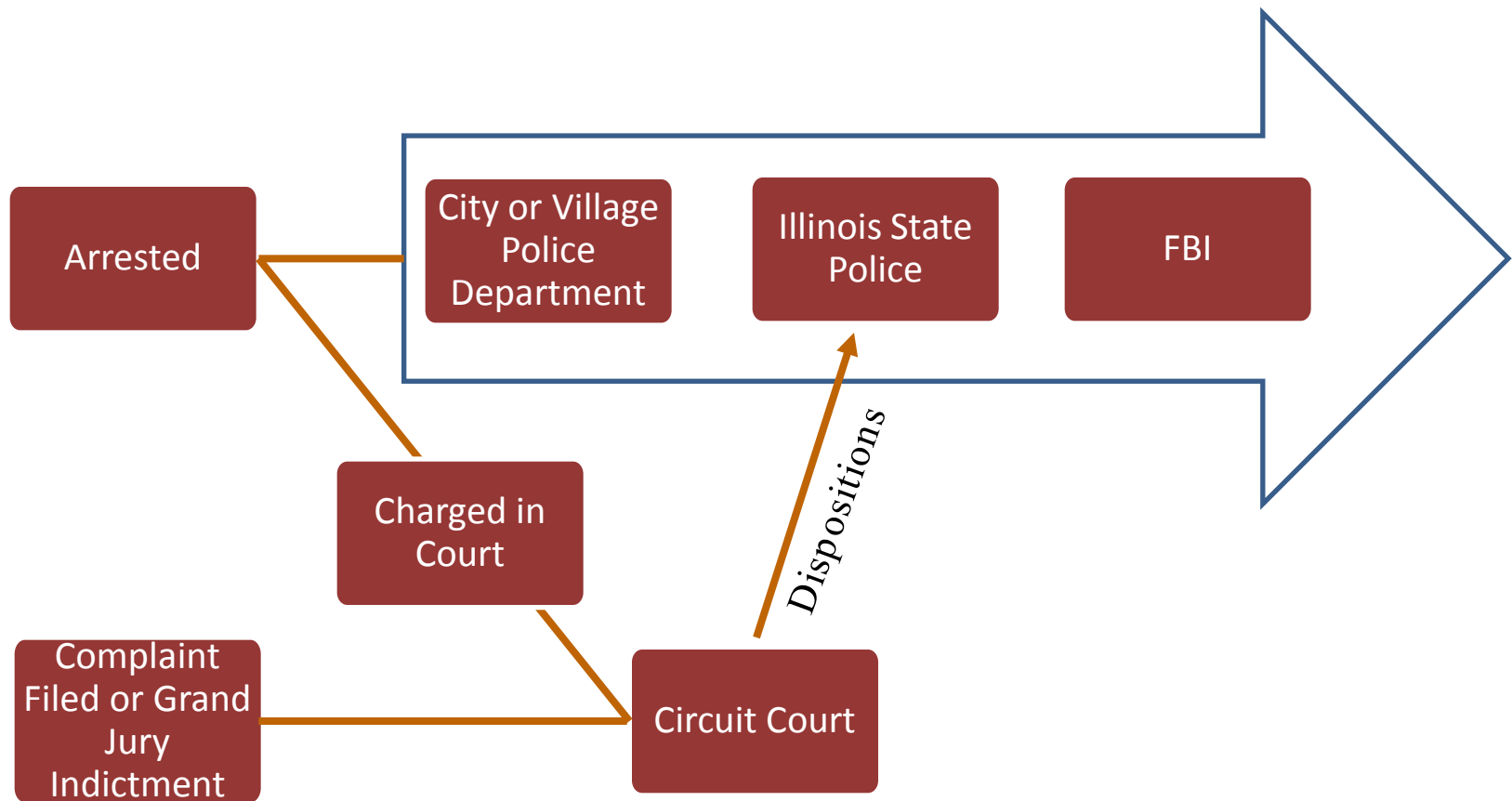
# Voting Rights

U.S. Felony Disenfranchisement Laws by State



# **Understanding Criminal Records**

# How Criminal Records Are Created





# Who's a Juvenile?

***In Illinois, a person is a juvenile if arrested before their 18<sup>th</sup> birthday.***



***True***



***False***



***Maybe***



# Juvenile Arrests

Today, in Illinois, a juvenile is a person who is arrested before his or her **18<sup>th</sup>** birthday.

Special rules apply to juveniles accused of committing certain crimes.

# Confidentiality of Juvenile Records

***No one can see juvenile cases because they are confidential.***

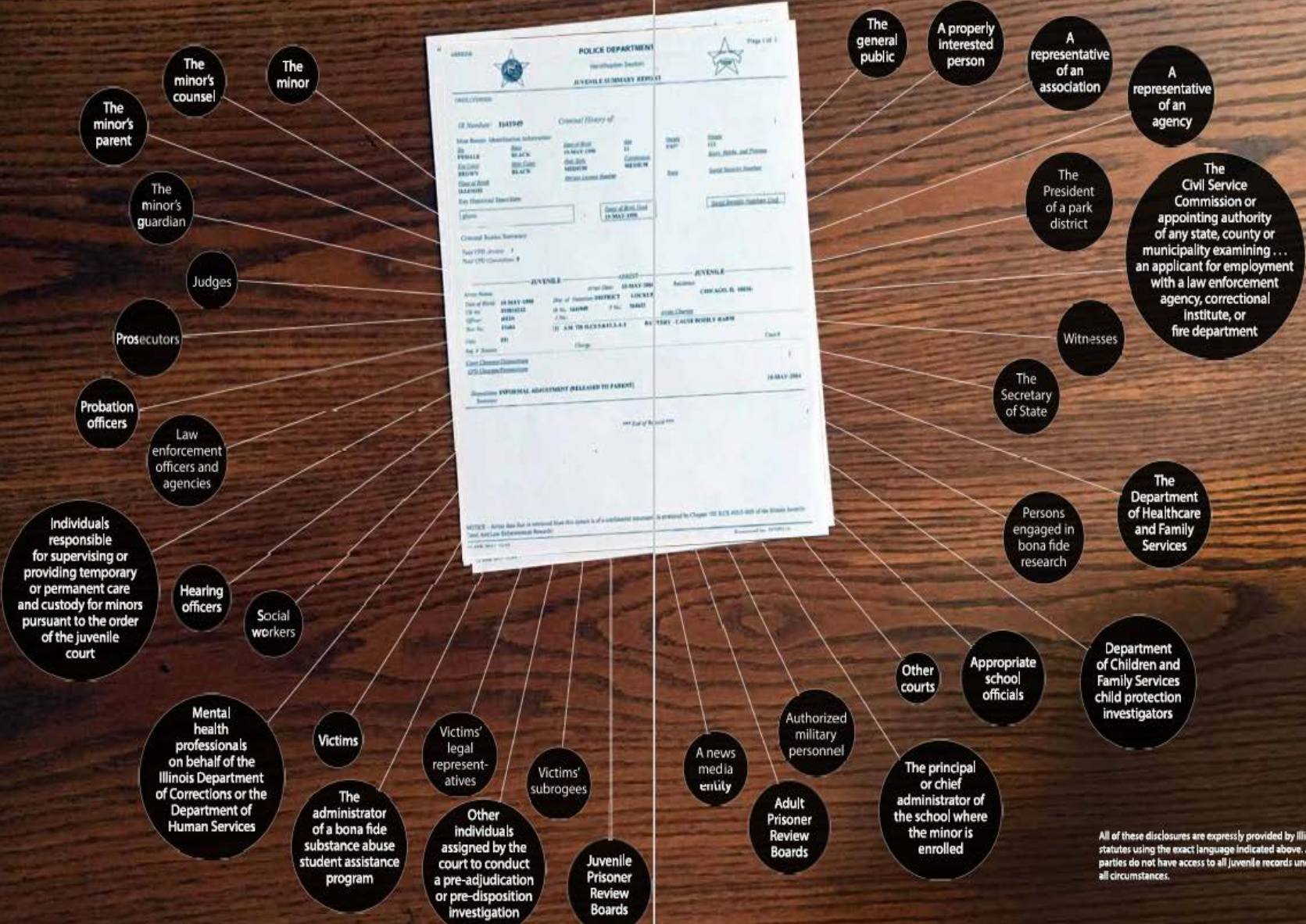
*True*

*False*

*Maybe*



# WHO HAS POTENTIAL LEGAL ACCESS TO JUVENILE RECORDS?



The minor's parent  
The minor's counsel  
The minor

The minor's guardian  
Judges

Prosecutors  
Probation officers

Law enforcement officers and agencies

Individuals responsible for supervising or providing temporary or permanent care and custody for minors pursuant to the order of the juvenile court

Hearing officers  
Social workers

Mental health professionals on behalf of the Illinois Department of Corrections or the Department of Human Services

Victims

The administrator of a bona fide substance abuse student assistance program

Victims' legal representatives

Other individuals assigned by the court to conduct a pre-adjudication or pre-disposition investigation

Victims' subrogees

Juvenile Prisoner Review Boards

The general public

A properly interested person

A representative of an association

A representative of an agency

The President of a park district

The Civil Service Commission or appointing authority of any state, county or municipality examining... an applicant for employment with a law enforcement agency, correctional institute, or fire department

Witnesses

The Secretary of State

The Department of Healthcare and Family Services

Persons engaged in bona fide research

Other courts

Appropriate school officials

Department of Children and Family Services child protection investigators

A news media entity

Authorized military personnel

Adult Prisoner Review Boards

The principal or chief administrator of the school where the minor is enrolled

All of these disclosures are expressly provided by Illinois statutes using the exact language indicated above. All parties do not have access to all juvenile records under all circumstances.



# What Makes a Conviction?

***If a person pleads guilty or is found guilty in a case, that case is a conviction.***

***True***

***False***

***Maybe***

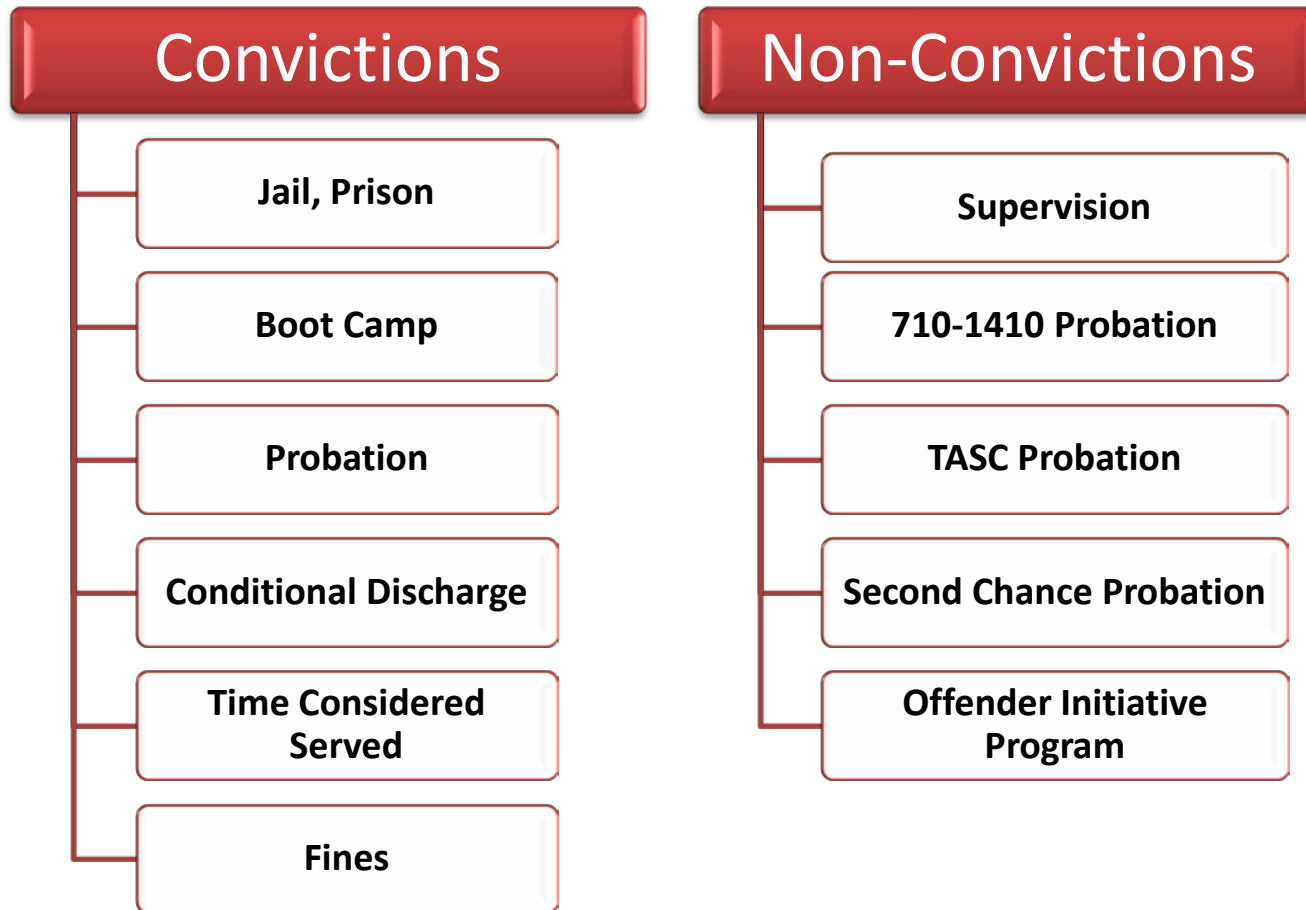


# Adjudication vs. Conviction

**When a juvenile is found guilty of a crime, it is called an adjudication, or you might say the juvenile is adjudicated delinquent.**

**Adjudications are not convictions.**

# The sentence determines whether something is a conviction – NOT a plea.



# Sentences That Can Be Non-Convictions

## **Illinois Law Determines Certain Sentences to be Non-Convictions:**

“if the court determines that the defendant has successfully complied with all of the conditions...the court shall discharge the defendant and enter a judgment dismissing the charges.”

# Dismissals, Acquittals, RWOC

Released without Charging (RWOC) or NOT FILED

Stricken off with Leave to Reinstatement (SOL), Non Suit

Finding of No Probable Cause (FNPC)

Finding of Not Guilty (FNG)

Nolle Prosequi

# **Options for Criminal Records Relief In Illinois**

# What are Expungement & Sealing?

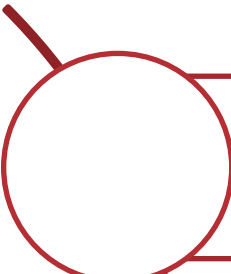
**Two ways to petition an Illinois Court to remove records from public view.**

**Always discretionary and never automatic!**

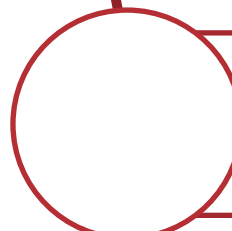
**Statutory remedy - Criminal Identification Act (20 ILCS 2630/5.2)**

**If juveniles, sometimes automatic – always granted.**


# The Difference = Access



Expunged records are only available to law enforcement for limited offenses (5 year waiting period cases).



All sealed records are available to law enforcement. No private entities can see a sealed misdemeanor conviction or a dismissal or acquittal.



Sealed felony conviction records are available only to employers authorized by law (those that are regulated by statute and conduct fingerprint based background checks).





# Expungement & Sealing Eligibility



Expungement is available for non-convictions.



Sealing is available for most misdemeanor convictions and a limited number of felony convictions.



# Expungement & Sealing Eligibility



## What

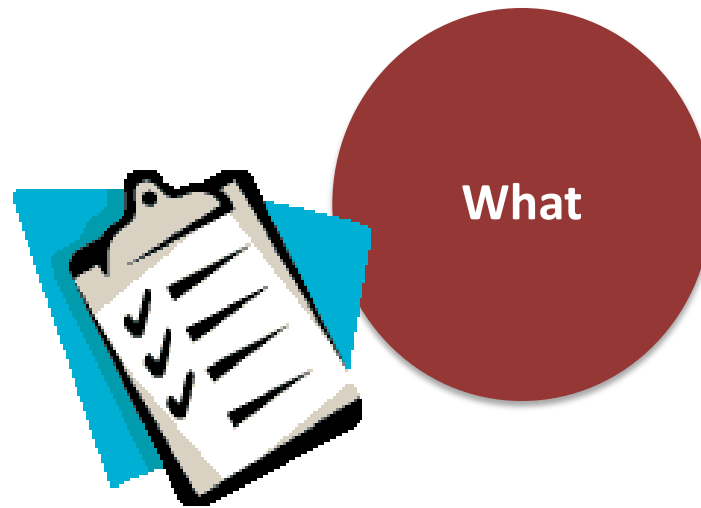
The law defines which offenses can be expunged or sealed.



## When

The law defines when offenses can be expunged or sealed.

# Expungement Eligibility



# Juvenile Expungement Eligibility



**What's eligible?** All juvenile adjudications EXCEPT Murder or a Felony Sex Offense

**All other records are fair game. This includes:**

1. Cases not adjudicated delinquent or adjudicated delinquent for a Class B or C misdemeanor
2. Cases adjudicated delinquent for a Class A misdemeanor or felony AND you have NO adult convictions

# Adult Expungement Eligibility

All non-convictions can be expunged...

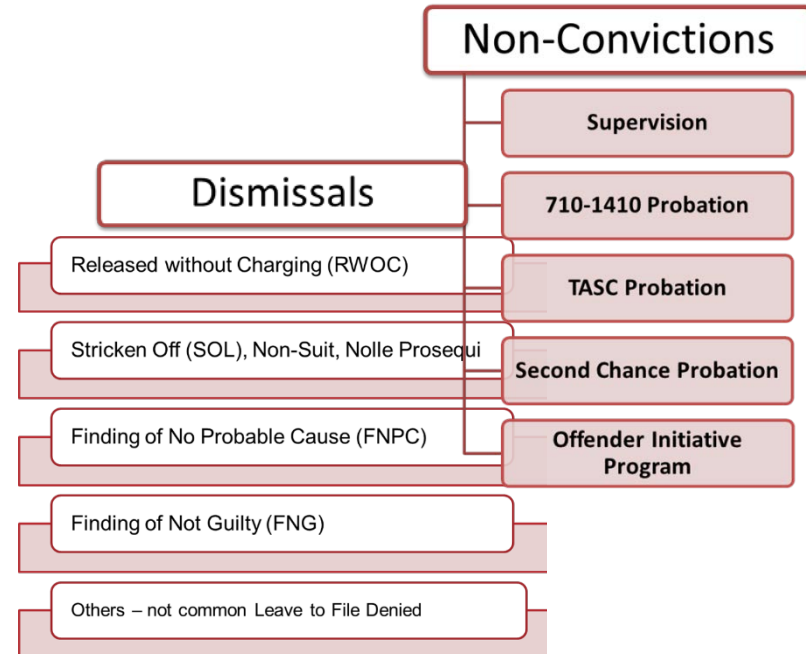


What

**EXCEPT:**

Supervisions for

- DUI
- Reckless Driving (except youthful offenders defined under 20 ILCS 2630/5.2(a)(3)(A))
- Sex Offense Involving a Minor



# Sealing Eligibility - Misdemeanors



## Misdemeanors

All misdemeanors convictions and supervisions can be sealed **EXCEPT:**

### Certain Crimes of Violence

- Domestic Battery
- Violation of Order of Protection or No Stalking Order

### Certain Sex Crimes under Article 11

- Patronizing or Soliciting a Prostitute
- Public Indecency...(and others...)

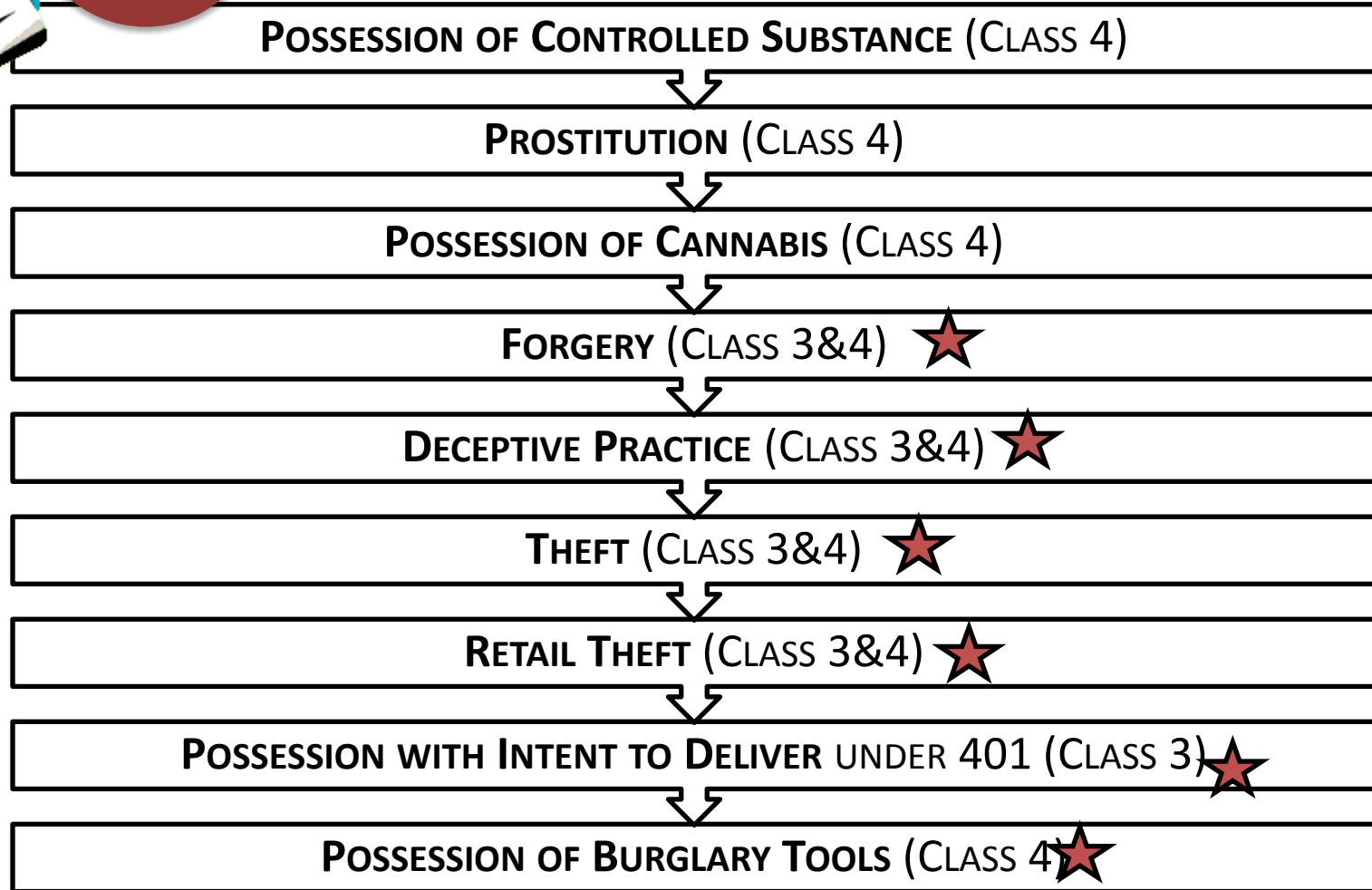
### Crimes Against Public Morals

- Driving Under the Influence
- Reckless Driving (unless youth offender exception)
- Any crimes against animals



What

# 9 Felony Convictions are Eligible for Sealing



# Expungement Eligibility





# Expungement Eligibility



- No waiting period for dismissals and acquittals
- 2 years after completion of supervision
- 5 years after completion of special probations

# Sealing Eligibility

When



## Eligible Convictions

Can be sealed **THREE YEARS** after a person completes his or her last sentence

Last sentence = sentence that terminates last in time in any jurisdiction.

# Sealing Eligibility

*Effective January 2016*

When



## **Eligible Convictions**

No waiting period to seal eligible offenses if the individual earns a high school diploma, associate's degree, career certificate, vocational technical certification, bachelor's degree, or GED while serving the sentence, or during aftercare release or mandatory supervised release.

# Other Forms of Relief



Health Care Waivers



Certificates of Good Conduct



Certificates of Relief from Disability

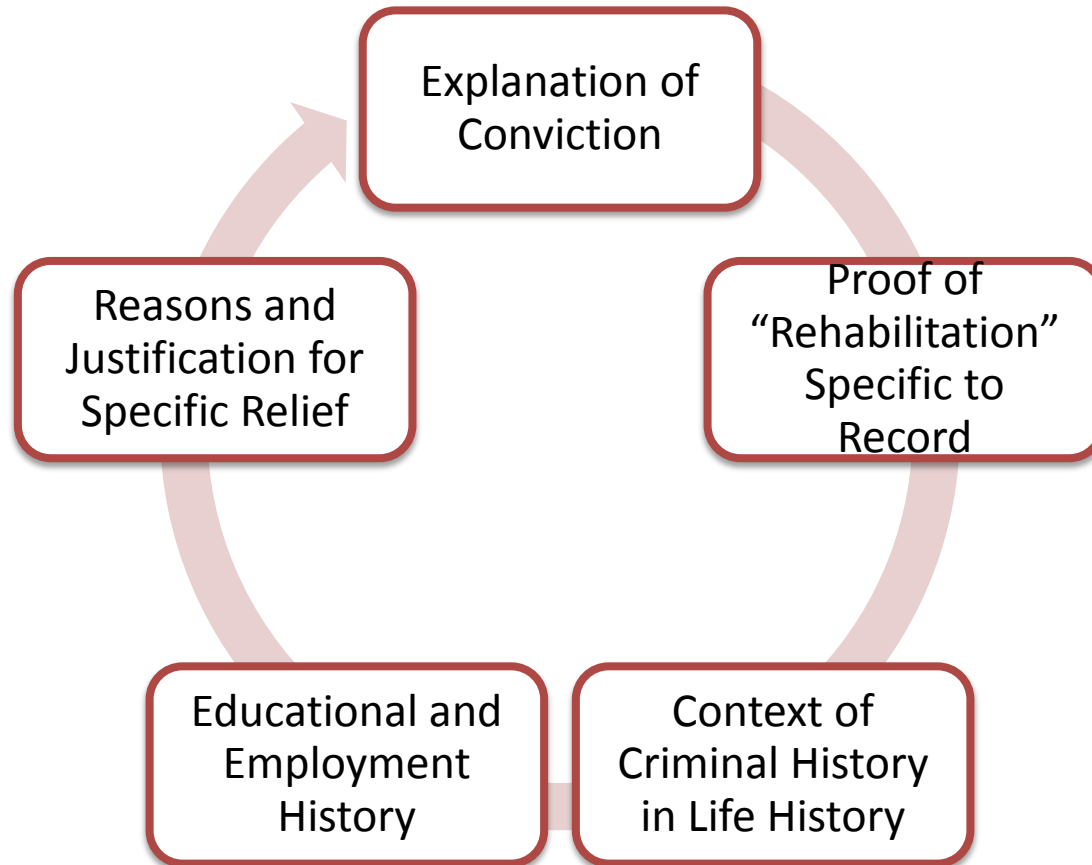


Certificates of Eligibility for Sealing



Clemency

# Factors Considered



# Other Forms of Relief



## Alternative Forms of Relief from Criminal Records Quick Reference Chart

*Note: If it has been 10 years or more since the client has been arrested, it would be reasonable to consider filing a clemency petition in addition to pursuing other forms of relief.*

	Health Care Waiver	Certificate of Good Conduct	Certificate of Relief From Disabilities												
Who decides	Illinois Department of Public Health	Circuit Court	Circuit Court												
Who needs it	Required to work in unlicensed position in health care if conviction is a "disqualifying offense"	May be used to overcome express or implied statutory barriers for some positions (e.g., Illinois School Code, Metropolitan Transit Authority Act)  Provides employer immunity from claims of negligent hiring; therefore, can be used as evidence of rehabilitation with <u>any</u> employer	May overcome express or implied statutory barriers for 27 enumerated licensing barriers (e.g., barbers, cosmetologists, nail technicians, landscape architects, massage therapists, real estate agents, etc.)												
When eligible	Depends on the number of disqualifying convictions and the type; counted from date of conviction, unless automatic appeal (see below):  <table border="1"> <thead> <tr> <th>#</th> <th>Misd.</th> <th>Felony</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>1 year</td> <td>3 years</td> </tr> <tr> <td>2-3</td> <td>3 years</td> <td>5 years</td> </tr> <tr> <td>4+</td> <td>5 years</td> <td>10 years</td> </tr> </tbody> </table>	#	Misd.	Felony	1	1 year	3 years	2-3	3 years	5 years	4+	5 years	10 years	Clear and convincing evidence of 2 years of "good conduct" from the date the last sentence was completed	Anytime, even at time of sentencing or while on probation or parole
#	Misd.	Felony													
1	1 year	3 years													
2-3	3 years	5 years													
4+	5 years	10 years													
Jurisdictions Covered	Disqualifying convictions anywhere	<ul style="list-style-type: none"> <li>Illinois convictions and out-of-state convictions if barred under IL law</li> <li>Must be heard in circuit court where convicted, if not out-of-state</li> </ul>	<ul style="list-style-type: none"> <li>Illinois convictions</li> <li>Must be heard in circuit court where convicted</li> </ul>												
Restrictions or Special Considerations	Automatic appeal for certain serious offenses (e.g., murder, aggravated crimes of violence); waiting period is 10 years from <u>completion of sentence</u>	<p>Not convicted of arson, aggravated arson, kidnapping, aggravated kidnapping, aggravated DUI, or aggravated domestic battery.</p> <p>Not convicted of any offense or attempted offense that requires registration (e.g. under Sex Offender Registration Act, Arsonist Registration Act, or Murderer and Violent Offender Against Youth Registration Act.)</p>													
Procedures if denied	Written appeal	Motion to reconsider	Motion to Reconsider												

# Health Care Worker Waivers

## The Healthcare Worker Background Check Act

- Prohibits healthcare employers from employing unlicensed persons with “disqualifying convictions.”

## Types of Positions Covered

- CNAs
- Dietary Technician
- Environmental Service Technician
- Medical Assistant (or CMA)
- Medical Coding Specialist

# Health Care Worker Waivers

<http://www.idph.state.il.us/nar/>

Illinois Department of Public Health

Pat Quinn, Governor

## health care worker registry

The Health Care Worker Registry lists individuals with a background check conducted pursuant to the Health Care Worker Background Check Act (225 ILCS 46). It shows training information for certified nursing assistants (CNA) and other health care workers. Additionally, it displays administrative findings of abuse, neglect or misappropriations of property. It is maintained by the Department of Public Health.

The Health Care Worker Background Check Act applies to all unlicensed individuals employed or retained by a health care employer as home health care aides, nurse aides, personal care assistants, private duty nurse aides, day training personnel, or an individual working in any similar health-related occupation where he or she provides direct care (e.g., resident attendants, child care/habilitation aides/developmental disabilities aides, and psychiatric rehabilitation services aides) or has access to long-term care residents or the living quarters or financial, medical or personal records of long-term care residents. It also applies to all employees of licensed or certified long-term care facilities who have or may have contact with residents or access to the living quarters or the financial, medical or personal records of residents.



# Disqualifying Offenses

## MISDEMEANORS

- Theft\*
- Retail Theft\*
- Criminal Trespass to Residence\*
- Practice Nursing without license\*
- Assault
- Battery
- Domestic Battery
- Endanger Life/Health of Child\*
- Criminal Trespass to Residence\*
- Unlawful Use of Weapon (UUW)\*

\* Sealable Offenses- 3 years after completion of last conviction.

## FELONIES

- Unlawful Restraint
- Forcible Detention
- Child Abduction
- Tampering w/ food/drug/ cosmetic
- Aggravated stalking
- Home Invasion
- Theft (includes retail and identity)\*
- Forgery\*
- Robbery
- Vehicular Hijacking
- Burglary and residential burglary
- Arson
- Reckless Discharge of Firearm
- Armed Violence
- Practice Nursing w/o a license
- Cruelty to children
- Receive/Sell/ Use stolen Credit card
- Criminal Drug Conspiracy
- Methamphetamine Violations
- Manufacture, Delivery, or Possession w/ intent Cannabis/Controlled Substance

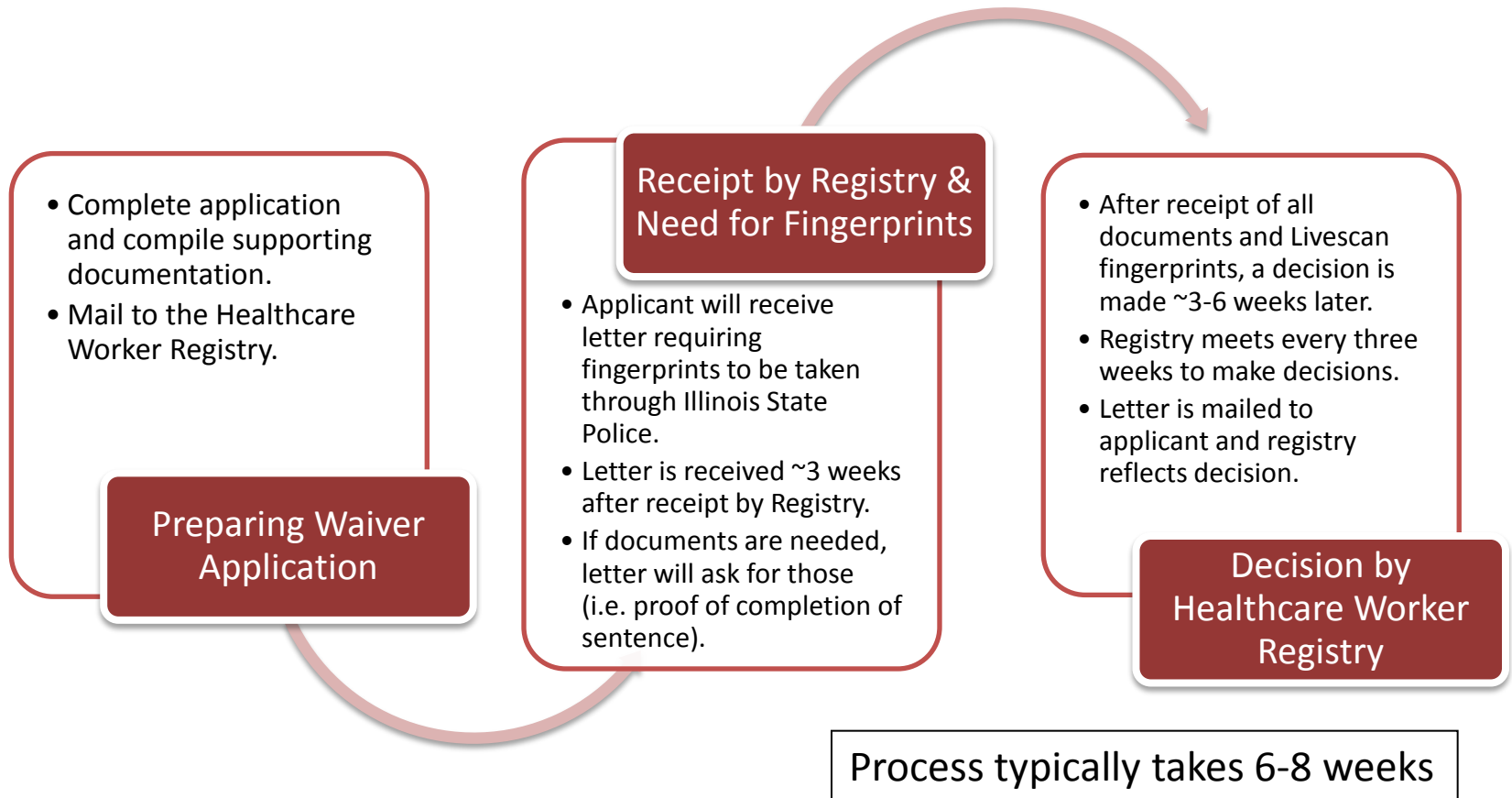
## APPEALS PROCESS

- Murder (1<sup>st</sup>, 2<sup>nd</sup> degree)
- Solicitation of Murder
- Involuntary Manslaughter
- Kidnapping
- Indecent solicitation of child
- Sexual misconduct with disabled
- Exploitation of child
- Child Pornography
- Aggravated Domestic Battery
- Aggravated battery
- Heinous Battery
- Criminal Sexual Assault
- Criminal Sexual Abuse
- Abuse/Neglect- LTC resident
- Criminal Abuse elderly/disabled
- Armed Robbery
- Aggravated Vehicular Hijacking
- Aggravated Robbery

# Waiting Periods for Health Care Waivers

<b>NUMBER OF DISQUALIFYING OFFENSES</b>	<b>DISQUALIFYING MISDEMEANOR CONVICTIONS</b>	<b>DISQUALIFYING FELONY CONVICTIONS</b>
<b>1</b>	1 YEAR	3 YEARS
<b>2-3</b>	3 YEARS	5 YEARS
<b>MORE THAN 3</b>	5 YEARS	10 YEARS
<b>APPEALS CASES</b>	10 YEARS FROM LAST SENTENCE SERVED	

# Process for Health Care Waivers



# Certificates of Rehabilitation

## Certificates of Good Conduct

- Can remove specific statutory barriers (i.e. Illinois School Code, Park District Act)
- Waiting period is 2 years from completion of felony conviction or 1 year from completion of misdemeanor conviction

## Certificates of Relief from Disability

- Available for 27 occupational licensed granted through Illinois Dept. of Financial and Professional Regulation
- No waiting period, can be applied for at time of sentencing or anytime thereafter

# Certificates of Rehabilitation

Available through the court of conviction  
for all convictions except:

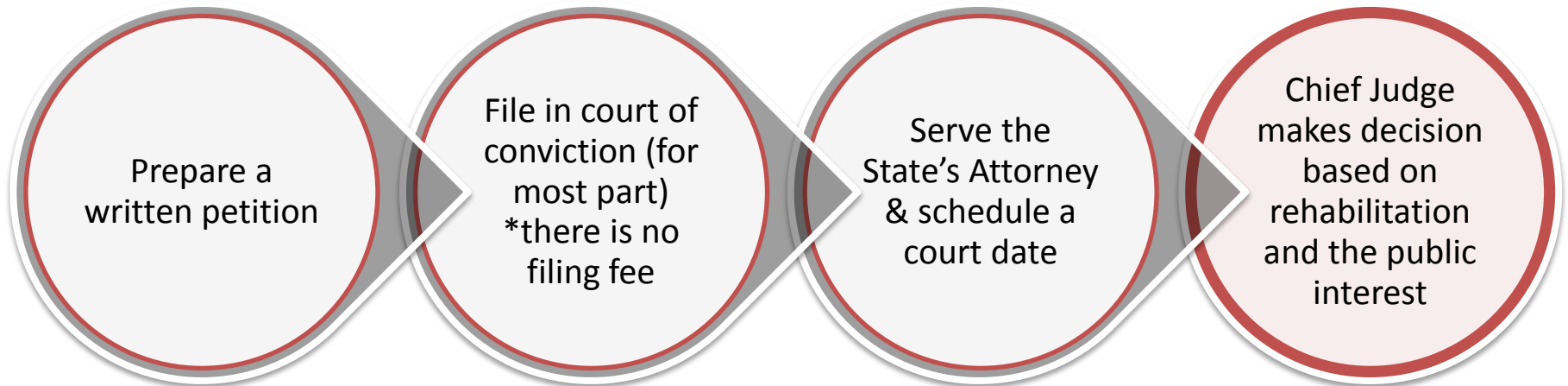
~~Class X  
Felonies~~  
*Effective  
1/1/16*

Aggravated  
DUI or  
Aggravated  
Domestic  
Battery

Convictions  
requiring  
registration  
(sex offender,  
murder,  
arson, etc.)

Arson  
Aggravated  
Arson  
Kidnapping  
Aggravated  
Kidnapping

# Certificates of Rehabilitation





# Petitions for Executive Clemency

## Petition Submitted

- Type-written petition submitted to the Prisoner Review Board (PRB).

## Hearing Held before PRB

- Hearings are held four times a year (twice in Chicago and twice in Springfield).

## Governor has Sole Authority to Render Decision

- PRB makes non-binding recommendation.
- Governor has no mandated timeframes, so it may take years.

# **Supporting Clients With Criminal Records**



# Supporting Clients with Criminal Records

1. Know what is on the criminal record
2. Pursue legal relief when eligible
3. Know rights under state and federal law
4. Help prepare a mitigation packet

# Step 1. Know What's On the Record!

***FBI background checks are  
inaccurate or out of date  
50% of the time.***

***True***

***False***

***Maybe***

# Police Records (aka. RAP sheets)

## Chicago Police Dept.

3510 S. Michigan Avenue, Chicago

Monday-Friday / 8-12

\$16 for *both* Chicago and state report

## Illinois State Police

Licensed Livescan Vendor (eg. Accurate Biometrics)

Any local law enforcement agency

“Reasonable costs”

# Court Records – Clerk of Circuit Court

Most counties available  
online



Many available at  
judici.com



Cook County available in  
person only or if VPN  
access granted



COURT  
RECORDS  
ALWAYS  
OVERRIDE  
POLICE  
RECORDS!

# Where to Get Help – Cook County

**Juvenile  
Records**



**1100 S. Hamilton Ave. Chicago, IL 60612**

**CGLA**

# Where to Get Help – Cook County



## **Daley Center Help Desk**

M-Th 9-12 & TH 1-4

**Adult  
Records**



## **Markham Help Desk**

Wednesday 10-2

# Where to Get Help – The Rest of Illinois



<http://www.illinoiscourts.gov/Forms/forms.asp>

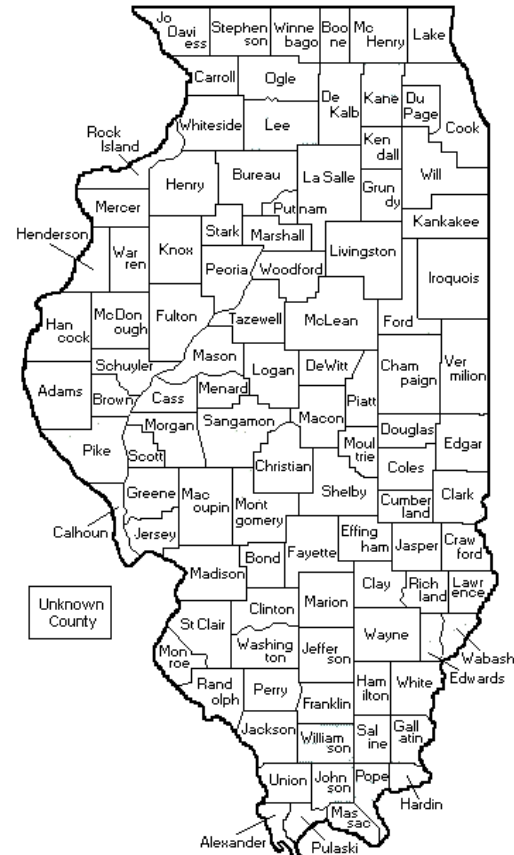
## Step 2. Pursue Legal Relief

# Where to File Petitions



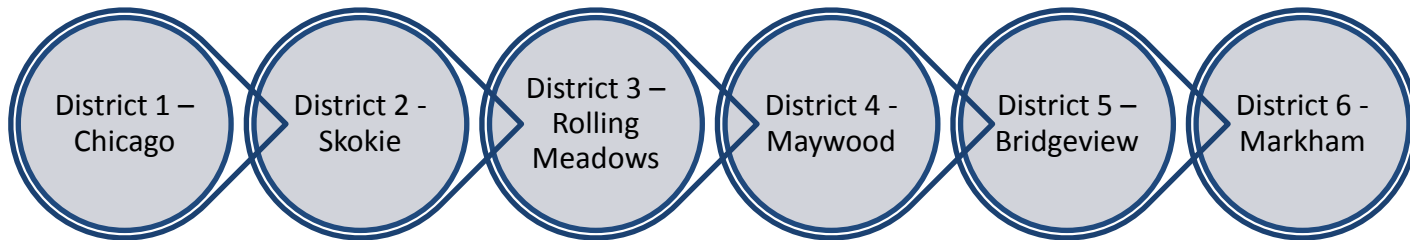
# Where Petitions are Filed

Petitions are filed in Clerk's Office in the district(s) within the county in which the cases occurred.



# Where Petitions are Filed

And....Cook County has six municipal districts.



# Costs

## **Filing fees can be waived if:**

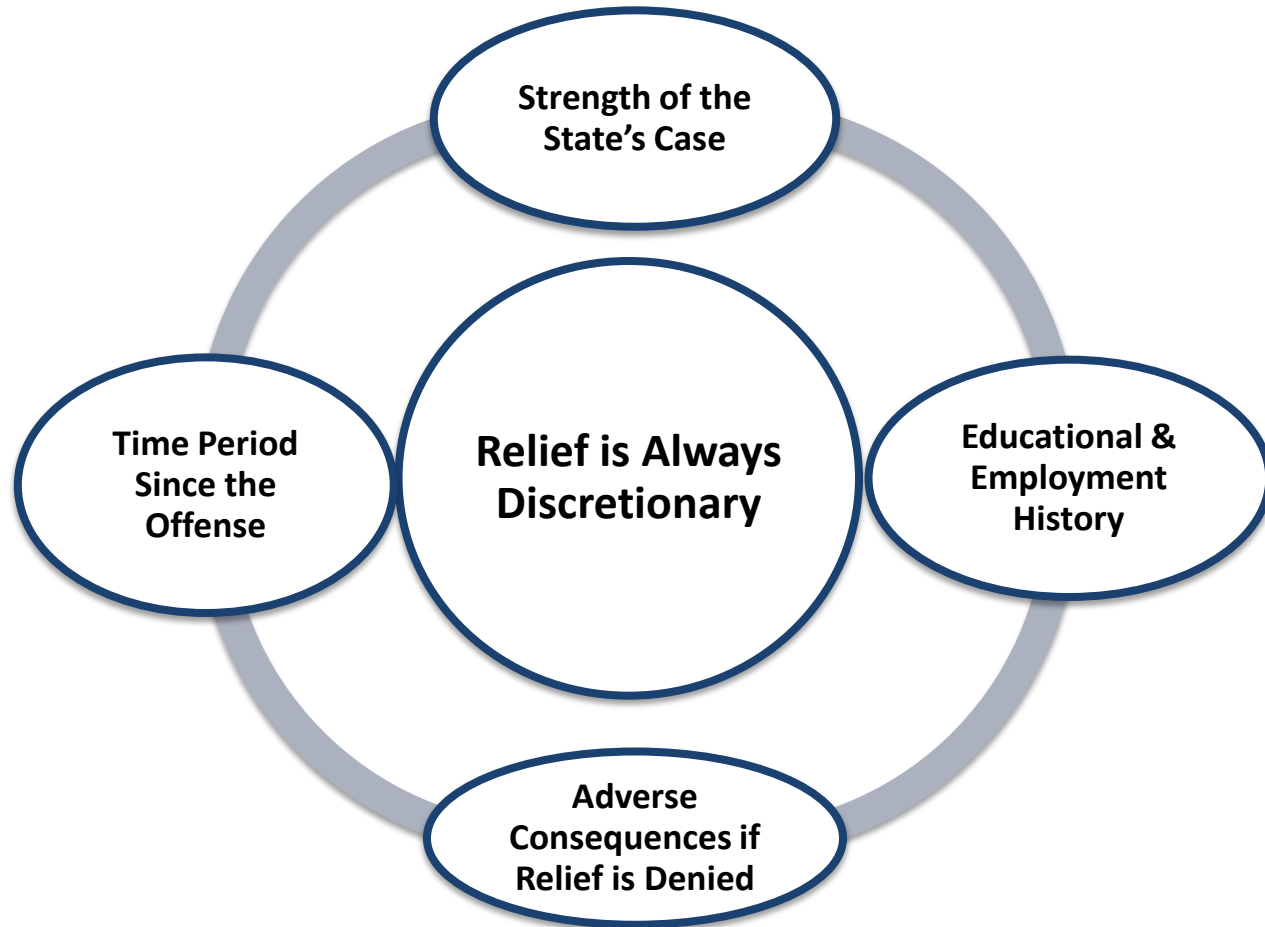
- Below 125% of the federal poverty guidelines;
- Receive some form of public benefits (like LINK/SNAP, SSI, etc.);
- Create a financial hardship for you and your family.



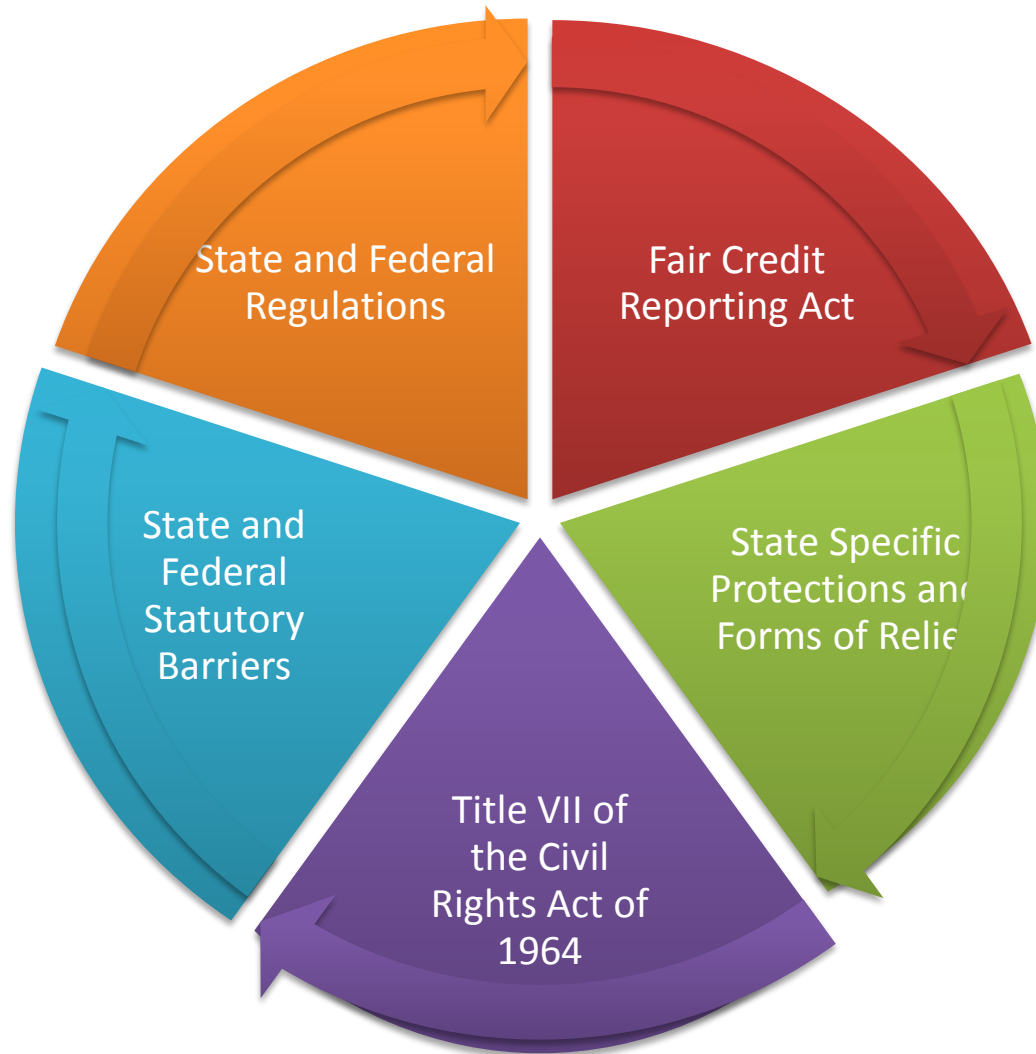
# Notice & Objections

- The **Clerk's Office** provides notice to law enforcement who are allowed to object.
- The **Illinois State Police** only objects if a person is statutorily ineligible. ISP always sends notice to petitioner.
- **State's Attorneys** object both on statutory grounds and discretionary grounds, including:
  - Multiple arrests, long criminal history; crimes of violence, domestic violence; partial expungement or sealing; unsatisfactory completion of sentence

# What the Court Considers



# Step 3. Know Legal Rights!



# Employment

***Employers cannot ask on job applications “Have you ever been convicted?”***

*True*

*False*

*Maybe*



*Have you  
ever been  
convicted?*

**In Illinois, employers with 15 or more employees may NOT ask if you have ever been convicted.**

**In Chicago, NO employer (no matter the size) can ask if you have ever been convicted.**

**EXCEPT.....**





*Have you  
ever been  
convicted?*

**EXCEPTION = If the  
employer is governed  
by a law that says who  
they can and cannot  
hire based on a criminal  
conviction.....**



# Reporting Convictions



***Illinois Uniform Conviction Information Act  
only allows the Illinois State Police to report  
convictions – unless authorized by law.***

# Background Checks

***Arrests that do not result in convictions  
will not appear on a criminal  
background check.***

*True*

*False*

*Maybe*

# Non-Convictions



\$75,000

***Under the Fair Credit Reporting Act,  
background check companies can report non-  
convictions for only seven (7) years.***

15 USCS § 1681c(5)

# Reporting Convictions



***Under the Fair Credit Reporting Act,  
background check companies can report  
CONVICTIONS forever.***

Just because you see it, doesn't  
mean you can use it!

775 ILCS 5/2-103. Arrest Record.

(A) Unless otherwise authorized by law, **it is a civil rights violation for any employer, employment agency or labor organization** to inquire into or to use the **fact of an arrest or criminal history record information ordered expunged, sealed or impounded** under Section 5.2 of the Criminal Identification Act as a basis to refuse to hire, to segregate, or to act with respect to recruitment, hiring, promotion, renewal of employment, selection for training or apprenticeship, discharge, discipline, tenure or terms, privileges or conditions of employment.....

(B) The prohibition against the use of the fact of an arrest contained in this Section shall not be construed to prohibit an employer, employment agency, or labor organization from obtaining or using other information which indicates that a person actually engaged in the conduct for which he or she was arrested.

*Illinois Human Rights Act*

## Step 4. Prepare a Response!

***A person must consent to a background check and be provided a copy if they are denied employment because of it.***



***True***



***False***



***Maybe***

# Fair Credit Reporting Act

Employers must get permission to run a background check

Employers must give applicants a copy before they deny them a job or promotion if the denial is due in part or in whole to a criminal record (“pre-adverse action notice.”

In Illinois, they have to wait *at least 7* days before they actually take adverse action.





# Problems with Background Checks

**Inaccurate  
or  
Incomplete**

**Common  
Names**

**Duplicative**

**Expunged  
and Sealed  
Records Still  
Released**

# Can Never Just Start with NO

## Title VII Balancing Test

- Initial Balancing Test of Job Requirements and Criminal Record
- Consideration of Statutory Barriers and Governing Laws

## Pre-Adverse Action Letter

- Must include copy of background check obtains
- Provide “reasonable” opportunity for correction & mitigation



# Title VII Balancing Test

1. Is the exclusion job related and consistent with business necessity

1a. What is the nature and gravity of the offense



1b. How much time has passed since the offense

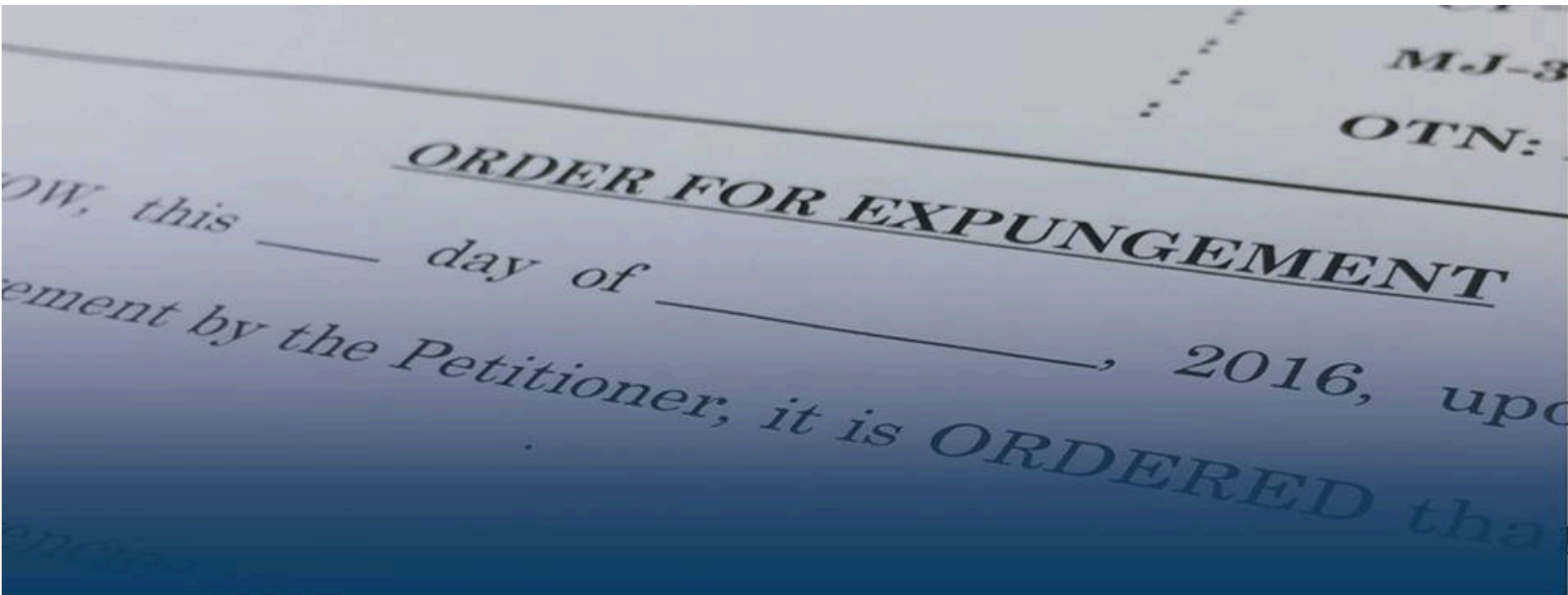
1c. What is the nature of the job sought

2. Are there relevant individual factors

3. Are there less discriminatory alternatives?

# **Partnering For Stronger Outcomes**

# Case Study – Champaign County



## Champaign County's First Annual Expungement and Record Sealing Summit

# Outcomes

494 Participants

73 Volunteer  
Attorneys &  
Law Students

262 Individual  
Consultations

255 Petitions  
Filed

Vendor Fair, Child  
Care & State Agencies

# **Next Steps for Continuing this Work**

# How Criminal Records Relief Can Help

## Criminal Records Relief

- Reduced recidivism rates
- Increased economic stability
- Clear plan for moving beyond the past

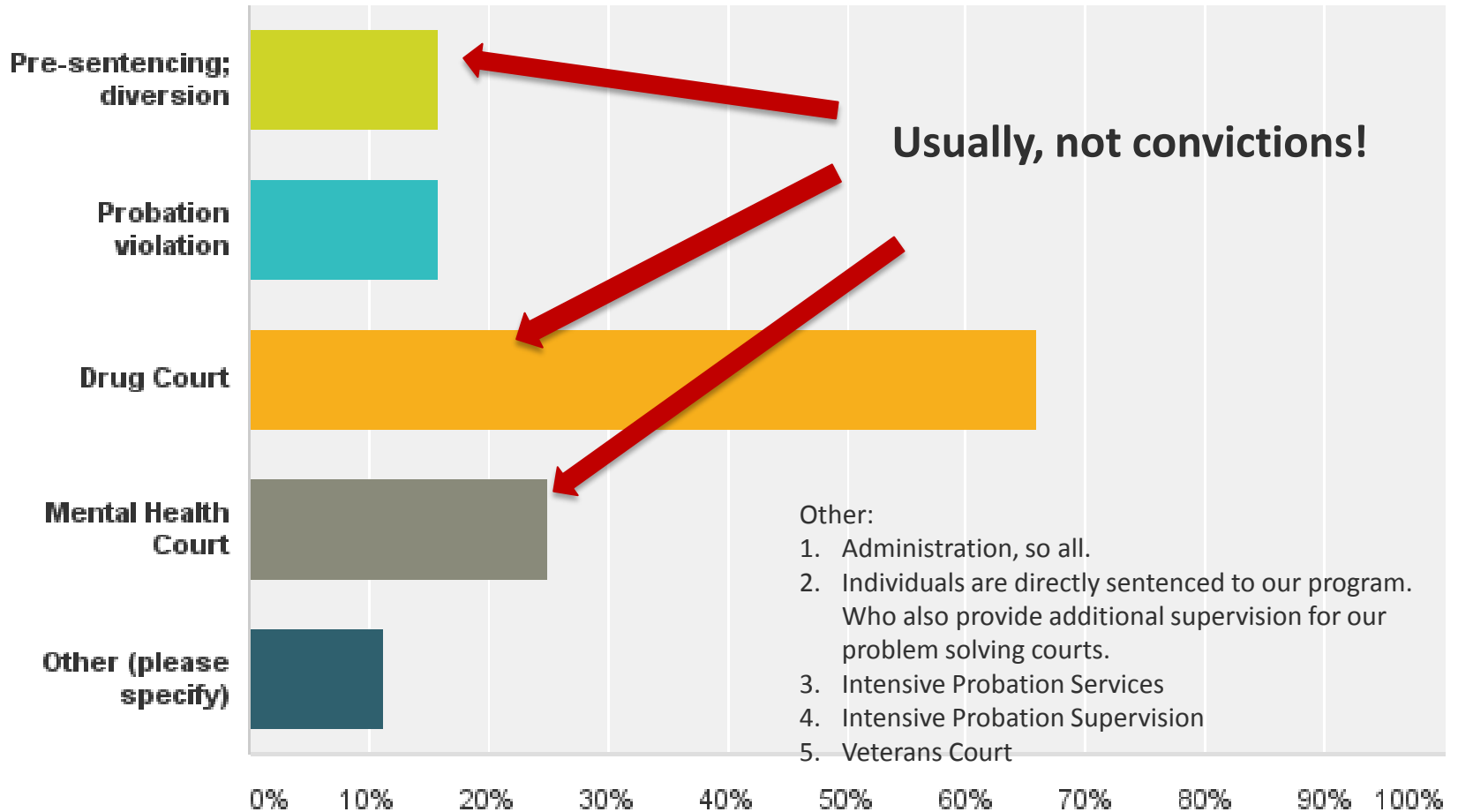
## Results expected with Adult Redeploy Illinois

- Reduced prison overcrowding
- Lowered cost to taxpayers
- An end to the expensive vicious cycle of crime and incarceration



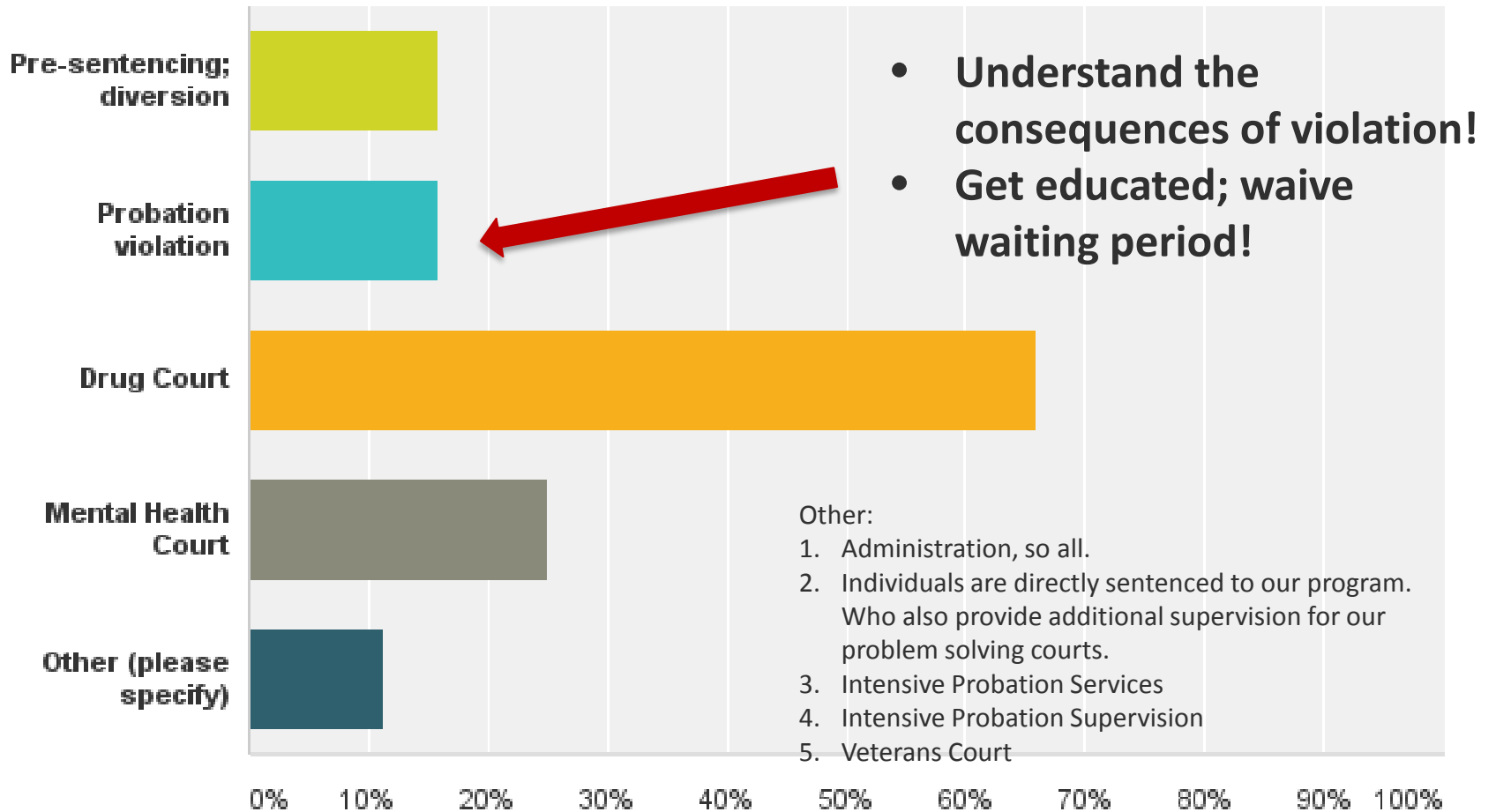
# Q5: Which of the following best describe your Adult Redeploy program? (Choose all that apply.)

Answered: 42 Skipped: 0



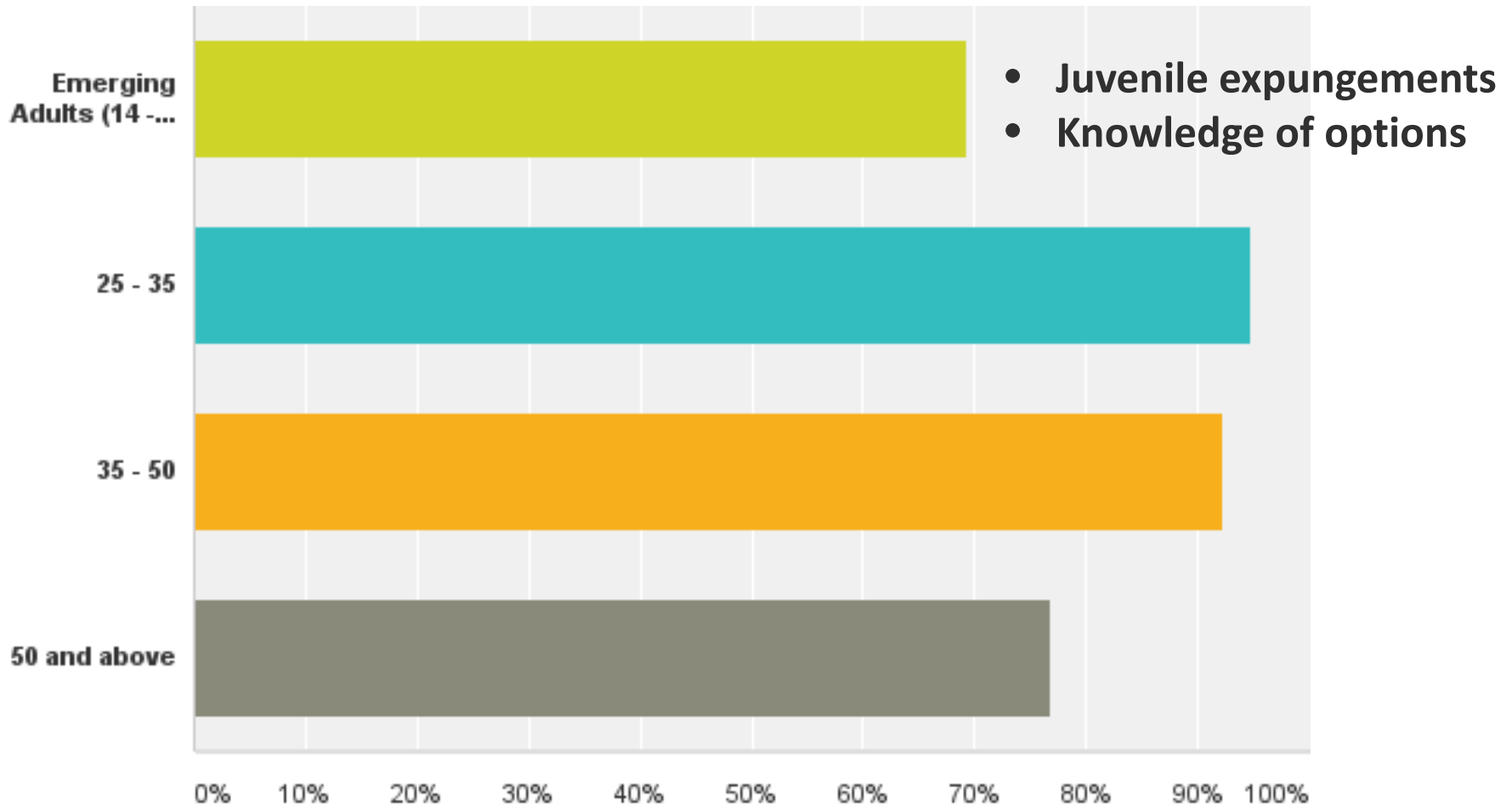
# Q5: Which of the following best describe your Adult Redeploy program? (Choose all that apply.)

Answered: 42 Skipped: 0



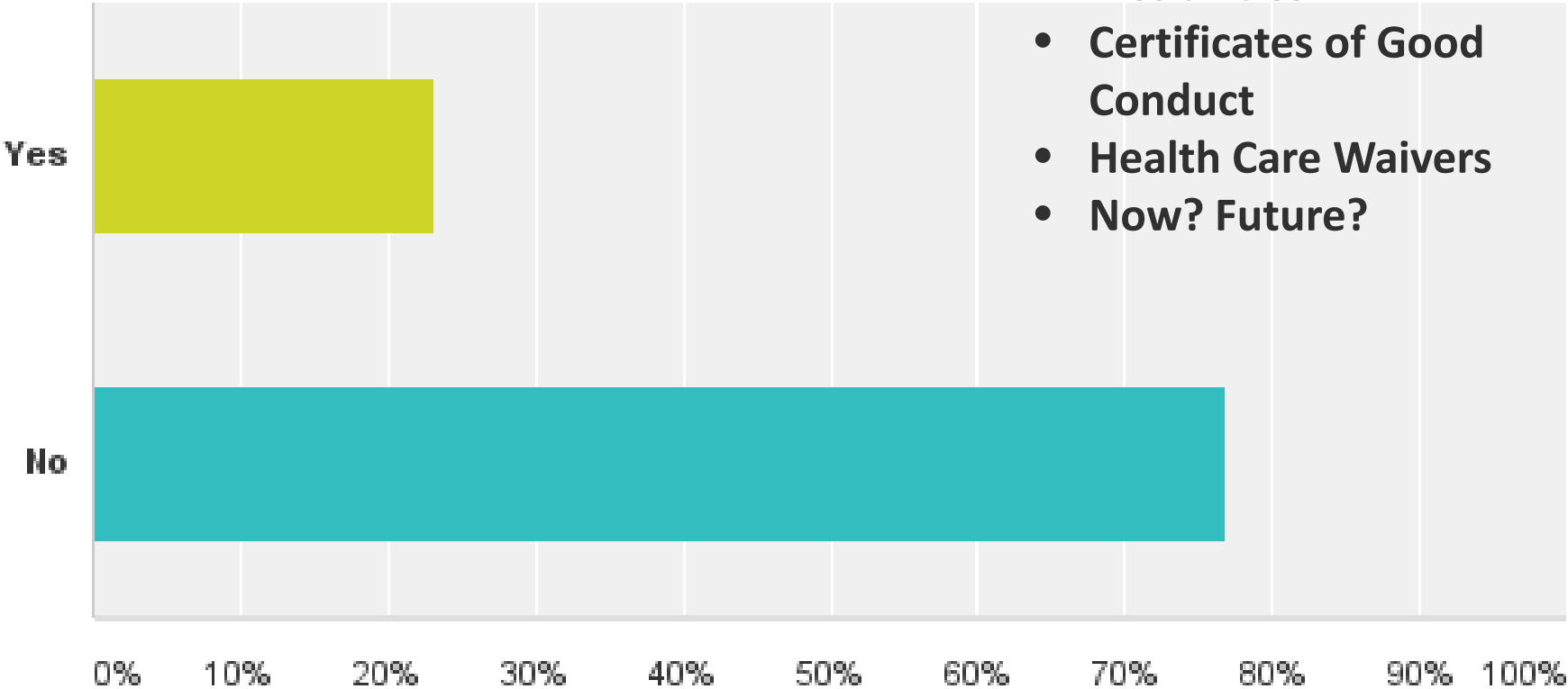
## Q12: What age groups do you serve? (Check all that apply.)

Answered: 38 Skipped: 4



# Q14: Do you offer job skills training?

Answered: 38 Skipped: 4

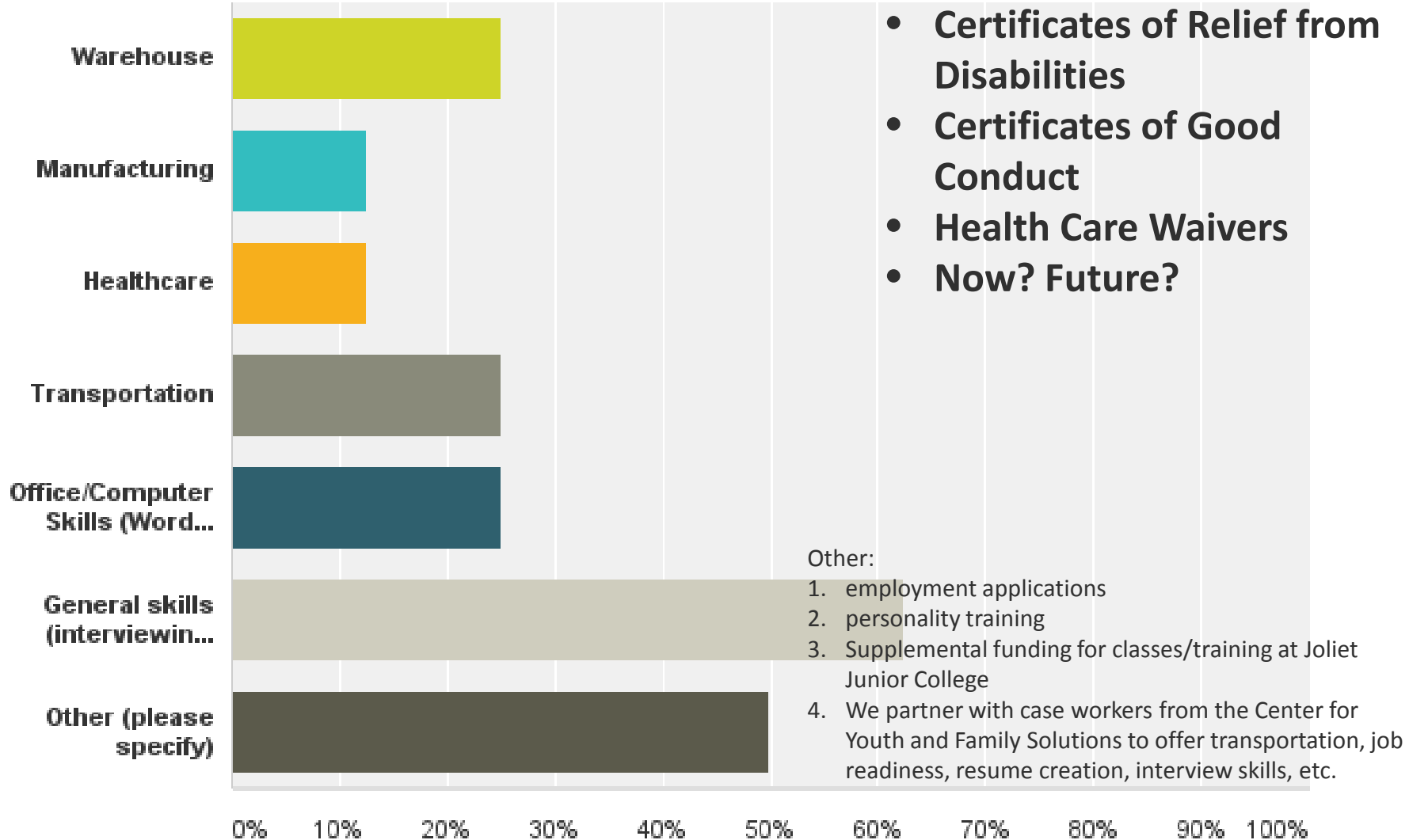


- Certificates of Relief from Disabilities
- Certificates of Good Conduct
- Health Care Waivers
- Now? Future?

Answer Choices	Responses
Yes	23.08% 9
No	76.92% 30
<b>Total</b>	<b>39</b>

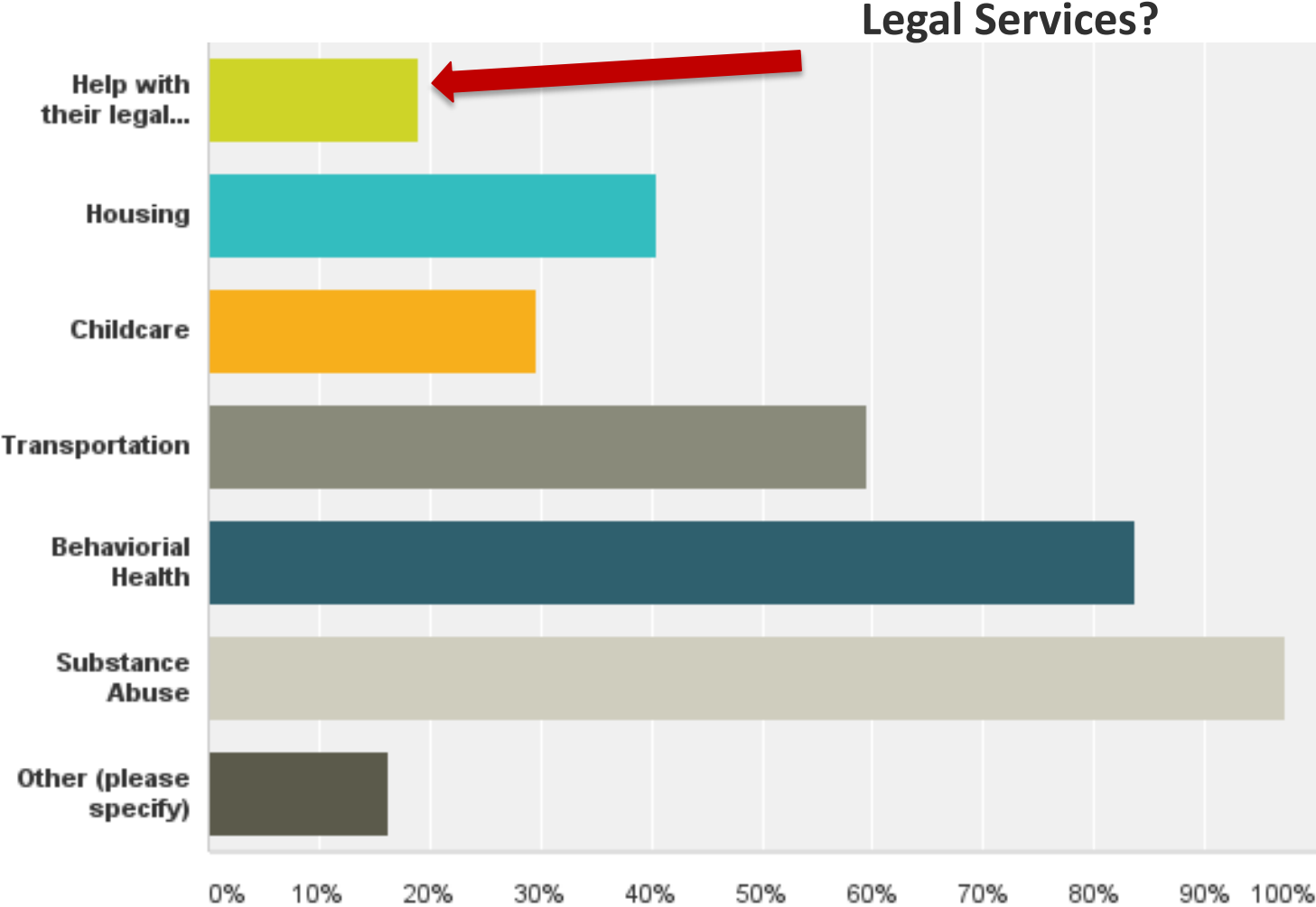
# Q15: What types of job skills training do you offer?

Answered: 8 Skipped: 36



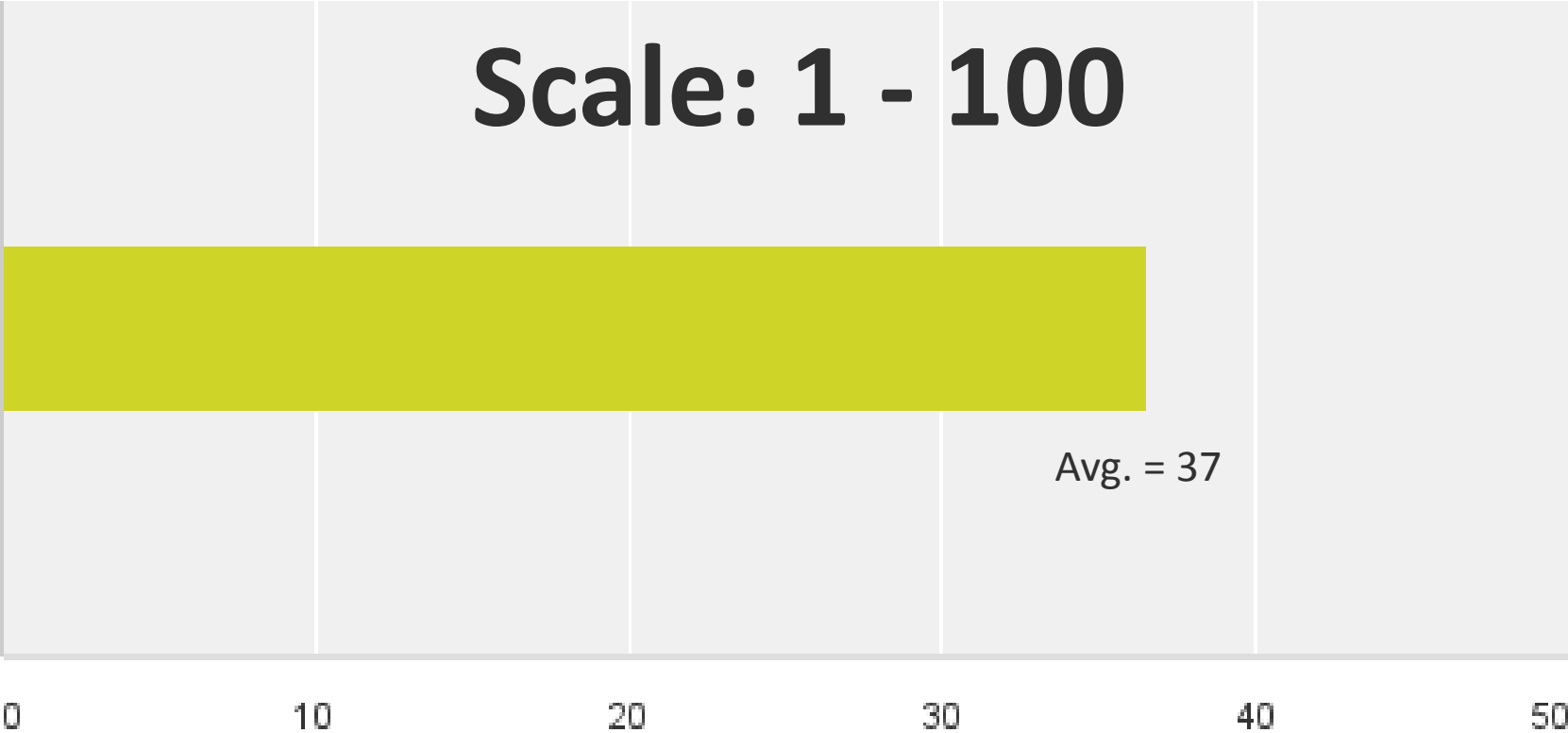
# Q18: What type(s) of wrap-around services do your partners provide? (Check all that apply.)

Answered: 37 Skipped: 7



**Q3: Please move the slider below to indicate the level of your current understanding about options for clearing or mitigating criminal records.**

Answered: 41 Skipped: 3



**Where are you now?**

**CGLA** Cabrini Green  
Legal Aid

**Advice**

\*\*\*

**Consultation**

\*\*\*

**Direct Services**