

Getting Past the Past

A lot of convictions can be expunged, clearing an obstacle on the path to landing the sort of job that might help a lot of folks get in on this healthcare reform that everyone's talking about.

By Walter Melton

The recent passage of President Barack Obama's healthcare reform plan has brought a certain sort of hope to many throughout the U.S., including residents of the hard-pressed Skid Row district of Los Angeles and other sections of the city.

Yet many others don't share in the celebration of the legislation. The optimism among those who see a chance for affordable medical care and the security it provides does not extend to a segment of men and women who see a dismal future for themselves regardless of the historic legislation. They see their criminal pasts as barriers to rejoining society in a productive manner. Healthcare insurance is most readily obtained through a job, but these men and women know that a background check showing a past conviction will keep them off the lists of many prospective employers.

It seems as if those with a 'past' will be unable to move on.

I know the negative effects of being labeled — justly or unjustly — a criminal. I once followed short-sighted legal advice and pleaded guilty to an offense that I did not commit as a way of getting through court proceedings quickly. Background checks conducted by potential employers revealed my criminal conviction from then on, spelling an end to many chances for work.

I eventually found a job with an employer who looked beyond the background check, taking other factors into consideration.

I was lucky.

I decided not to rest on that good fortune, though, and instead pursued the process of "expungement." I got lucky again when an attorney went out of his way to help me. Eventually, after several years, the court expunged my record. My slate had been wiped clean, clearing away a giant obstacle to any attempts to move forward in efforts to rebuild a career.

So what is expungement? It is a mysterious and elusive goal for many. Even attorneys have varying — often conflicting — opinions on what expungement means. That makes it hard to get definitive answers on the subject. Yet it also indicates that there is room for interpretation.

"An expungement is the process of removing or dismissing a conviction from a person's criminal record," according to Los Angeles-based criminal attorney Michael A Goldstein. "Pleas of guilty

or no contest can also be expunged from a criminal record. When an expungement is successful, it will be as if the defendant had pleaded 'not guilty' and the court ordered the case to be dismissed. It should be noted that an expungement doesn't erase a criminal conviction. Rather, all of the records revolving around the defendant's arrest and conviction will be sealed in a file, and the court will place a notation stating that the conviction has been dismissed."

Persons can be eligible for an expungement under California Penal Code Section 1203.4 — provided they have fulfilled all of the conditions of their probation, or have been discharged before the probation period has ended. A case can also be expunged if the court determines that the convicted person should be granted the relief, provided he or she is not currently serving a sentence for a new criminal offense, or on probation for committing a new criminal offense, or been charged with a new criminal offense.

Not all felony convictions are eligible for expungement, but many are. It's also notable that some felony convictions, known as wobblers, can be reduced to a misdemeanor at the court's discretion upon successful completion of the conditions of probation. This is very important because, according to Goldstein, "all of those who suffered misdemeanor convictions are eligible to seek relief under California Penal Code 1203.4."

The potential implications are staggering. Consider a recent study of the Los Angeles County Public Defender Office, conducted by law professor Nancy Albert-Goldberg. The study found that the public defender's office handles approximately 70% of felony cases and 55% of misdemeanor cases prosecuted in the county. The caseload includes roughly 90,000 felony and 400,000 misdemeanor cases each year.

Paul Freese, a representative group Public Counsel, a Los Angeles-based firm that often takes cases free of charge on behalf of homeless individuals, says that many of the misdemeanor cases pursued by county prosecutors involve relatively minor charges against homeless individuals.

"It is important that these cases are cleared up so those individuals can begin to get back on their feet and rejoin society," Freese says.

Goldstein agrees.

"...A criminal history of even a petty crime can disrupt one's career ambitions," Goldstein says. "I often here people in court say, 'I will take the misdemeanor just to get this over with as long as I don't go to jail.' What they don't realize is the long-term effect this can have on their life."

Many individuals are often discouraged about their chances of having a past conviction expunged. Many believe that an expungement is only available if evidence indicates that the case against them was flawed, or some other extraordinary circumstance might prompt a court to reconsider a conviction. Others are reluctant to seek expungement because they believe that they must first pay any probation or court fees related to their conviction. This is not necessarily true, though.

The process to become eligible for expungement really begins when the probation period starts. The long process, which can seem like it will never end, often discourages people. As a result, individuals fail to complete all conditions of probation — and that makes them ineligible for

expungement.

Patience and perseverance are required, but I can tell you that all of the efforts are worth it. I felt a heavy burden lifted when my motions for expungement were granted. I now know I have options and can pursue all of my life dreams. I encourage all Angelenos with a criminal history to pursue this life-altering option. Do not let a past criminal record become a life sentence.