

MEDIA ADVISORY — Attached and offered for your consideration is an op-ed piece by Legal Services of New Jersey Vice President Akil Roper. It urges the state to make expungement of records of most past arrests and convictions automatic for individuals who have maintained clean records. Roper, a recognized expert on expungement and related issues, says the change — Pennsylvania already has moved in that direction — would remove a daunting barrier for tens of thousands of affected New Jerseyans in obtaining better jobs, housing and educational opportunities.

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MEDIA: Below for your consideration is an op-ed by Legal Services of New Jersey Vice President Akil Roper calling for *automatic* expungement of past arrest and conviction records for qualified individuals. Roper, an expert on the issue, says tens of thousands of New Jerseyans could qualify for such a break.

Expungement Law in New Jersey -- Time for Major Reform

By Akil Roper

Later this year, Pennsylvania will be the first state to implement an expungement and sealing process which requires the courts and law enforcement to automatically expunge certain past arrests and conviction records without those affected having to file a formal application. While other jurisdictions in the nation are exploring expungement reform, New Jersey, too, should now take real steps towards a more efficient and just expungement process.

For many years, New Jersey's expungement law has been an important source of relief for those who have distanced themselves from past involvement in the criminal justice system and demonstrated their rehabilitation. In short they have "paid their debt" to society. Expungement is a crucial step forward for those who have turned their pasts around and earned a clean record because it can help create a path to a well-paying job, a decent apartment, and necessary education.

Unfortunately today, getting there is no way a given when complicated procedural requirements among other things can stifle the rights of eligible petitioners. That's why simplifying and streamlining the process now will make expungement all that more impactful going forward.

Given that lawyers can charge thousands of dollars to file an expungement application, many with lesser resources are forced to navigate a confusing, multi-step process without legal

representation. Seeking justice in our courts without the assistance of a lawyer carries a much greater risk of failure. Further, without a lawyer, some may not even be aware that expungement is an option available to them.

This reality begs the question: how many of those eligible for expungements do not get the relief which they are entitled because of lack of awareness, procedural barriers, or lack of resources? One national study found that between a third or more of adults with records were entitled to some form of expungement but have not obtained one. It's wide scale. In California, fewer than 10 percent of all people eligible for expungement actually expunged their records. It makes sense that legislation is pending there for an automated expungement process.

A few years ago, Legal Services of New Jersey (LSNJ) created an interactive website, *Clearing Your Record Online* (CYRO), which users on their own can access expungement tools for free, including a program which determines one's eligibility for expungement and, if eligible, helps users create forms which can be filed with the court. Since its launch, CYRO has increased access to the courts and helped many people who could not afford a lawyer file expungement applications. The website has received over 20,000 hits and facilitated the creation of almost 1,500 completed expungement applications. Yet, those using CYRO still must obtain all of their criminal record information on their own, file and serve their papers, respond to any objections and otherwise defend their applications. The road is filled with curves. Further, not every eligible petitioner is able to make use of this online program due to computer literacy and access issues. New Jersey can and should do more.

We believe the future of expungement should be on-line, automatic in appropriate instances, and facilitated by the courts. Pennsylvania, as mentioned above, will soon employ a procedure in which most dismissed cases and certain other minor conviction records would be sealed without any action required by the individual. To make this happen, the court and state police in Pennsylvania would regularly use computerized search techniques to determine cases eligible for such automatic sealing. Absent any objection from law enforcement, a blanket "order of limited disclosure" would be issued for those cases and then require the courts and relevant law enforcement to immediately seal them.

To be sure, a system in which all individuals eligible for expungement have their records expunged without requiring a petition or application will logically place some burden on the State. But the alternative is the status quo in which thousands or even millions of New Jerseyans eligible for expungement get no relief and continue to face numerous and unnecessary barriers to expungement and employment, housing and education opportunities. That is unacceptable and unjust. New Jersey should pass legislation similar to that adopted in Pennsylvania to improve the process and increase access to justice for all. The time has come for automated expungement.

Akil Roper is Vice President and Assistant General Counsel of Legal Services of New Jersey ("LSNJ"). LSNJ coordinates and supports the statewide network of non-profit civil legal services programs.

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