

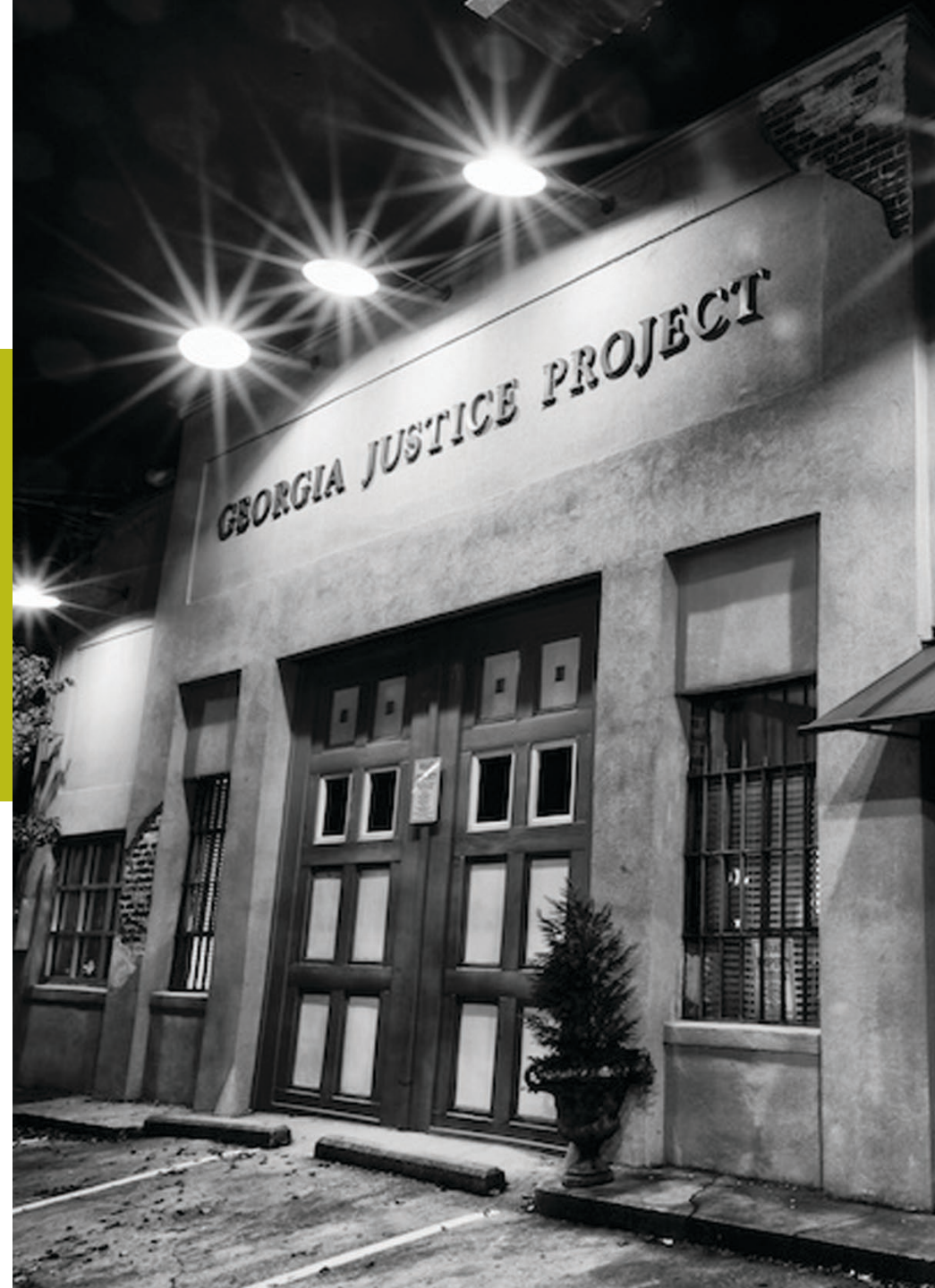
GEORGIA  
JUSTICE  
PROJECT

# Georgia Reentry & Recent Changes to Georgia Law

**Presenters:**

**Jenny Hurwitz and Cooper Ulrich**

**GJP Staff Attorneys**



# Thank You, Stonecrest Leadership

- ❖ **Chief Judge Curtis W. Miller**
- ❖ **Clerk Mallory Minor, Municipal Court Administrator**
- ❖ **Georgia State Senator Tonya Anderson**

# TODAY'S ROADMAP

- Georgia Justice Project
- Understanding & Cleaning Up Your Record
- Felony Probation Reform
- Reducing Driver's License Suspensions: SB 10
- Voting With a Criminal Record

# GOALS & THEORY OF CHANGE

Reduce the number of Georgians under correctional control

Reduce reentry barriers for the formerly incarcerated and justice involved



- 1 INDIVIDUAL**  
Legal representation and social services
- 2 POLICY & SYSTEMIC**  
Working toward system change
- 3 COMMUNITY OUTREACH**  
Building community awareness and creating partnerships

# GEORGIA JUSTICE PROJECT'S INTERVENTION

## HOLISTIC CRIMINAL DEFENSE

- Legal representation with social services
- Long-term support for clients

## POLICY/21 LAWS CHANGED

- Expanded expungement – impacts 1.5 million Georgians
- Early probation termination – impacts up to 48K Georgians

## PRISON SUPPORT/REENTRY

- Reentry lawyering – Metro Reentry Facility (MRF)
- Fines & fees reform
- Probation termination

## RECORD RESTRICTION/EXPUNGEMENT

- Legal representation
- Restriction summits
- Expungement help desks



GEORGIA JUSTICE PROJECT



# Expanding Access to Record Clearing in Georgia



# Understanding your Georgia Criminal History

....and what you can do about it

# Terms to know

## Expungement

### Expungement

- What a lot of states call the record clearing process

## Restriction & Sealing

### Georgia calls it Restriction & Sealing

- Restriction – Limits access to GCIC records (law enforcement records)
- Sealing – Limits access to court records (used by Private Background Check companies)

## Pardon

### Pardon

- Certificate of forgiveness from the state for a conviction (usually felonies)

## First Offender

### First Offender

- If you are sentenced as a First Offender and successfully complete your sentence you do not have a conviction on your record for that case



# The Big Picture

**What you can do to clean  
up your record in Georgia**



❖ **Felony Convictions**

❖ **Misdemeanor Convictions**

❖ **First Offender Cases**

❖ **Pending Charges**

❖ **Non-convictions**

# What you can do to “clean up” a felony conviction



## ❖ **Retroactive First Offender**

- If you were eligible at the time you were sentenced, you may have received First Offender
- If you were eligible but didn't get it, you may be able to go back and get it now
- Some offenses excluded (serious violent felonies, serious sex offenses, others)

## ❖ **Survivors First Act**

- New law that may allow you to vacate or restrict and seal your conviction if you are a survivor of human or sex trafficking

## ❖ **Restriction & Sealing of Pardoned Felony Convictions (SB 288)**

- If you received a Pardon from the State Board of Pardons & Paroles, you may be able to restrict & seal the record of your felony conviction(s)
- Serious violent felonies and certain sex crimes are excluded
- You can apply for a Pardon five years after you complete your sentence (probation, parole, or incarceration sentence)

# Who can apply for a General Pardon?

- ❖ **Convicted of a felony offense**
  - Misdemeanors in some circumstances
- ❖ **Probation/Parole sentence complete for at least 5 years**
  - Non-reporting status doesn't mean sentence is complete
  - Sometimes wait time can be waived (rare)
- ❖ **Lived a “law-abiding life” for 5 years before applying**
- ❖ **Paid fines and restitution**
  - Fines – Is sentence complete?
- ❖ **No open cases or pending charges**

# What you can do to “clean up” a misdemeanor conviction



## ❖ **Retroactive First Offender**

- You can get First Offender for a misdemeanor OR felony, but you can only use it once
- If you were eligible but didn't get it, you may be able to go back and get it now
- Some misdemeanor offenses excluded (e.g. DUI)

## ❖ **Survivors First Act**

- New law that may allow you to vacate or restrict and seal your conviction if you are a survivor of human or sex trafficking

## ❖ **Restriction & Sealing of Up to Two Misdemeanor Convictions (SB 288)**

- If you completed your misdemeanor sentence and haven't been convicted of anything in the last 4 years, you may be able to restrict & seal your misdemeanor conviction
- Some misdemeanors are excluded (including DUI)

# Excluded misdemeanor offenses

- ❖ **Family violence simple assault, family violence simple battery, family violence battery (unless Youthful Offender-under 21 when arrested)**
- ❖ **Excluded for all ages**
  - Family violence stalking/Violating a family violence order/Obstructing 911 call
  - Child molestation/Enticing a child for indecent purposes
  - Improper sexual contact by employee or agent
  - Public indecency/Peeping Tom
  - Keeping a place of prostitution/Pimping/Pandering by compulsion
  - Sexual battery
  - Certain offenses related to minors
  - Certain theft offenses
  - DUI & certain traffic offenses



# Common issues

## ❖ Non- convictions

- ❖ (including first offender, conditional discharge)

## ❖ Dead Docket

## ❖ Record Corrections

## ❖ Active Supervision



# Knowing your rights

❖ Employment

❖ Housing

❖ Early Probation Termination

❖ Voting



# Private Background Report

- ❖ **Applies to both housing and employment.**
- ❖ **Reports are frequently wrong**
- ❖ **Consumer reporting agencies governed by the Fair Credit Reporting Act**
  - Must be told if denied due to the report (Adverse Action Letter)
  - Must receive copy or may request a copy
  - Right to dispute incorrect information
  - To get a copy of credit report or dispute error go to this website:
    - <https://www.consumer.ftc.gov/articles/disputing-errors-your-credit-reports>
- ❖ **Always request a copy!**
- ❖ **7 year rule – companies cannot report non-conviction criminal history that is over 7 years old (e.g. dismissal, acquittal, no bill etc.)**

## Does the Law Protect People with a Record?

- ❖ **Criminal records status is not a protected class, BUT certain criminal history policies may result in discrimination against a protected class (e.g., race & ethnicity).**
- ❖ **Employers cannot have blanket policies (must be a business necessity)**
- ❖ **Employers should not consider arrests alone**
- ❖ **EEOC - Employers must consider:**
  - Nature & gravity of offense(s)
  - Time that has passed
  - Nature of the job held or sought
  - <https://www.eeoc.gov/how-file-charge-employment-discrimination>

# What can employers ask?

- ❖ May ask about arrests or convictions in Georgia.
- ❖ No time limit on how far back employers can search.

## RECOMMENDATIONS:

1. Clear what you can from your record!
2. Should not leave question blank or say “will discuss at interview”
3. Employers may treat as honesty test – Know your record!
4. Be brief and to the point when explaining – be honest and take responsibility, focus on what you have learned.
5. Only answer the questions asked.
6. You may want to prepare a brief statement.
7. Focus on types of jobs that are not related to your charges.



# How can I be job ready?

- ❖ **Have an updated resume and cover letter**
- ❖ **Have documents such as birth certificate, ID/passport, and other documents to establish employment**
- ❖ **Keep copies of documents related to your cases and have them ready**
- ❖ **Have character letters/letters of reference**
- ❖ **Be persistent**

# How can a record be considered when applying for housing?

- ❖ No blanket exclusions – for arrest or conviction.
- ❖ Public and Private Housing Providers must do an individualized assessment of each applicant’s criminal history:
  - Factors to consider:
    - Facts or circumstances surrounding the criminal conduct;
    - Age of the individual at the time of the conduct;
    - Evidence that the individual has maintained a good tenant history before and/or after the conviction or conduct; and
    - Evidence of rehabilitation efforts
- ❖ Federally funded housing (e.g., PHAs) CANNOT use arrest records as the basis for denying admission, terminating assistance, or evicting tenants.
- ❖ To make a complaint:
  - ❖ <https://gceo.georgia.gov/complaints/fair-housing-complaint-form>
  - ❖ [https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opportunity/online-complaint](https://www.hud.gov/program_offices/fair_housing_equal_opportunity/online-complaint)

# Housing self advocacy

- ❖ **Ask for the property's rental policies before applying and challenge any language excluding all individuals with a criminal record**
- ❖ **Look for management companies with multiple properties that would allow you to transfer the application fee**
- ❖ **Apply for smaller, private housings**
- ❖ **If your application is denied:**

Time matters!!!

Request a written notice of the rejection & ask for the reasons for the denial.

Request a copy of the background check.

Review the background check for accuracy & completeness.

- ❖ **Consider filing a complaint (for race discrimination)**

# GCIC Purpose Code “U” Required



## Sample GCIC Code U

Georgia Crime Information Center  
3121 Panthersville Road  
Decatur, GA 30037  
(404) 244-2639

\*\*\*\*\* CRIMINAL HISTORY RECORD \*\*\*\*\*

Produced on 2022-11-01

\*\*\*\*\* Introduction \*\*\*\*\*

This rap sheet was produced in response to the following request:

State Id Number  
ARN GJP  
Purpose Code U  
Attention ELLA LEFKOWICZ/TB

## Sample GCIC Request

### GWINNETT COUNTY POLICE DEPARTMENT CRIMINAL HISTORY REQUEST FORM

I hereby authorize the Gwinnett County Police Department to receive any criminal history record information pertaining to me that may be in the files of any state and/or local criminal justice agency in **GEORGIA**.

PLACE COPY OF VALID GOVERNMENT ISSUED PHOTO IDENTIFICATION HERE	Please list reason for this request.   <u>Personal Use - Purpose Code U GCIC</u>
	Special Conditions <input type="checkbox"/> Employment/Volunteer with Mentally Disabled-M <input type="checkbox"/> Employment/Volunteer with Elder Care-N <input type="checkbox"/> Employment/Volunteer with Children-W <input type="checkbox"/> Expungement/Record Restriction - E Case # _____

**DISCLAIMER:** Not all GCIC request forms will look like the one above. Look for keywords like “Purpose Code U” or “Personal Use” when requesting a copy of your record.

# How to Apply for GJP

**Intake currently closed, reopens Monday, January 8, 2024**

- To apply for assistance with your criminal record, follow these steps:
  - **Step 1:** Email intake to request an application at **9AM on Monday, Jan 8 (intake @gjp.org)**. **GJP's Record Program accepts the first 40 applications each month.**
  - **Step 2:** Complete the application and obtain your Purpose Code U GCIC (instructions will be provided)
  - **Step 3:** Submit **completed application** and **Purpose Code U GCIC Report** to [intake@GJP.org](mailto:intake@GJP.org) as soon as possible
    - **A request for record assistance will not be processed until we have both the application and U GCIC Report**
    - **If you have out of state convictions, you may be asked to get an FBI report.**
  - **Step 4:** Member of our intake team will reach out to schedule appointment or provide resources.
- If you have any questions or experience issues with email, you can call our intake line at **404-827-0027 ext. 238**



# Felony Probation Termination

## Streamlining the Early Termination Process in Georgia



# What is Wrong with Probation in Georgia



## ❖ **Bigger Numbers**

- Georgia has more individuals on probation than any other state in the country
- Almost 200,000 on felony probation

## ❖ **Longer Sentences**

- Georgia's average probation sentence is 6.3 years vs the nationwide average of less than 2 years
- 40% of probation sentences in Georgia exceed 10 years

## ❖ **Disparate Impact**

- Black people are at least TWICE as likely to be on probation as White people

Who is Eligible for Early Termination of Felony Probation?

**EVERYONE**

After serving 3 years probation, every individual on felony probation will become eligible for early termination of their sentence so long as they meet the following criteria...

# Criteria for Eligibility

1

No new arrests



2

No probation revocations in the past 24 months



3

Paid all restitution



# Early Termination Process

- ❖ **If you have served 3 years of your felony probation sentence and meet all 3 criteria, generally, your probation officer must submit an order to terminate the remainder of the probation sentence to the sentencing court**
- ❖ **In some circumstances, based on the sentence you received, your probation officer must submit a progress report and may submit an order to terminate**

# Early Termination in General

- ❖ **Even if you do not meet the criteria, you can pursue early termination of your felony probation sentence at any point via motion**
- ❖ **A hearing must be set within 90 days of submitting your motion**
- ❖ **Court will grant your motion if it determines that “probation is no longer necessary or appropriate for the ends of justice, the protection of society, and the rehabilitation of the defendant.”**

# What Can I Do If I Think I Qualify For Early Termination?

- ❖ **Call your probation officer**
  - If you do not know the probation officer assigned to your case, you can call the probation office in the county you reside in and they can assist you.
- ❖ **Tell your probation officer you believe you meet the criteria for early termination and ask:**
  - If they have or will be submitting a progress report on your behalf.
  - If they have or will be recommending your probation be terminated.



# Senate Bill 10

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## Reducing Driver's License Suspensions in Georgia





# **Driver's License Suspension Reform: FTA**

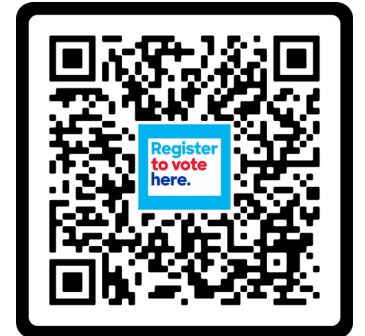
- ❖ **Senate Bill 10 was passed in 2022**
- ❖ **OCGA § § 17-6-11; 40-5-56**
- ❖ **New law affects driver's license suspensions for missing traffic court.**
- ❖ **If you miss traffic court, the court can stop a suspension from moving forward. Contact the court immediately.**

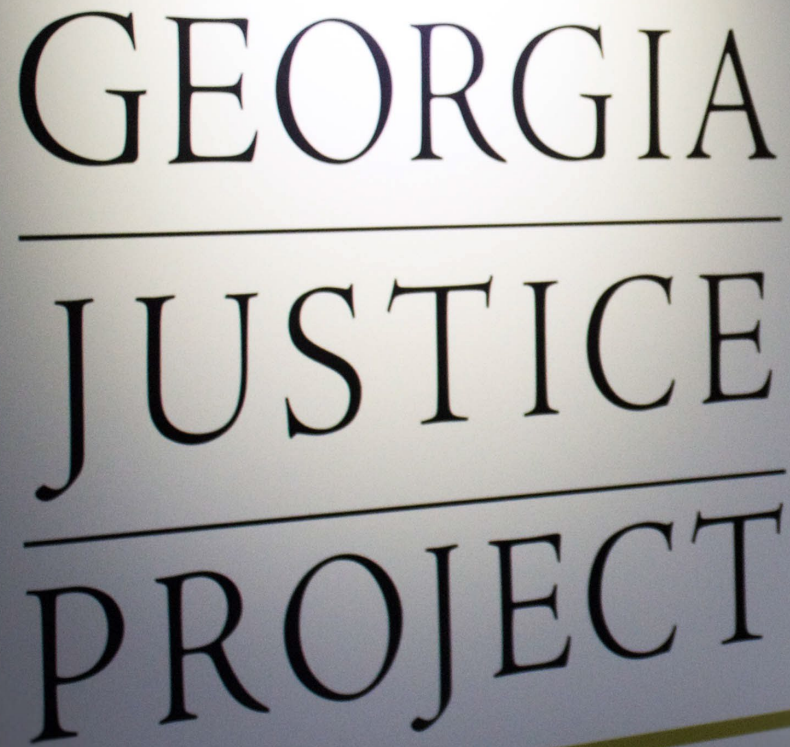
# What if My License Was Suspended for Missing Court?

- ❖ If your license was suspended for missing traffic court, the court can now reinstate your license at any time.  
*Contact the court immediately*
- ❖ The court can reinstate even before you have resolved the case or paid your fines.
- ❖ If the court reinstates your license but you cannot afford the DDS reinstatement fee, you may ask the court to waive the DDS fee.

# Who is Eligible to Vote in Georgia?

- **Anyone not currently serving a sentence for a felony conviction**
- **Felony First Offender Act & Conditional Discharge (not revoked)**
- **In jail –unless serving sentence for a felony conviction**
- **Serving a misdemeanor sentence**
- **When felony probation & parole is complete—you can re-register and vote.**
- **Right to vote is automatically restored-you do not need to pay court debt or have your record expunged or pardoned.**
- **Trouble registering? Get a Certificate of Sentence Completion from DCS.**



A white rectangular sign with a gold border, mounted on a wall. The text "GEORGIA JUSTICE PROJECT" is written in a serif font, with "GEORGIA" on the top line, "JUSTICE" on the middle line, and "PROJECT" on the bottom line. Horizontal lines separate the words.

# GEORGIA JUSTICE PROJECT

**THANK YOU.**

438 Edgewood Ave. SE  
Atlanta, GA 30312  
(404) 827-0027 • [www.GJP.org](http://www.GJP.org)

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 @georgiajusticeproject  
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