

NEW YORK CORRECTION LAW
ARTICLE 23-A

LICENSURE AND EMPLOYMENT OF PERSONS PREVIOUSLY
CONVICTED OF ONE OR MORE CRIMINAL OFFENSES

Section 750. Definitions.

751. Applicability.

752. Unfair discrimination against persons previously convicted of one or more criminal offenses prohibited.

753. Factors to be considered concerning a previous criminal conviction; presumption.

754. Written statement upon denial of license or employment.

755. Enforcement.

§750. Definitions. For the purposes of this article, the following terms shall have the following meanings:

(1) "Public agency" means the state or any local subdivision thereof, or any state or local department, agency, board or commission.

(2) "Private employer" means any person, company, corporation, labor organization or association which employs ten or more persons.

(3) "Direct relationship" means that the nature of criminal conduct for which the person was convicted has a direct bearing on his fitness or ability to perform one or more of the duties or responsibilities necessarily related to the license, opportunity, or job in question.

(4) "License" means any certificate, license, permit or grant of permission required by the laws of this state, its political subdivisions or instrumentalities as a condition for the lawful practice of any occupation, employment, trade, vocation, business, or profession. Provided, however, that "license" shall not, for the purposes of this article, include any license or permit to own, possess, carry, or fire any explosive, pistol, handgun, rifle, shotgun, or other firearm.

(5) "Employment" means any occupation, vocation or employment, or any form of vocational or educational training. Provided, however, that "employment" shall not, for the purposes of this article, include membership in any law enforcement agency.

§751. Applicability. The provisions of this article shall apply to any application by any person for a license or employment at any public or private employer, who has previously been convicted of one or more criminal offenses in this state or in any other jurisdiction, and to any license or employment held by any person whose conviction of one or more criminal offenses in this state or in any other jurisdiction preceded such employment or granting of a license, except where a mandatory forfeiture, disability or bar to employment is imposed by law, and has not been removed by an executive pardon, certificate of relief from disabilities or certificate of good conduct. Nothing in this article shall be construed to affect any right an employer may have with respect to an intentional misrepresentation in connection with an application for employment made by a prospective employee or previously made by a current employee.

§752. Unfair discrimination against persons previously convicted of one or more criminal offenses prohibited. No application for any license or employment, and no employment or license held by an individual, to which the provisions of this article are applicable, shall be denied or acted upon adversely by reason of the individual's having been previously convicted of one or more criminal offenses, or by reason of a finding of lack of "good moral character" when such finding is based upon the fact that the individual has previously been convicted of one or more criminal offenses, unless:

(1) There is a direct relationship between one or more of the previous criminal offenses and the specific license or employment sought or held by the individual; or

(2) the issuance or continuation of the license or the granting or continuation of the employment would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public.

§753. Factors to be considered concerning a previous criminal conviction; presumption. 1. In making a determination pursuant to section seven hundred fifty-two of this chapter, the public agency or private employer shall consider the following factors:

(a) The public policy of this state, as expressed in this act, to encourage the licensure and employment of persons previously convicted of one or more criminal offenses.

(b) The specific duties and responsibilities necessarily related to the license or employment sought or held by the person.

(c) The bearing, if any, the criminal offense or offenses for which the person was previously convicted will have on his fitness or ability to perform one or more such duties or responsibilities.

(d) The time which has elapsed since the occurrence of the criminal offense or offenses.

(e) The age of the person at the time of occurrence of the criminal offense or offenses.

(f) The seriousness of the offense or offenses.

(g) Any information produced by the person, or produced on his behalf, in regard to his rehabilitation and good conduct.

(h) The legitimate interest of the public agency or private employer in protecting property, and the safety and welfare of specific individuals or the general public.

2. In making a determination pursuant to section seven hundred fifty-two of this chapter, the public agency or private employer shall also give consideration to a certificate of relief from disabilities or a certificate of good conduct issued to the applicant, which certificate shall create a presumption of rehabilitation in regard to the offense or offenses specified therein.

§754. Written statement upon denial of license or employment. At the request of any person previously convicted of one or more criminal offenses who has been denied a license or employment, a public agency or private employer shall provide, within thirty days of a request, a written statement setting forth the reasons for such denial.

§755. Enforcement. 1. In relation to actions by public agencies, the provisions of this article shall be enforceable by a proceeding brought pursuant to article seventy-eight of the civil practice law and rules.

2. In relation to actions by private employers, the provisions of this article shall be enforceable by the division of human rights pursuant to the powers and procedures set forth in article fifteen of the executive law, and, concurrently, by the New York city commission on human rights.



Division of Criminal Justice Services

Criminal History Record FAQs

Visit [Requesting Your New York State Criminal History](#) for important information about what you need to know and the steps you need to take to request your criminal history, commonly called a rap sheet, or verify that you don't have a record in the state.

Note: *This process also may be called fingerprint-based criminal background checks, police certificate or police certification.*

1. How can I or my lawyer correct information on my criminal history record that is wrong or incomplete?

If you believe your New York State criminal history record maintained by DCJS is incomplete or inaccurate, you must provide supporting documentation to fix the omissions or errors. This process is known as challenging your record.

Arrest Information: To change or correct arrest information, such as arrest charges, date of arrest or date of crime, you must contact the police agency that made the arrest and request that the agency submit the changes to DCJS. The agency must submit the changes in writing in order for DCJS to update the criminal history record information.

Disposition Information: To change or correct disposition information or to add a disposition that is missing, you must contact the court that handled the case and request a certified copy of the disposition. You must then send the certified copy of the disposition to DCJS. Photocopies are not acceptable unless they contain a raised seal placed on the document by the court.

Unsealed Arrest and/or Conviction Information: If you believe that an arrest(s) or conviction(s) should be sealed, you must contact the court that handled the case and request a certified sealing order. You must then send the certified sealing order to DCJS. Photocopies are not acceptable unless they contain a raised seal placed on the document by the court.

For more information or questions about this process:

Email: dcjsCriminalJusticeRecords@dcjs.ny.gov

or

Write: Records Correspondence Unit, New York State Division of Criminal Justice Services, 80 South Swan St., Albany, N.Y. 12210.

2. Can individuals or members of the media request someone else's criminal history or submit a request to DCJS to find out if someone has a criminal history?

No. Official criminal history records maintained by DCJS are not considered public records. They cannot be provided under the state's Freedom of Information Law, even if an individual is deceased.

3. Can an individual request copies of fingerprints or the criminal history record of a family member(s) who has died?

No.

4. Can I apply to have my criminal record destroyed?

State law only allows individuals convicted of unlawful possession of marijuana and fifth-degree criminal possession of marijuana to seek destruction of those conviction records.

You must make a formal request to the state's Unified Court System to have those records destroyed. Visit www.nycourts.gov and search "marijuana convictions" for more information about that application process.

If you have no convictions on your record for at least 10 years and have no charges pending, you may apply to a court to request that certain New York State convictions be sealed:

- [English »](#)
- [Español »](#)
- [Application Forms and Instructions](#)

Sealing means that all of the arrest, court and prosecution records related to certain convictions are confidential and cannot be seen except under the limited circumstances as required by state law, including:

- If an individual is applying for a job as a police or peace officer; and,
- If an individual is applying for a pistol permit.

5. How do I obtain a certificate of relief from disabilities?

A certificate of relief may be issued by a court or the [state Department of Corrections and Community Supervision](#) (DOCCS).

You must contact the court that handled your case or [DOCCS](#) for information on how to apply. Visit www.nycourts.gov for more information about this process.

If granted, the certificate removes restrictions that bar individuals who have been convicted of misdemeanors, or one felony, from certain types of employment and/or from getting certain licenses.

6. How do I obtain a certificate of good conduct?

A [certificate of good conduct](#) may be issued by DOCCS. This certificate removes certain employment and licensure restrictions faced by individuals who have been convicted of two or more felonies and may restore the right of the individual to hold public office.

7. I am applying for a job and the potential employer told me I needed to submit my fingerprints to DCJS for a background check. Can they ask me to do that?

There must be a local, state, or federal law that allows a potential employer to ask you to submit fingerprints to DCJS so you can be considered for a job. You also may be asked to submit your fingerprints to DCJS if you are applying for a professional license.

The potential employer or agency that grants the license must make you aware of that requirement.

A fingerprint-based criminal history check done by DCJS is not the same as a "background check" done by third parties or businesses that sell this information. Third parties or businesses get the information they sell by searching public databases and records by name, date of birth or other demographic information, such as home addresses. Those records are not fingerprint-based. DCJS does not sell its records to third parties or businesses.