New York State Attorney General
Eric T. Schneiderman

Dear New Yorkers,

Across our state, individuals with criminal histories face barriers to re-entering their communities and becoming productive members of society. After leaving prison, adequate rehabilitation often depends on access to important resources, such as employment, education and housing.

Fortunately, New York State laws exist to protect the rights of New Yorkers with criminal records to secure gainful employment, pursue an education, and obtain housing. This brochure explains some of those laws and includes information about what to do if you believe an employer, municipality, licensing agency, or background check company is standing in the way.

New York State is committed to providing opportunities to everyone seeking a better future. If you have any questions or concerns, please do not hesitate to contact my office.

Sincerely,

Eric T. Schneiderman

New York State Attorney General
The State Capitol
Albany, New York 12224
1-800-771-7755
www.ag.ny.gov

RESOURCES

Office of the Attorney General
Civil Rights Bureau
120 Broadway
New York, New York 10271
212-416-8250 (voice)
800-788-9898 (TDD)
civil.rights@ag.ny.gov
www.ag.ny.gov

New York State Division of Human Rights
www.dhr.state.ny.us
(Contact your local office)
718-741-8300 (voice)
718-741-8300 (TDD)

Certificate Review Unit
New York State Division of Parole
97 Central Avenue
Albany, New York 12206
518-485-8953
www.parole.state.ny.us

NEW YORK STATE OFFICE
of the
ATTORNEY GENERAL

BARRIERS TO RE-ENTRY

Civil Rights Bureau

State Laws: How you are Protected

The New York State Human Rights Law and the New York Correction Law prohibit employers, municipalities, licensing agencies, and background check companies from discriminating against applicants and employees on the basis of criminal history.

Under ***NYS Human Rights Law 296(16)*** employers and licensing agencies cannot ask or make decisions about applicants on the basis of:

- a youthful offender adjudication;
- a sealed record;
- a pardoned offense;
- an arrest not resulting in conviction;
- adjournment in contemplation of dismissal.

Under ***NYS Correction Law 23-A***, employers must individually analyze each applicant's criminal history to determine whether his or her convictions are relevant to the job sought.

- Employers may only deny a person employment based on a criminal record if their conviction is directly related to the functions of the job or if the employer determines that hiring the person would pose an unreasonable risk to persons or property.
- Before rejecting any candidate based on their criminal history, employers must consider several factors such as the nature of the offense, time elapsed since the offense, age of the applicant at the time of the offense, and evidence of rehabilitation when analyzing each applicant's criminal history.

Note: State law can prohibit those with criminal histories from obtaining certain licenses and jobs; employers in these fields are exempt from these regulations.

Prohibited Actions

Here are some typical examples of actions prohibited under these laws:

- Automatically disqualifying any applicant, or automatically firing or refusing to promote an employee because of their criminal history;
- Asking applicants about arrests if they did not lead to a conviction;
- Asking applicants about youthful offender adjudications, pardons or sealed records;
- Refusing to consider relevant information in evaluating an applicant's background, including age at the time of the offense and evidence of rehabilitation.

Removing Roadblocks

Certificates of Rehabilitation

Certificates of Rehabilitation ("CORs") provide applicants for employment with evidence of their rehabilitation and can remove the automatic bars for some licenses. New York State offers two forms of certificates of rehabilitation:

- **Certificates of Relief from Disabilities ("CRDs")** are available to individuals with any number of misdemeanor convictions but no more than one felony conviction. Separate CRDs are necessary for each conviction. Temporary CRDs may be granted while an individual is on probation or parole, and at the completion of the sentence it becomes permanent unless revoked. The sentencing court and the Department of Corrections and Community Supervision has the authority to grant CRDs.
- **Certificates of Good Conduct ("CGCs")** are available to individuals with two or more felony convictions and any number of misdemeanor convictions. The availability of a CGC varies depending on the severity of the offense. One CGC will cover an individual's entire criminal history. The Department of Corrections and Community Supervision has the authority to grant CCGs.

Obtaining Your Background Check

You also have rights with respect to any criminal background check an employer obtains about you. These rights are under N.Y. Gen. Business Law § 380, the New York State Fair Credit Reporting Act ("FCRA"). Under FCRA:

- You must authorize any criminal background check an employer runs on you.
- You have a right to see the background check that the employer received, and to contest any information in the background check that is inaccurate, or to which your employer is not entitled.

The employer is ultimately responsible for determining whether or not your conviction disqualifies you for employment. The background check company cannot make that decision. If you receive a background check that is marked with red flag icons, or any notation that indicates that you will not be hired, please contact the Attorney General's Office or the Division of Human Rights.