

2nd Chance

Mapping Your Path to Work

Answers To Your Work Questions

From New York Makes Work Pay

Getting a 2nd Chance

A Guide for People Who Have Had Legal Problems

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 New York **Makes Work Pay**

In This Guide

The purpose of this guide is to educate individuals with disabilities with a criminal record in New York about how they can address job barriers posed by their criminal record. As is made clear in the similarly named federal “Second Chance Act,” giving the person an opportunity for employment and stability benefits everyone – the individual, his/her family, employers and the public:

- 1** Can Employers Consider Arrests and Criminal Convictions?
- 1** When and How Can I Get a Certificate of Rehabilitation?
- 2** How Can Federal Bonds and Tax Credits Help?
- 3** How Do I Handle My Criminal Record on Job Applications and in Interviews?
- 4** What if I Have More Questions?
- 4** What if I Have Questions About How My Benefits will be Impacted by Going Back to Work?

This guide is part of a self-help series of publications of the New York Makes Work Pay Initiative that seeks to help New Yorkers with disabilities plan a path to employment.

Can employers consider arrests and criminal convictions?

Employers and licensing agencies in New York cannot ask about arrests that did not result in a conviction. Nor can a person be denied a job or license because of an arrest that did not result in a conviction. There is an exception, however, for employment in law enforcement. (*New York Human Rights Law § 296(16)*)

Employers and licensing agencies in NY can ask about criminal convictions, but most cannot simply reject an applicant because of them. The law requires an individualized assessment of such factors as:

- the applicant's age at time of the offense
- any mitigating circumstances
- the seriousness of the offense
- the time that has elapsed
- the applicant's rehabilitation efforts and outcomes
- how the crime relates to the specific job or license sought

If denied employment because of a criminal record, applicants can request a written explanation of this assessment from the employer or licensing agency. (*New York Corrections Law § 754*)

When and How Can I get a Certificate of Rehabilitation?

There are 2 types of Certificates of Rehabilitation in New York:

A Certificate of Relief from Civil Disabilities (CRD) covers a single felony conviction and/or single misdemeanor conviction. It can also cover a federal conviction or convictions from other states. A CRD may be granted by a sen-

tencing judge or by the Division of Parole depending upon the sentence imposed for the conviction in question.

<https://www.parole.state.ny.us/certrelief.html>.

A **Certificate of Good Conduct (CGC)** may be obtained by individuals who have multiple felony and misdemeanor convictions. One CGC covers the applicant's entire record. There is a waiting period (3 years if applicant's most serious conviction was a C, D or E felony, and 5 years if an A or B felony). This certificate may only be issued by the Division of Parole.

Getting a Certificate can restore eligibility for certain jobs or occupational licenses and help show an employer that you have moved forward and will make a good worker.

How Can Federal Bonds and Tax Credits Help?

The Federal Bonding Program encourages employers to hire targeted individuals (such as people with criminal convictions, recovering substance users, people with dishonorable military discharges) by insuring the business for any loss from dishonesty for 6 months (up to \$ 25,000). There is no cost or deductible, and the application process is relatively simple -

<http://www.labor.ny.gov/businessservices/services/fbp.shtm>

Employers can also get tax credits, ranging from \$2,400 to \$4,800, for hiring people with disabilities and/or criminal records under the Federal Work Opportunity Tax Credit

<http://www.doleta.gov/business/Incentives/opptax/>,

and \$2,100 for hiring people with disabilities under the NYS Workers with Disabilities Tax Credit

<http://www.labor.ny.gov/businessservices/EDSU/EDSUWETC.shtm>

Informing employers about these programs also shows how serious you are about a Second Chance.

How Do I Handle My Criminal Record on Job Applications and in Interviews?

The key is preparing to respond directly to questions about criminal convictions. Note that crimes in New York are felonies or misdemeanors, that juvenile delinquent and youthful offender adjudications are not convictions, and non-criminal offences (“violations” and traffic infractions) are not crimes.

Answer questions about criminal convictions on application forms with “yes- would like to discuss my rehabilitation at interview.” Do practice interviews, answering questions with a brief summary and accepting responsibility. **Always fully explain how you have changed and make sure you have provided recommendation letters from people who can document your:**

- Rehabilitation / Treatment
- Military Service
- Education / Work
- Community Service / Religious Activities

Additionally, provide written information on Federal Bonding and Tax Credits. Ask what the application process will entail and who makes the hiring decisions. Do not forget to get the name and title of who you communicate with at the company. If you are not hired, send a letter with this information, request the individualized assessment noted above and ask for an opportunity to demonstrate your abilities as an employee.

What if I Have More Questions?

The Legal Action Center, 225 Varick St. NY, NY 10014 (212) 243-1313 has free, online publications that may be helpful:

How to Get and Clean Up Your New York State Rap Sheet

http://www.hirenetwork.org/pdfs/NYS_Rap_Sheet_Final.pdf

Employment Discrimination and What to Do About It

Guide for NY Counselors of Individuals in Recovery from Alcohol and Drug Dependence, and Ex-Offenders

[http://www.hirenetwork.org/pdfs/Employment%20discrimination%20\(NY\).pdf](http://www.hirenetwork.org/pdfs/Employment%20discrimination%20(NY).pdf)

The Legal Action Center has a limited staff but may provide advice to individuals. The Center also has a website with information on criminal records in other states,

<http://www.hirenetwork.org/resource.html>

What if I Have Questions About How My Benefits Will Be Affected by Going Back to Work?

If you have any questions about how your benefits will be impacted by going back to work, you can contact specialists to assist you toll-free at 1-888-224-3272 voice/ 1-888-224-3272 TDD. The hotline is available during business hours Monday through Friday, except on holidays. Every effort will be made to return calls the same day or within one business day.

Additionally, SSA has contracted with local organizations to provide work incentive planning and assistance services for individuals who receive Supplemental Security Income and Social Security Disability Insurance. The Work Incentive Planning Assistance (WIPA) agencies have people who have

been specially trained to help individuals with disabilities considering returning to work or returning to work. You can get a list of the WIPA's in New York at:

<https://secure.ssa.gov/apps10/oesp/providers.nsf/bystate>

Finally, the New York Makes Work Pay Initiative has established a certified network of work incentives specialists throughout New York State who can also assist you in understanding how your benefits will be impacted by earnings. The purpose of the Work Incentives Information Network is to assist beneficiaries in gaining access to the information they need to make decisions about work and earnings and also provide the tools to build assets. You can locate a certified practitioner and other resources to support developing your path to work by going online at:

<http://www.newyorkmakesworkpay.org>

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