



2014

The Road to Re-entry

This informational guide is a supplement to the New York State Department of Labor's Special Populations Unit's **The Road to Re-entry** presentation for direct service providers.

*Supplemental
Guide*

**Special
Populations
Unit**

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The New York State Department of Corrections and Community Supervision

The New York State Division of Criminal Justice Services

The New York State Division of Human Rights

The New York State Office of Court Administration

The New York State Unified Court System

The Legal Action Center

The American Bar Association

The Federal Trade Commission

...and many others cited in the [Links and Resources](#) section of this guide.

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Introduction

Some time ago, the New York State Department of Labor's Special Populations Unit created a unique and comprehensive presentation about employment and legal issues for job seekers with criminal records: **The Road to Re-entry**. The target audience for the presentation was frontline staff providing direct employment services to job seekers with criminal records. The objective was to increase awareness of these challenges and help provide resources and strategies to address them in the employment process.

Today, the Special Populations Unit still has oversight of **The Road to Re-entry**, including updating and expanding the presentation, as well as giving it a new look. **The Road to Re-entry** continues to be a powerful training tool for staff and partners working with job seekers with criminal records.

The Special Populations Unit realized that there was a demand for a resource that summarized the important information from the presentation that could be easily shared and distributed, and in the beginning of 2014, **The Road to Re-entry** Supplemental Guide was developed.

We hope this information will be useful to you in the work that you do.

Disclaimers

- 1) This document has been prepared by the Department of Labor's Special Populations Unit based on historical precedence and related experiences with the legal and occupational challenges many job seekers with convictions face in the labor market. This document also cites relevant sections of the law and other regulations. However, the Special Populations Unit staff are *not* legal experts and you and your job seekers may find it necessary to consult with other entities concerning legal issues mentioned in **The Road to Re-entry**.
- 2) Additionally, the information in **The Road to Re-entry** presentation and document is specific to New York State. Some information may not apply or be correct for other states.
- 3) Please be advised that information is subject to changes over time, and it may be necessary to check for any updates to laws, regulations, oversight, and contact information. The best possible effort has been made to ensure that all of the information in this document is accurate at the time of publication.
- 4) This information is intended only for direct services providers and frontline staff working with job seekers with convictions. It should not be considered a resource for job seekers, businesses, or any other individuals.

Further Assistance

A [Links and Resources](#) section has been provided at the back of this guide. This stoplight symbol is used in this guide to indicate that the information for this resource is in the [Links and Resources](#) section.



If you need any further assistance, please feel free to contact the Special Populations Unit by sending an email to SpecialPopulations@labor.ny.gov or calling (518) 485-2151.

Background Information

This section will provide you with some basic information about the criminal justice system.

Crimes and Offenses

By definition, offenses are defined by the maximum sentencing of incarceration that can be imposed for the offense:

- **Violation:** an offense for which no more than 15 days of incarceration can be sentenced
- **Misdemeanor:** an offense for which more than 15 days of incarceration, but no more than 1 year of incarceration, can be sentenced
- **Felony:** an offense for which 1 year or more of incarceration may be sentenced

Under New York State law, felonies and misdemeanors are considered **crimes**, or criminal offenses.

There are five different classes of felonies: A, B, C, D & E

There are three different classes of misdemeanors: A, B & U (unclassified)

The class of the crime corresponds to the minimum and maximum sentencing of incarceration and/or supervision that can be imposed (with Class A being the most serious, although unclassified U misdemeanors can be sentenced as severely as Class A misdemeanors).

In contrast, violations and traffic infractions are considered **offenses**, but not crimes. With a handful of exceptions, almost all violations can be sealed, although it may be necessary to file paperwork for this.



The Yonkers Police Department has a helpful page for finding more information about crimes , offenses and penal codes.



The Legal Action Center's **LOWERING CRIMINAL RECORD BARRIERS** pamphlet provides information on how to seal non-criminal offenses.

Drug Courts: Conditional Sealing of Criminal Offenses

In certain cases, eligible individuals can be sentenced to drug court instead of criminal court. If the individual has an eligible felony or misdemeanor, he or she can get his or her offense conditionally sealed if he or she:

- Completes a court-sanctioned substance abuse treatment (SAT) program;
- Completes any other post-program sentencing issued by the court; and
- Currently has no pending charges.

Only certain felonies and misdemeanors can be conditionally sealed. Any future arrest for a crime will result in any conditionally sealed offense being unsealed.



The Legal Action Center's **LOWERING CRIMINAL RECORD BARRIERS** pamphlet contains more information on eligible drug court offenses and conditional sealing.

Community Supervision

There are two different types of community supervision that can be sentenced to individuals who commit a crime: probation and parole.

This table explains some of the basic differences between these two types of community supervision.

	Probation	Parole
Which agency has oversight in New York?	NYS Department of Criminal Justice Services – <i>Office of Probation and Correctional Alternatives</i>	NYS Department of Corrections and Community Supervision
What does it mean?	Probation refers to a period of community supervision that is sentenced instead of incarceration (with the exception of a split sentence – see below)	Parole refers to a period of community supervision that occurs as a condition of being released from incarceration prior to serving a maximum sentence
Who authorizes the supervision?	Sentenced by the court of jurisdiction	Granted by an administrative entity – usually, the parole board
When does it take place?	After sentencing and usually <i>instead</i> of incarceration (except in the case of a “split sentence”, where an individual serves a brief period of incarceration followed by a probation sentence)	After release from incarceration (if applicable)
Where can I find out more?	http://www.criminaljustice.ny.gov/opca	www.doccs.ny.gov

Keep in mind that not every individual who has committed a criminal offense is sentenced to community supervision. For example, an individual who serves his or her maximum sentence of incarceration (commonly referred to as “maxed out”) is released to the community and does not serve a period of community supervision.

Individuals who are on community supervision are assigned a list of orders and/or conditions, which are given to and signed by the individual on supervision.

Here are some examples of both general conditions (regularly assigned) and special conditions (assigned on a case-by-case basis by the probation or parole officer, or P.O.):

Examples of general conditions	Examples of special conditions
<ul style="list-style-type: none"> • Report as assigned to P.O. • Allow P.O. to make home and work site visits • Submit to drug testing and maintain sobriety 	<ul style="list-style-type: none"> • Mandatory curfew • Restriction on location of residence or work • No associating with prohibited individuals

If an individual on community supervision has misplaced his or her orders and conditions, he or she can request another copy from his or her supervising officer.



The New York State Parole Handbook contains the complete list of general conditions of release for parole. The general conditions for probation are set by the sentencing court as appropriate. More information about conditions of probation can be found on the DCJS Office of Probation and Correctional Alternatives website and in Article 65 of the New York State Penal Law.

The Juvenile Justice System

For service providers accustomed to working with adult offenders, it can be confusing to understand how the juvenile justice system works in New York. New York State is one of only two states in the US that sentences offenders between the ages of 16–18 as adults. Most all other states try 16 and 17 year olds as minors.

	Juvenile Delinquent (JD)	Juvenile Offender (JO)	Youthful Offender (YO)
What is it?	Adjudication	Conviction	Adjudication
Where is it received?	Family Court	For the most part, in Supreme Court	Adult Criminal Court
Who receives it?	Youth between 7-16 years of age who committed an act that would be considered criminal if committed by an adult	Youth between the ages of 13 – 15 years old who have committed a serious or violent felony, such as murder, rape, arson, etc.	Typically, youth between the ages of 16 – 18 who have been granted this to be spared having an adult criminal record. In some cases, a YO adjudication may be granted to younger offenders who would otherwise be convicted as a juvenile offender.
What is the consequence?	May be placed in a juvenile facility up to the age of 18, or 21 with the consent of the youth	Detained in a juvenile facility until considered an adult (usually at 16 years old) , at which point the youth is transferred to an adult facility	For youth 16 and older, sentence is served in an adult facility. Younger youth who would otherwise be convicted as JO are held in juvenile facilities until 16.
Can it be sealed?	Yes – it is not considered a conviction	No – it is a conviction and can never be sealed	Yes – it is not considered a conviction.

Note: While adjudications (JD & YO) should be automatically sealed when the individual leaves the juvenile justice system (though it is worthwhile to check), convictions (including JO) are not sealed.



The American Bar Association has an excellent website for understanding the juvenile justice system in New York, with links to juvenile justice system information for all 50 states.

The Sex Offender Registry

In New York State, individuals convicted of sexual offenses are required to register with the Sex Offender Registry (SOR), which is maintained by the Division of Criminal Justice Services.

The SOR registration requirements depend on two factors:

- **Risk level:** Individuals convicted of sex offenses are assigned a risk level from Level 1 (lowest risk of re-offense) to Level 3 (highest risk of re-offense)
- **Designation:** Individuals may be assigned a designation as a sexual predator, a sexually violent offender, or a predicate sex offender (more than two sex offenses).

This chart explains the registration requirements based on risk level and/or designation.

	Level 1	Level 2	Level 3	Any Designation
SOR Registration Requirement	20 years	Lifetime –may petition to be removed from the registry after 30 years of reporting (if no designation and no later sex offense in that period)	Lifetime	Lifetime
Published online?	No, but maintained on the sub-directory	Yes	Yes	Yes



Under the law, individuals convicted of sex offenses can petition the courts to have their risk levels modified. More information about this is available on the Division of Criminal Justice Services website.

Note: Being registered on the SOR does not impose any limitation or restrictions on an individual’s living or working conditions (e.g., not living or working near a school or park, etc.). These conditions are set by community supervision, if applicable, and would no longer apply after the individual is no longer under supervision.

The Employment Process

In New York State, convictions cannot be expunged or removed from an individual’s criminal record. In certain cases, such as with adjudications received as a youth and specific sealable violations or offenses, information is concealed from most all employers and would not need to be disclosed in the employment process (although there are some exceptions, such as law enforcement or public office jobs, and any employers that are authorized to fingerprint applicants for background checks).

What can an employer ask about an individual’s criminal record?

In the employment process, employers are allowed to ask about:

- All previous convictions (misdemeanors and felonies)
- All open/pending charges
- Can request a certificate of disposition from the court of conviction

Under the law, they are not allowed to ask about:

- Arrests that did not result in a conviction (or were vacated or otherwise terminated favorably)
- Sealed violations
- Sealed adjudications

Where do employers get information about an individual's conviction(s)?

Most all businesses conduct a background check on potential applicants. They are required by federal and state Fair Credit Reporting Acts (FCRAs) to notify an individual in advance that a background check will be conducted (this consent can be included within the application or separately). The individual also needs to be provided with a copy of Article 23-A of New York State Corrections Law.

Nationwide, there are more than 500 different entities that provide background checks, and they all have their own way of conducting a background check (e.g., checking public records, doing an online search, etc.). Therefore, it would not be possible for a job seeker to find out ahead of time what every background check company would report.



The New York State Office of Court Administration (OCA) is a popular resource for background checks. OCA maintains public court records. By completing a form on their website and submitting a fee (\$65 at this time), a business can get access to all public court records for an individual.

Applicants have a right to receive a copy of the background check if one is conducted. They are also entitled to know what agency conducted the background check and the contact information for that agency.



These rights are outlined in the both the state and federal Fair Credit Reporting Acts (FCRAs). In addition to knowing what is on the background check and who reported it, both FCRAs also state that an applicant has the right to see the background check and have an opportunity to dispute and correct any possible inaccuracies before an adverse hiring decision is made (e.g., not hiring, retaining, or promoting the individual).

What if information on an individual's background check is incorrect?

There have been many instances of incorrect information being reported by background check agencies to employers. Hopefully, the job seeker already has or has requested a copy of his or her criminal record, or rap sheet, so he or she knows what should be coming up on a background check and has had a chance to correct any possible errors on the rap sheet.



The individual should follow up with the agency that provided the background check directly to address these errors (see above). The Federal Trade Commission has a resource guide (which includes a sample dispute letter) on how to dispute these types of errors.

Laws and Regulations

This is a short list of some of the most important laws and regulations for job seekers with convictions in New York State. Keep in mind that this is not a complete list.

New York State Laws

Article 23-A of New York Corrections Law

This section of the law is commonly referred to simply as *Article 23-A*, and it may be the single most important piece of legislation for job seekers with convictions in New York.

Here is an excerpt from the law

“No application for any license or employment... shall be denied or acted upon adversely by reason of the individual's having been previously convicted of one or more criminal offenses...”

Two of the most important provisions of **Article 23-A** are as follow:

- Employers and licensing entities are **prohibited** from having a **blanket discrimination policy** against individuals solely on the basis of having a criminal record
- An employer or licensing entity must consider all of the **factors** outlined in Article 23-A when making a hiring or licensing decision, most significantly: 1) the relationship between the individual’s offense(s) to the work he or she would be doing; and 2) any possible risk to public safety or the safety of individuals and property at the workplace.



A copy of Article 23-A can be downloaded from the New York State Department of Labor website. It is required to be posted in an accessible area of every workplace and a copy must be provided to a job seeker if a background check will be conducted.

Filing a discrimination complaint

If you are working with a job seeker who feels he or she has been unfairly discriminated against solely based on having a criminal record, our state corrections law outlines the process for filing a complaint. An individual has the right to request a reason in writing from the employer which states why the individual was not considered for the job.



If the employer refuses to provide a reason in writing or the job seeker feels he or she was wrongfully discriminated against in the employment process solely for having a criminal record, the individual can file a discrimination complaint with the New York State Division of Human Rights.

Employer education

From the perspective of many of our job seekers and from service providers who advocate for them, it can seem like many businesses are unaware of their obligations under Article 23-A. While it is true that businesses can have varying levels of understanding, it is important to note that they may be unaware of what these obligations are because they are not experienced with hiring from the population and that they would like to do the right thing.



The Doe Fund (a community-based organization in Brooklyn) has prepared a helpful publication for businesses on this topic. It includes the factors that need to be considered under Article 23-A, possible hiring scenarios, and worksheets for documenting consideration of Article 23-A factors.

Negligent Hiring Protection for Employers

New York State Executive Law §296 provides employers with legal protection from potential negligent hiring lawsuits that could potentially arise from hiring an individual with conviction(s):

“There shall be a rebuttable presumption in favor of excluding from evidence the prior incarceration or conviction of any person, in a case alleging that the employer has been negligent in hiring or retaining an applicant or employee... if after learning about an applicant or employee's past criminal conviction history, such employer has evaluated the factors set forth in [Article 23-A] of [New York State] correction law, and made a reasonable, good faith determination that such factors militate in favor of hire or retention of that applicant or employee.”

This may help alleviate some hesitations employers have about hiring an individual with a criminal record. The Doe Fund guide mentioned in the previous section contains a helpful worksheet for documenting evidence of evaluating the factors addressed in Article 23-A.

Alcohol Beverage Control Law

The New York State Alcohol Beverage Control (ABC) Law prohibits an establishment with a primary purpose of selling alcohol (e.g., bar, nightclub, etc.) from hiring an individual with certain offenses, including *any* felony. For a list of all of the disqualifying offenses, check out the full text of the ABC Law.

However, an individual with a disqualifying offense can get this restriction lifted by doing one of the following:

- 1) Obtaining a Certificate of Relief from Disabilities or Certificate of Good Conduct
- 2) Receiving an executive pardon
- 3) Getting approval from the State Liquor Authority on a joint petition from the potential employer and the individual to have the restriction removed.



More information on the ABC Law and a copy of the *Petition for Consideration of Employment* can be found on the State Liquor Authority's website.

Legal Resources



The Consolidated Laws of New York website is a searchable resource for all New York State laws, including the many laws that have been cited in this guide.



If you are working with a job seeker who requires legal assistance, you may want to consider using the Law Help NY site to locate free or low-cost assistance, or contact the American Bar Association.

Employment and Licensing

There are times when an individual's conviction(s) may prohibit or present a challenge to getting a license he or she needs for a specific occupation. If a job seeker with a criminal record wants to apply for or renew a license needed for his or her job, it is strongly recommended that he or she contact the appropriate licensing authority to find out if his or her conviction(s) may present any possible bar to getting that license, and if so, if and how that can be addressed.



The New York State Department of Labor has a helpful resource that includes the requirements and contact information for any employment licenses or certificates issued by the State of New York.



The Legal Action Center also has an occupational licensing survey for many different occupations in New York State. Please be advised that information may change over time, so it may be necessary to verify that the information is still correct.

Here is an overview of three of the most recurring licensing issues for job seekers with convictions.

Healthcare

In New York State, various healthcare positions are regulated by two different state agencies: the New York State Department of Health (DOH) and the New York State Education Department (NYSED).

Here is a sample list comparing some of the occupations overseen by DOH and NYSED:

DOH Licensing Requirement	NYSED Licensing Requirement
<ul style="list-style-type: none">• Personal Care Aides (PCAs)• Certified Nurse Aides (CNAs)• Home Health Aides• Nutrition Dispensers and Dietary Staff• Transporters• Hairdressers	<ul style="list-style-type: none">• Registered Nurses (RNs)• Licensed Practical Nurses (LPNs)• Nurse Practitioners• Clinical Lab Technicians• Physician Assistants (PAs)• Pharmacists

Keep in mind that there are some healthcare positions, such as personal care technicians and some direct service professionals, which are not licensed. For all healthcare positions, it is recommended to research if there is required licensing and if so, to contact the licensing entity for further recommendations.

Although NYSED has its own licensing restrictions related to criminal records, it is worthwhile to point out some of the restrictions set forth by DOH.

Department of Health – Criminal History Record Checks

In 2005, the Department of Health issued mandatory guidance to all of its operators (including nursing homes, assisted living facilities, etc.). The mandatory guidance barred “individuals convicted of serious crimes from being employed in a nursing home or home care services agency.”

More specifically, the guidance outlines the mandatory licensing bars (from the date of conviction):

- There is a **10 year** bar for individuals with : 1) any Class B or C felony; 2) certain Class D or E felonies; and any crime related to endangering the welfare of a vulnerable population
- There is a **lifetime** bar for individuals with any Class A felony



Even if an individual has one of these mandatory licensing bars, he or she should contact the Department of Health’s Criminal History Record Check Unit for case-by-case advisement.

Transportation

CDL Hazardous Materials Endorsement (HME)

Many individuals are interested in getting a commercial driver’s license (CDL) to pursue a career in transportation. However, many jobs that would require a CDL also require a Hazardous Materials Endorsement (also known as a HazMat endorsement or HME), and job seekers with convictions may have disqualifying offenses that prohibit them from getting an HME by either the New York State Department of Motor Vehicles, the US Transportation Security Administration (TSA), or both. If this is the case, the job seeker cannot get the HME added to his or her CDL, which will adversely impact employability.

It is important to note that both the state DMV and federal TSA have different lists of disqualifying offenses (and corresponding periods of disqualification), so it is important to check sets of lists.



The NYS DMV does a good job of summarizing disqualifying state and federal offenses in the forms on its site; however, the TSA site should also be consulted for up-to-date information on federal disqualifying offenses.

Security Guards (and other Department of State Licenses)

The Department of State's Division of Licensing Services oversees many employment licenses in New York State, including for popular occupations such as security guards, real estate sales agents and barbers.

While each respective occupation has its own licensing requirements, New York State General Business Law 89 prohibits an employer from hiring any security guard who has committed a "serious offense." This needs to be considered by the Division of Licensing Services on a case-by-case basis.

Typically, for job seekers with convictions applying for a DOS license, the following items and information are required for consideration:

- Answering the conviction question honestly on the license application
- Written explanation with location of the offense(s), nature of offense(s), sentence(s) and/or other disposition(s), and a copy of the accusatory instrument (such as an indictment)
- Copy of certificate of rehabilitation or executive pardon (if the job seeker has either)
- For any pending charges, a copy of the accusatory instrument (e.g., the indictment)

Job Seeker Preparation

Here are some steps a job seeker with convictions can take to be prepared for their job searches.

Rap Sheets

An individual's rap sheet (or Record of Arrests and Prosecution) is also known as an individual's criminal record. It contains information about all arrests and convictions an individual has on his or her record.

It is extremely important that an individual knows what is on his or her rap sheet, especially to be able to accurately report information about his or her conviction(s) in the employment process. Also, the latest report generated by the Legal Action Center showed that 30% of all rap sheets they reviewed with clients had errors, including missing dispositions, inaccurate information, and information that should have been sealed showing up as unsealed. All of these things can negatively affect a job seeker, so it is highly recommended to get a copy of the rap sheet to review for accuracy and address any possible errors.



Requests for rap sheets should be made with the Division of Criminal Justice Services Record Review Unit. Although there is a fee associated, individuals who are receiving public assistance benefits and/or can provide a notarized statement of limited income should request a fee waiver packet to waive the cost of processing (\$50 at this time – individuals would still need to pay for fingerprinting).

Certificates of Rehabilitation

In New York State, an individual cannot expunge or erase a conviction from his or her record. However, if eligible, he or she can apply for a certificate of rehabilitation to demonstrate rehabilitation. There are two types of certificates of rehabilitation – Certificate of Relief from (Civil) Disabilities and Certificate of Good Conduct.

The table below summarizes the relevant differences.

	Certificate of Relief from (Civil) Disabilities	Certificate of Good Conduct
Who can apply?	An individual with at maximum (1) felony and any number of misdemeanor convictions may apply (includes individuals that only have misdemeanor convictions)	An individual with more than (1) felony and any number of misdemeanor convictions
What is the minimum waiting period to apply?	None is specified, but it is suggested that an applicant wait a sufficient period of time from his or her release from incarceration or supervision to demonstrate personal rehabilitation.	Individuals whose most serious felony conviction is Class C, D, or E must wait at least 3 years from release from incarceration or supervision to apply. Individuals whose most serious felony conviction is Class A or B must wait at least five years from the date of release from incarceration or supervision to apply.
Who issues the certificate?	The court(s) of sentencing	The Department of Corrections and Community Supervision (DOCCS)
Other information	An individual on community supervision may receive a temporary certificate that becomes permanent after completing his or her period of supervision. Individuals convicted of federal or out-of-state offenses can qualify.	In special cases, this certificate may be required for certain public office jobs (including law enforcement) even if an individual has (1) or no felony convictions.

What benefits do certificates of rehabilitation provide?

In general, having a certificate of rehabilitation is one of the greatest evidences of rehabilitation an individual with a conviction can provide. It is stating that the sentencing court(s) or supervision entity agrees that the individual should no longer bear the consequence of committing the crime(s).

Here are some additional benefits certificates of rehabilitation provide.

- May be needed to restore voting rights
- Can remove mandatory licensing and employment bars
- Under New York State Corrections Law, employers need to consider these certificates as evidence of rehabilitation in the employment process

In what cases is a certificate of rehabilitation unnecessary?

A certificate of rehabilitation is not needed for an individual who has no felony or misdemeanor convictions. This would include individuals who only have on their record: 1) juvenile justice adjudications (i.e., YO or JD – a JO is considered a conviction); 2) sealed violations and/or minor infractions; and/or 3) charges that have been dismissed or sealed.

Note: A certificate of rehabilitation may still be needed in New York State if an individual’s offense(s) have been expunged or vacated in another state.

What considerations should be taken when applying for a certificate of rehabilitation?

The process of applying for a certificate of rehabilitation can be very lengthy. It can take at least 6 -8 months to complete the process, and it includes an application process, written statements to be sent to the sentencing court(s)/review entity, preparation of evidence of rehabilitation, etc. For this and many other reasons, individuals who are interested in obtaining a certificate of rehabilitation should start the process as soon as possible.

Because of the time and investment required, this process can be frustrating for some job seekers with convictions. It is important to consider some of the factors below when recommending a job seeker to obtain a certificate of rehabilitation.

- **Mandatory bar:** Does the job seeker have some mandatory bar to licensing or employment that must be removed by a certificate of rehabilitation?
- **Evidence of rehabilitation:** Does the job seeker need to demonstrate evidence of rehabilitation to employers in his or her job search? Also, has the job seeker taken enough steps to demonstrate personal rehabilitation since his or her release from incarceration or supervision so that he or she may qualify to receive a certificate of rehabilitation?
- **Job seeker characteristics:** Is the job seeker motivated enough in his or her job search to begin the process? Will he or she have the personal perseverance to follow-up as needed with any additional requests or steps needed, or possibly re-apply in the future if not yet eligible?
- **Reasons why not:** Are there any specific reasons why the individual should not apply (e.g., individual has no buy-in for the process, individual's frustration level, the individual's criminal record does not seem to be an impediment to employment, etc.)?



With few exceptions, it is highly recommended that all eligible job seekers with convictions apply for certificates of rehabilitation. Even if a job seeker doesn't feel he or she needs one right now, it may be required for a job in the future, and it is certainly valuable to have since employers are legally obligated to consider these certificates as evidence of rehabilitation. More information about both types of certificates can be found using the resources in the [Links and Resources](#) section.



The Legal Action Center has an excellent free publication on certificates of rehabilitation that explains what the certificates are and how to apply for each.

What else can job seekers with convictions do to prepare for their job searches?



Re-entry Toolkit

The New York State Department of Labor has published a re-entry toolkit with worksheets and examples on the following topics:

- **Before You Apply** – a checklist of steps job seekers with convictions should take to prepare for the job search
- **Fact Sheet** – basic fact sheet to fill out for individuals without a resume
- **Answering Conviction Questions on Applications** – worksheet and examples
- **Preparing Your Conviction Speech** – worksheet and examples
- **Thank-You Letters** – example

New York State Career Centers

Job seekers with convictions have universal access to more than 80 different career centers in New York.

Here are some examples of what is offered at the Career Centers:

- Career counseling
- Job search assistance
- Local and statewide labor market information
- Workshops on topics such as resume writing and interviewing
- Information about available training and apprenticeship opportunities
- Veterans' services
- Access to computers, phones and faxes that can be used for job search
- Information about current initiatives for job seekers with convictions
- Information about hiring incentives for businesses that hire job seekers with convictions

Job seekers can use the Department of Labor's Career Center Locator tool (www.labor.ny.gov/career-center-locator) to locate the nearest Career Center.

Hiring Incentives for Job Seekers with Convictions

The Department of Labor offers several hiring incentives for businesses. Two of the most popular hiring incentives for businesses to hire job seekers with convictions are the Federal Bonding Program and the Work Opportunity Tax Credit. Job seekers with convictions are encouraged to learn more about both of these incentives so this information can be included as part of the personal marketing piece.

Here is some more information about both of these hiring incentives.

The Federal Bonding Program

What is the Federal Bonding Program?

The Federal Bonding Program is a business insurance policy for businesses that protects against any loss of money or property due to employee dishonesty. This is a free service offered by the Department of Labor which provides a business with up to \$25,000 in insurance if the business hires an individual from one of the target groups for the program, which includes ex-offenders.

How does a job seeker get bonded?

A job seeker can only apply for bonding under the program once he or she has a job offer with a start date. Once he or she has a start date with a business, either the job seeker or the business can contact the local bonding coordinator in your area to get the bonding process started.

What if the job seeker doesn't have a job offer or start date yet?

Whether or not the job seeker has a job offer yet, he or she can still choose to learn more about this and other work incentives so that the information can be given to businesses in the hiring and interviewing process.

Also, once the job seeker knows where he or she will be applying for a job, the job seeker can contact the nearest local bonding coordinator to get a copy of an [eligibility letter](#) stating that the job seeker is eligible to be bonded through the Federal Bonding Program. The job seeker can provide a copy of this letter to a business so that the business is informed that he or she is eligible to be bonded and knows how to get started.

A listing of all local bonding coordinators in New York State with contact information can be found on the Federal Bonding Program page:

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

Where can I get more information about the program or get started?

To learn more, visit the Department of Labor’s Federal Bonding Program website or call the State Bonding Coordinator, (518) 485-2151. To start the bonding process, contact the nearest local bonding coordinator listed on the Department’s Federal Bonding Program page.

Work Opportunity Tax Credit

The Work Opportunity Tax Credit (WOTC) is a tax credit for businesses that hire individuals from one of the target groups for the program, which includes ex-offenders. Businesses can receive a tax credit up to \$2,400 for each eligible individual they hire. Ex-offenders must be hired within one year of their release or conviction for a business to qualify for this tax credit.

More information about WOTC can be found on the Department of Labor’s WOTC page at <http://www.labor.ny.gov/businessservices/edsu/edsu%20wotc.shtm>. This is also where businesses can find the forms they need to apply for this tax credit.

Links and Resources

Here is a list of links and resources from (in the order they are referenced in this guide).

Yonkers Police Department Website

The Yonkers Police Department's site is very well organized, easy to search, and has a lot of information for understanding crimes and offenses, as well as a search penal code lookup.

<http://ypdcrime.com>

Legal Action Center

The Legal Action Center has published many free, helpful resources for job seekers with convictions.

www.lac.org

Once on their site, you can click on the *Free Publications* link, and then *Criminal Justice*, to browse their resources for job seekers with convictions. The links for some of their free publications are below.

- **Your New York State Rap Sheet:** A Guide to Getting, Understanding & Correcting Your Criminal Record – http://www.lac.org/doc_library/lac/publications/Your_New_York_State_Rap_Sheet_2013.pdf
- **Lowering Criminal Record Barriers:** Certificates of Relief/Good Conduct and Record Sealing – http://www.lac.org/doc_library/lac/publications/LoweringCriminalRecordBarriers_rev3.pdf
- **Criminal Records and Employment:** Protecting Yourself from Discrimination - http://www.lac.org/doc_library/lac/publications/Criminal_Records_Employment_2013.pdf
- **New York State Occupational Licensing Survey -** http://lac.org/doc_library/lac/publications/Occupational%20Licensing%20Survey%202006.pdf

LAC also does a great deal of advocacy for job seekers with convictions, and their staff provides free legal assistance to job seekers throughout the state. Job seekers can call LAC at (212) 243-1313 and ask for the paralegal on call.

New York State Parole Handbook

This site has comprehensive questions and answers about parole, including conditions of release.

https://www.parole.ny.gov/intro_handbook.html#h3_6

New York State Division of Criminal Justice Services – Office of Probation and Correctional Alternatives

This link is for the general frequently asked questions page on the OPCA site.

http://www.criminaljustice.ny.gov/opca/general_faq.htm

New York State Unified Court System – Drug Treatment Courts

This statewide resource provides information on drug courts and the drug court system in New York State.

http://www.nycourts.gov/courts/problem_solving/drugcourts/index.shtml

American Bar Association – Before You Plea (Juvenile Justice System)

This site does a thorough job of explaining the juvenile justice system, with links to information about the juvenile justice systems in all 50 states.

www.beforeyouplea.com/ny

New York State Sex Offender Registry

The searchable online registry displays information for Level 2 and Level 3 sex offenders. Information about all levels of sex offenders can be obtained by calling the SOR at (518) 457-5837 or 1-800-262-3257.

<http://www.criminaljustice.ny.gov/nsor>

New York State Office of Court Administration

The OCA is a popular source for businesses and individuals to request public record information.

<http://www.nycourts.gov/apps/chrs>

Fair Credit Reporting Acts – State and Federal

Both the state and federal FCRA outline the rights job seekers have with respect to background checks.

State

<http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&QUERYDATA=@PLGBS0A25+&LIST=SEA10+&BROWSER=BROWSER+&TOKEN=46988265+&TARGET=VIEW>

Federal

<http://www.consumer.ftc.gov/sites/default/files/articles/pdf/pdf-0111-fair-credit-reporting-act.pdf>

Federal Trade Commission – Disputing Errors on Credit Reports

The FTC has a guide that explains some of consumers' credit rights and how to dispute errors that are coming up on credit reports, including a sample dispute letter.

<http://www.consumer.ftc.gov/articles/pdf-0038-how-to-dispute-credit-errors.pdf>

Law Help NY

Low-income New Yorkers can search by location and legal issue (e.g., discrimination related to criminal records and employment) to locate no-cost or low-cost legal resources nearby.

<http://www.lawhelpny.org/find-legal-help>

Article 23-A (of New York State Corrections Law)

The Department of Labor has the full text of Article 23-A available here.

<http://labor.ny.gov/formsdocs/wp/correction-law-article-23a.pdf>

New York State Division of Human Rights

Individuals can learn more about their rights under the state human rights law and file a complaint if they feel they have been discriminated against unfairly under the law.

www.dhr.ny.gov

The Doe Fund – A Guide for New York State Employers

This guide explains to employers their rights and responsibilities under Article 23-A of New York State Corrections Law. It also contains a worksheet for documenting diligence in considering factors of Article 23-A prior to hiring an individual with a criminal record.

http://www.doe.org/documents/A_Guide_for_New_York_State_Employers.pdf

Consolidated Laws of New York

This searchable site contains the text for all New York State laws, including all of those that have been referenced in this guide.

<http://public.leginfo.state.ny.us/MENUGETF.cgi?COMMONQUERY=LAWS+&TARGET=VIEW>

Alcohol Beverage Control (ABC) Law

The Consolidated Laws of New York site has the full text of the ABC Law.

<http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&QUERYDATA=@LLABC+&LIST=LAW+&BROWSER=BROWSER+&TOKEN=34030720+&TARGET=VIEW>

The Petition of Approval of Employment can be found on the State Liquor Authority's website.

<http://www.sla.ny.gov/system/files/Petition-for-Employment-of-Felon-050113.pdf>

Department of Health – Criminal History Record Check (CHRC) Unit

There is some limited information about DOH criminal history record checks at the page below.

http://www.health.ny.gov/professionals/nursing_home_administrator/dal/o8-o8_criminal_history_record_check.htm

Job seekers with questions can call (518) 408-1627 to speak with a CHRC representative.

Commercial Driving License – Hazard Materials Endorsement (HME) Restrictions

Transportation Security Administration

<http://www.tsa.gov/stakeholders/twic-hme-and-tsa-precheck-application-program-disqualifying-offensesfactors>

New York State Department of Motor Vehicles

<http://www.dmv.ny.gov/forms/haz11.pdf>

New York State Department of State – Division of Licensing Services

The New York Department of State has oversight of a number of occupational licenses in New York State, including for security guards, real estate salespersons and barbers.

<http://www.dos.ny.gov/licensing>

New York State Department of Labor – Labor Statistics

The New York State Department of Labor’s Division of Labor Statistics has the most current and accurate labor market information available, including this list of occupations licensed or certified in New York.

<http://labor.ny.gov/stats/lstrain.shtm>

New York State Division of Criminal Justice Services – Rap Sheet Requests

The DCJS Record Review Unit handles rap sheet requests in New York State.

DCJS Record Review Unit
New York State Division of Criminal Justice Services
Alfred E. Smith Building
80 South Swan Street
Albany, NY 12210
Phone: (518) 485-7675

Note: Individuals who are currently collecting government benefits (such as unemployment or public assistance), or individuals with low income who can provide a notarized statement of income may qualify for a Record Review Fee Waiver, which would waive the \$50 fee DCJS charges for processing rap sheet requests. Contact DCJS directly for more information.

Certificates of Rehabilitation

For individuals that are on probation or who have not served any time in a state prison who have one or less felony who have not served time in a state prison can get more information and an application at <http://www.criminaljustice.ny.gov/opca/faq.htm>.

For individuals that have served time in a state prison, have two or more felonies on their records, or may be required to get a Certificate of Good Conduct for occupational requirements can get more information and an application at <http://www.p parole.ny.gov/certrelief.html>.

NYSDOL Re-entry Toolkit

To access the Re-entry Toolkit, click on the link below and then click on ***Ex-Offenders*** to expand and access all of the resources in the toolkit.

<http://www.labor.ny.gov/careerservices/special-services.shtm>

NYSDOL Career Center Locator

To locate the nearest Career Center with address, hours and contact information, enter the appropriate zip code in the Career Center Locator tool below.

www.labor.ny.gov/career-center-locator

The Federal Bonding Program

NYSDOL's Federal Bonding Program page contains information about the program and a listing of all local bonding coordinators, who can provide copies of the Federal Bonding Program eligibility letter and start the bonding process once a job offer is in place.

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

The Work Opportunity Tax Credit

Businesses that hire eligible individuals, including an individual within a year of conviction or release from incarceration, can qualify for up to \$2,400 in federal tax credit.

<http://labor.ny.gov/businessservices/edsu/edsu%20wotc.shtm>

Special Populations Unit

For any questions or information related to The Road to Reentry or its content, you can contact the New York State Department of Labor's Special Populations Unit by calling (518) 485-2151 or by sending an email to SpecialPopulations@labor.ny.gov.

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