

HOW TO FILE A COMPLAINT

If you believe that you have been discriminated against because of an arrest record resolved in your favor, certain sealed records, or a youthful offender adjudication, or because of a criminal conviction record, you can file a complaint with the New York State Division of Human Rights.

A complaint must be filed with the Division within one year of the alleged discriminatory act.

The Division only accepts complaints of conviction record discrimination with regard to private employers. Those claiming discrimination by public agencies must bring an action in state court.

For more information or to make an appointment, contact the regional office nearest to your home or place of employment, or visit our website at WWW.DHR.NY.GOV.

SOME EXAMPLES:

You applied for a job and the application inquires if you've ever been convicted of a criminal offense. You don't feel comfortable disclosing your felony conviction. Do you have to answer honestly?

Yes. You must answer the question honestly. Should the employer determine at a later time that you made an intentional misrepresentation on your application, the employer may refuse to hire you or terminate your employment.

You were arrested for a criminal offense but no charges were ever filed. Can an employer inquire about this arrest?

No. It would be unlawful to inquire about this arrest in any manner, with the exception of the circumstances discussed in this brochure.

You apply for a job as a cable television installation specialist. The job requires you to install cable service in customers' homes. During the interview process, your recent conviction for aggravated assault is disclosed. You do not get the job and believe the reason is your conviction record. Is this legal?

If the employer weighed the factors described in this brochure and concluded that the conviction impacted your fitness and ability to perform the job duties, the decision would likely be in compliance with the Law.

You apply for a firearms license and disclose your five previous arrests, all of which were resolved in your favor. Your application is denied based upon your prior arrests. Is this legal?

Yes. Public agencies regulating firearms are not covered by the arrest record provisions of the Law.

PROTECTIONS UNDER
THE HUMAN RIGHTS LAW
FOR PEOPLE WITH:

**ARREST RECORDS
RESOLVED IN THEIR
FAVOR,**

**SEALED RECORDS,
and**

**YOUTHFUL
OFFENDER
ADJUDICATIONS, or**

**PEOPLE CONVICTED
OF CRIMINAL
OFFENSES**

NEW YORK STATE
DIVISION OF
**HUMAN
RIGHTS**

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It is the public policy of the State of New York to ensure that New Yorkers with arrest records resolved in their favor, sealed records, or youthful offender adjudications, and those convicted of criminal offenses, participate in the personal and economic opportunities of this State. To help facilitate this goal, the State has enacted protections under the Human Rights Law. The protections fall into the following two categories:

1. Those with an arrest record resolved in their favor, certain sealed records, or youthful offender adjudications; and
2. Those who have been convicted of criminal offenses.

THE LAW FOR THOSE WITH ARREST RECORDS RESOLVED IN THEIR FAVOR, CERTAIN SEALED RECORDS, OR YOUTHFUL OFFENDER ADJUDICATIONS...

If you have an arrest that was resolved in your favor, a sealed record, or a youthful offender adjudication, you cannot be asked about, or discriminated against on, those grounds in connection with employment, licensing, or the provision of credit or insurance.

The Law offers broad protection by declaring it unlawful to “make any inquiry about, whether in any form of application or otherwise, or to act adversely to any individual” with respect to an arrest, not then pending, that was resolved in his/her favor, a sealed record, or a youthful offender adjudication.

The protections described above do not apply to governmental agencies involved in the licensing of guns, firearms, and other deadly weapons, or in the employment of police officers or peace officers. In those situations, the agency may ask about and consider an arrest resolved in your favor, a sealed record, or a youthful offender adjudication.

THE LAW FOR THOSE WITH A CONVICTION RECORD...

You must disclose any prior convictions to your potential employer or employer if you are asked to do so. An employer or licensing agency is permitted to inquire about convictions for criminal offenses, but

may not deny employment, unless there is a direct relationship between the conviction and the license or employment sought, or unless issuing the license or granting the employment would involve an unreasonable risk to property or the safety and welfare of others.

In determining this, the employer should consider the following factors:

- New York’s public policy to encourage licensure and employment of those with previous convictions.
- The specific duties and responsibilities necessarily related to the license or employment sought.
- The bearing, if any, the criminal offense, for which the person was previously convicted, will have on his/her fitness or ability to perform such duties or responsibilities.
- The time that has elapsed since the occurrence of the criminal offense.
- The age of the person at the time of the occurrence of the criminal offense.
- The seriousness of the criminal offense.
- Any information produced by the person, or produced on his/her behalf, in regard to his/her rehabilitation and good conduct.