

Criminal History Evaluations (Article 23-A Notice)

If a background check reveals a criminal conviction, please note that **New York law (Correction Law Article 23-A)** protects individuals with prior convictions from unfair discrimination in employment. You have the right to a fair and individualized assessment of your record.

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

§ 750. Definitions

For the purposes of this article, the following terms shall have the following meanings:

1. **Public agency** shall mean the state or any local subdivision thereof, or any state or local department, agency, board, or commission.
2. **Private employer** shall mean any person, company, corporation, labor organization or association which employs ten or more persons.
3. **Direct relationship** shall mean that the nature of criminal conduct for which the person was convicted has a direct bearing on his or her 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** shall mean 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** shall mean 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 such person.

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

1. In making a determination pursuant to § 752, 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 or her 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 or her behalf, in regard to his or her 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, 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 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 78 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 New York State Division of Human Rights, as provided in Executive Law, Article 15, or by civil action in a court of competent jurisdiction.