

SEALING OLD NEW YORK CONVICTIONS



**NEW YORK PASSED A LAW IN 2017
THAT ALLOWS PEOPLE TO SEAL
UP TO TWO CRIMINAL CONVICTIONS.**

What is New York's new sealing law?

Criminal Procedure Law §160.59 allows people who have been convicted in no more than two criminal cases to apply to seal certain New York conviction(s), if it has been at least 10 years since their sentencing or release from jail or prison. Only one of the cases can be a felony.

Who is eligible to apply for sealing under the new law?

You may be eligible if at least 10 years have passed since you were sentenced on your last conviction (not counting time served in jail or prison) AND:

- ▶ You only have criminal convictions in 1 or 2 cases total.
- ▶ Only 1 of those cases includes felony conviction(s).
 - ▶ If you have more than one conviction that was “committed as part of the same criminal transaction,” that counts as a single conviction.

Convictions for the following crimes are not eligible to be sealed:

- ▶ Sex offenses defined in Penal Law Article 130
- ▶ Offenses requiring registration as a sex offender
- ▶ Sexual performance by a child defined in Penal Law Article 263
- ▶ Class A felonies
- ▶ Violent felonies defined in Penal Law § 70.02
- ▶ Felony conspiracy to commit an ineligible offense
- ▶ Felony attempt to commit an ineligible offense

NOTE: Other factors may affect eligibility.

For more information, call the Legal Action Center.

How do I apply?

To apply for sealing, you must file a motion with the court where you were convicted. You must also serve a copy on the District Attorney. In some cases, a hearing may then be

required. In deciding whether to seal your case, judges will consider factors including what you have done since your conviction(s) and how sealing your conviction(s) will help you.

Forms and instructions for applying under the new law can be found here: http://www.nycourts.gov/FORMS/cpl_160.59_sealing_application/index.shtml

If my convictions are sealed, who may see or ask about them?

If your application for sealing is approved, your court records will generally be sealed and kept confidential. Most employers will not be allowed to ask about or consider your sealed convictions.

The following people or agencies will be able to see your court record once it is sealed:

- ▶ You (or someone you choose).
- ▶ Agencies carrying out law enforcement duties (including immigration, probation, child protective services and others)
- ▶ Prospective employers for police and peace officer jobs.
Most other employers will not see sealed records.
- ▶ Agencies who review your application for a gun license, and the FBI when it runs a background check if you try to buy or possess a gun.

A conviction sealed under this section is still considered a conviction in a future criminal case where a prior conviction enhances a penalty or is an element of the offense charged.

2023 Addition

Are there any other ways to clear criminal convictions from my record?

- ▶ As of 2021, if you are a **survivor of any form of labor trafficking, including sex trafficking**, you may apply to vacate and seal any New York conviction you were forced to commit because of your exploitation. Labor trafficking means someone used force, dishonesty, or other coercive tactics to make you provide labor or services against your will. You are automatically considered a sex trafficking survivor if you were convicted of a prostitution-related offense before the age of 18. The 2021 law also created stricter confidentiality protections for people seeking relief and extended protections for immigrant survivors. For more information, contact Leigh Latimer of the Legal Aid Society Exploitation Intervention Project at 646-385-5025 or lelatimer@legal-aid.org.
- ▶ If you were **mandated to complete drug treatment as part of your sentence** and have eligible New York convictions, you may be able to conditionally seal those convictions. For more information, call the Legal Action Center.
- ▶ If you were convicted of **loitering for purposes of prostitution or certain marijuana offenses**, your convictions will be automatically expunged. Other marijuana convictions may be eligible for resentencing to a lower charge. For more information, call the Legal Action Center or visit our website (www.lac.org) to access our free resource *Know Your Rights: New York's Marijuana Expungement Law*.

What if I'm not sure what's on my record?

You should get a copy of your New York State RAP sheet. For more information, visit the Division of Criminal Justice Services website (www.criminaljustice.ny.gov) or call the Legal Action Center to ask about our free RAP sheet services.

These FAQs are general information only, not legal advice for your specific situation.

