

Restoration of Rights Project

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District of Columbia Restoration of Rights & Record Relief

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I. Loss & restoration of civil/firearms rights

A. Vote

By virtue of a law enacted in November 2020, and effective in April 2021, conviction does not result in loss of the right to vote in the District of Columbia. See [DC Council Bill 23-0324](#), Law A23-0484, amending [D.C. Code §§ 1-1001.02, .05 and .07](#). This law affirmed the right to vote by DC residents incarcerated for felony convictions as well as by qualified individuals under the purview of the Department of Youth Rehabilitation Services. It required the Board of Elections to provide an absentee ballot and voting information to those in the custody of the Department of Corrections and the Federal Bureau of Prisons.

Prior to the 2020 act, a resident of the District of Columbia who was convicted of a felony could vote if not actually incarcerated. D.C. Code § 1-1001.02(2)(D) (2019)(defining “qualified elector to include a person who is “not incarcerated for a crime that is a felony in the District”). A person incarcerated for a misdemeanor violation of D.C. Code §§ 1-1001.14 (corrupt election practices), 1-1105.07 (lobbying violations), or 1-1107.01 (miscellaneous provisions under election laws chapter) also lost the right to vote during the period of incarceration.

B. Office, jury eligibility

There are no criteria for holding office that implicate criminal record, requiring only that a person be a qualified elector and meet residency requirements. [D.C. Code § 1-1001.08](#). A Member of the City Council may not have been convicted of a felony while holding that office. D.C. Code § [1-204.02\(4\)](#).

An individual who is convicted of a felony, or charged with a felony or misdemeanor, is disqualified from jury service, but “may qualify for jury service not less than one year after the completion of the term of incarceration, probation, or parole following appropriate certification under procedures set out in the jury system plan.” § [11-1906\(b\)\(2\)\(B\)](#). Pursuant to [D.C. Superior Court policy](#) on grand jury eligibility, “If you have a prior felony conviction that is less than 10 years since the completion of your jail term, probation, or parole, you can serve as a grand juror,” referring to D.C. Code Section 11-1906(b)(2)(B), and apparent reversal of a policy in effect in 2019.

A person may not serve as a personal representative in probate of an estate if they have “been convicted and not pardoned on the basis of innocence of a felony in the District of Columbia or of an offense in any other jurisdiction which, if committed in the District of Columbia, would be a felony and the

sentence imposed for such conviction has not expired or has expired within the past 10 years.” § 20-303(b)(4). Occupational licenses in a few cases may be revoked because of a conviction. *See, e.g.*, § 3-1205.03(a)(1) (health care); § 25-301(a)(3)-(4) (liquor license, felony within 10 years, misdemeanor within five). *See generally* Washington Lawyer’s Committee for Civil Rights & Urban Affairs, *The Collateral Consequences of Arrests and Convictions under D.C., Maryland, and Virginia Law* (Oct. 2014).

C. Firearms

Restrictions: Possession of firearms is prohibited indefinitely to anyone “convicted in any court of a crime punishable by imprisonment for a term exceeding one year” or of an ‘intrafamily offense’ or stalking within the last five years. D.C. Code §§ 22-4503(a)(1), (a)(6)(A), (a)(6)(B).

“[N]o person or organization in the District shall possess or control any firearm, unless the person or organization holds a valid registration certificate for the firearm. § 7-2502.01(a). In order to register a firearm, a person must not have been convicted of a weapons offense (unless an infraction or specified misdemeanor offenses) or a felony in any jurisdiction (including a crime punishable by imprisonment for a term exceeding one year).” § 7-2502.03(a) (2). In addition, a person may not be under indictment for a crime of violence or a weapons offense, or convicted during the previous five years of a drug offense, specified offenses involving assaults or threats, two or more DUI violations, intrafamily offenses, or violations of extreme risk protection orders. §§ 7-2502.03(a)(3), (a)(4).

Restoration: No relief is specified in D.C. statute for a person dispossessed by virtue of a criminal conviction, though a presidential pardon of a D.C. Code conviction would be sufficient to eliminate any conviction-related firearms disabilities. Relief from restrictions in federal law is available under 18 U.S.C. § 925(c), but not from restrictions imposed under D.C. law.

D. Collateral consequences report

The Washington Lawyers Committee for Civil Rights and Urban Affairs issued a report in October 2014 titled *The Collateral Consequences of Arrests and Convictions under D.C., Maryland and Virginia Law*. One of its recommendations is that D.C. extend its ban-the-box policy to private employment, and that Maryland and Virginia both enact ban-the-box policies. The report does not address individualized relief in detail, but proposes to do so in a future report. *See also* the 2013 WLC report on arrest rates and their impact in the District.

II. Pardon policy & practice

A. Authority

Only the President has authority to pardon D.C. Code offenses. Eligibility, effect, and process for presidential pardon are all the same as for federal offenses. *See Federal profile.*¹

Clemency Board for D.C. Code Offenses: As part of [B22-0901](#), the Budget Support Emergency Act of 2018, the D.C. City Council enacted the Clemency Board Establishment Emergency Act of 2018, to review the applications of people with D.C. Code offenses for pardon or commutation of sentence and determine which applicants to recommend to the President. *See* D.C. Code § [24-481.01](#) et seq. The Act creates a 9-member agency within the Executive Office of the Mayor of D.C. to recommend clemency cases to the president for favorable action. Five members of the Board are to be appointed by the Mayor, and four members will serve ex officio (including the Attorney General of the District, the chair of the Council committee with jurisdiction over criminal matters and, by invitation, the U.S. Attorney and the Director of the Public Defender Service). § [24-481.04](#). The board is directed, *inter alia*, to establish criteria and an application for pardons and commutation, to conduct in-person hearings “whenever feasible,” and to determine within six months of receiving an application whether to recommend it to the President. § [24-481.03](#)(2). The board is directed to consider both cases of actual innocence, and cases of those “who are remorseful and can show that they have been rehabilitated.” § [24-481.03](#)(3). The board sends its favorable recommendations both to the President and to the Pardon Attorney in the Justice Department.

It is not clear from the legislation how cases will be disposed of in the event they are not recommended favorably by the board. Presumably, people with D.C. Code offenses may also file applications through the generally applicable federal pardon process. As of July 10, 2020, no rules implementing this law had been promulgated, and there was no mention of the board on the mayor’s website.

B. Frequency

Pardon grants to people with D.C. Code offenses have been rare in the recent past, with only two issued since 1990², although more than a dozen individuals convicted in federal court in the District have been pardoned or had their sentences commuted during that period. Source: Office of the Pardon Attorney, [Past Clemency Actions](#).

III. Expungement, sealing, and other record relief

A. Overview

Until March 2023, the District of Columbia had one of the most complex and

restrictive record relief laws in the country. See CCRC Staff, “[DC’s non-conviction sealing law is uniquely complex and restrictive](#),” March 30, 2021). See also [testimony of Margaret Love before the D.C. Council](#) on April 8, 2021 (“Compared to states across the country, DC’s record relief laws are very prohibitive and unusually complex.”). A record sealing scheme originally enacted in 2006 limited relief to certain misdemeanors and non-conviction records, required lengthy waiting periods and provided for their extension based on so-called “disqualifying” arrests or convictions, and imposed burdensome procedures for sealing even non-conviction records.

The Second Chance Amendment Act of 2022 ([D.C. Law 24-284](#), to be codified at D.C. Code § [16-801 et seq.](#)), which became final after the required period of congressional review on March 16, 2023, extended petition-based sealing relief to non-conviction records and all misdemeanors, and to all but certain felonies involving violence and sexual crimes. The new law also makes sealing automatic for non-convictions and most misdemeanors after a somewhat longer waiting period. See Section B below. The new law facilitates procedures (e.g., not all eligible records need be sealed at the same time) and eases standards and burdens of proof. Finally, the new law provides for automatic expungement of marijuana convictions and for expungement by petition on grounds of actual innocence. See Section F below. Provisions in existing law authorizing expungement for victims of human trafficking and sealing for juvenile defendants were not changed. See sections G and H below.

[D.C. Law 24-284](#) was fully funded in 2023 by Bill 25-202, the FY24 Budget Support Act of 2023, which establishes the effective date of these provisions as March 1, 2025, for most of the law and 2027 for the automatic sealing provisions.

B. Sealing of convictions and non-conviction records

1. Sealing by petition

D.C. Code § [16-806](#), as amended by [D.C. Law 24-284](#) (Second Chance Amendment Act of 2022), authorizes sealing of arrests or charges that do not result in conviction, all misdemeanor convictions, and most felony convictions (except those involving crimes of violence or sexual offenses), and arrests for being a fugitive from justice, effective January 1, 2026. § 16-806(a). Non-conviction records may be sealed at disposition; a waiting period of five years after completion of sentence is required for misdemeanor convictions and eight years for all eligible felony convictions. § 16-806(a)(3). “Completion of sentence” is defined to mean unconditional discharge, but does not require payment of monetary penalties. § 16-801(2). The waiting period applies only to the record for which sealing is sought, and a person need not petition to have all eligible records sealed (as was the case

under the 2006 law). § 16-806(h). The waiting period may be waived by the prosecutor in writing. § 16-806(e).

Non-conviction records: Prior to the 2022 law, D.C.’s sealing law extended the same burdensome procedures and standards to non-conviction records that applied to sealing of convictions. The new D.C. law provides for petition-based sealing for all non-conviction records at disposition, and there are no “disqualifying offenses” that under the old law extended the waiting period for non-conviction records. It also eases standards for sealing non-conviction records, notably deleting provisions that invited the court to consider “the weight of the evidence against the person” and any prior sealings of arrest records.

2. Automatic sealing of non-convictions and misdemeanors

D.C. Code § **16-805** requires the automatic sealing of all non-conviction records and most misdemeanor convictions, effective January 1, 2029. § 16-805(b) contains a long list of ineligible offenses, generally involving sexual offenses, child abuse, driving under the influence, and crimes of violence. A 10-year waiting period applies to misdemeanor convictions. § 16-805(a)(2).

C. Criteria for sealing

The criteria for sealing of both conviction and non-conviction records by petition are set forth in D.C. Code § **16-806**(b): The Superior Court “shall grant a motion to seal if it is in the interests of justice to do so.” § 16-806(b). Some of the factors the court must weigh are mandatory, and some are discretionary:

D.C. Code § 16-806(b) provides that in making this determination, the Court shall weigh:

(A) The interests of the movant in sealing the publicly available records of their citations, charges, arrests, or conviction;

(B) The community’s interest in retaining access to those records, including the interest of current or prospective employers in making fully informed hiring or job assignment decisions and the interest in promoting public safety; and

(C) The community’s interest in furthering the movant’s rehabilitation and enhancing the movant’s reintegration into society through education, employment, and housing.

In making this determination, the Court may consider:

(A) The nature and circumstances of the offense;

(B) The movant’s role in the offense or alleged offense;

(C) The history and characteristics of the movant, including the movant's:

- (i) Character;*
 - (ii) Physical and mental condition;*
 - (iii) Employment history;*
 - (iv) Prior and subsequent conduct;*
 - (v) History relating to substance abuse or dependence and treatment opportunities;*
 - (vi) Criminal history; and*
 - (vii) Efforts at rehabilitation;*
- (D) The time that has elapsed since the offense;*
- (E) Any statement made by the victim of the offense;*
- (F) The position of the prosecutor, if any; and*
- (G) Any other information it considers relevant.*

The 2022 law specifically directs the court to consider “The community’s interest in furthering the movant’s rehabilitation and enhancing the movant’s reintegration into society through education, employment, and housing,” and deleted a provision in the old law that allowed the court to consider “in cases terminated without conviction, the weight of the evidence against the person.”

D. Procedures and burden of proof

The court may dismiss a petition for sealing without a hearing if “it plainly appears from the face of the motion … that the movant is not eligible for relief or is not entitled to relief.” D.C. Code § 16-806(i). Otherwise prosecutor has the right to respond but is not required to do so, after which the court may grant, deny, or dismiss the petition within 180 days unless it has good cause for delay. § 16-806(i). Witnesses and other evidence may be presented at any hearing. *Id.*

In a petition filed under § 16-806(a), the burden shall be on the movant to establish by a preponderance of the evidence that it is in the interests of justice to grant relief. §§ 16-806(a)(1)(C), (a)(2)(D), and (a)(3)(B).

The new law facilitates procedures (e.g., not all eligible records need be sealed at the same time, as under the old law, and there are no “disqualifying offenses” that under the old law extended the waiting period even for non-conviction records). It also eases standards, particularly for sealing non-conviction records: it deleted a provision allowing the court to consider “the weight of the evidence against the

person” and any priors sealings of arrest records. It specifically directs the court in all cases to consider “The community’s interest in furthering the movant’s rehabilitation and enhancing the movant’s reintegration into society through education, employment, and housing.”

E. Effect of sealing

Records sealed under D.C. Code §§ 16-805 and 16-806 are placed in a non-public file but remain available to law enforcement, courts, prosecutors, licensing agencies, public employers, and schools and child care facilities, to be used “for any lawful purpose.” § 16-807(d). Sealed records may also be used in civil litigation relating to the arrest or conviction. Records may be made available to others “upon order of the Court for good cause shown.” *Id.* An individual whose record has been sealed under D.C. Code §§ 16-805 and 16-806 may deny the arrest or conviction “for any purpose”, without penalty of perjury or other provision of the law for giving a false statement. § 16-807(b). This appears to be a change from the 2006 law, which required testimony about prior arrests and convictions “in response to an inquiry from one of the entities expressly authorized to access the records.” In other words, while certain entities may gain access to sealed records, the subject of the record may lawfully deny its existence without penalty.

F. Deferred dispositions

- **Deferred adjudication for drug possession by first offender:** D.C. Code § 48-904.01(e)(1) and (2): In the case of any person found guilty of possessing drugs who has not previously been convicted of violating any drug laws and who has not previously had proceedings dismissed pursuant to this subsection, “the court may, without entering a judgment of guilty and with the consent of such person, defer further proceedings and place him or her on probation upon such reasonable conditions as it may require and for such period, not to exceed one year, as the court may prescribe.” Upon successful completion of probation the court shall discharge such person and dismiss the proceedings against him or her, and may expunge the record. A nonpublic record thereof shall be retained solely for the purpose of use by the courts in determining whether or not, in subsequent proceedings, such person qualifies under this subsection. “Such discharge or dismissal shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime (including the penalties prescribed under § 48-904.08 for second or subsequent convictions) or for any other purpose.”
- **Pretrial diversion:** The United States Attorney’s non-statutory pretrial diversion program “diverts from the trial process persons ‘without prior police records accused of some minor misdemeanor or not involving the use of force or violence.’ ” *Chavez v. United States*, 499 A.2d 813, 814 (D.C.1985) (quoting *United States v. (James) Smith*, 354 A.2d 510, 511 (D.C.1976)). Generally, first time

offenders with no significant arrest record are eligible for the program. See at 815. Persons accepted into the diversion program may be required to do at least forty hours of community service and, perhaps, to provide restitution. 1 CRIMINAL PRACTICE INSTITUTE, TRIAL MANUAL at 5.37 (1990). In exchange, the prosecutor does “not bring such person to trial but would enter a nolle prosequi.” (*James Smith*, 354 A.2d at 511. Accordingly, if the person does not commit an offense during the diversion period and otherwise successfully completes the program, that offender avoids the stigma of a criminal conviction.

G. Expungement for legalized offenses and actual innocence

D.C. Law 24-284 (see above) authorized automatic expungement of conviction and non-conviction records for decriminalized/legalized marijuana offenses (simple possession of any quantity of marijuana) under § 16-802, effective January 1, 2025. Until that date, individuals can file a petition for sealing under § 16-806(a).

A person may petition for expungement on grounds of actual innocence. D.C. Code § 16-803.

Records expunged under §§ 16-802 and § 803 are available only to courts and law enforcement, and for use in civil litigation related to the arrest or conviction. § 16-803(d). They may also be opened by a court order “for good cause shown.” This is a change from the prior standard which was only “upon a showing of compelling need.” § 16-803(d)(2). An individual whose record has been expunged under any of these expungement authorities may deny the arrest or conviction upon an inquiry made “for any purpose.” § 16-804(b).

H. Expungement for victims of human trafficking

Under D.C. Code § 22-1844(a), a person convicted of an “eligible offense” as defined in § 22-1831(5A) (any crime except those involving serious violence or sexual conduct listed in § 22-1831(5B)) may apply by motion to the Superior Court for the District of Columbia “to vacate the judgment of conviction and expunge all records identifying the movant as having been arrested, prosecuted, or convicted of the offense if the conduct of the person that resulted in the conviction was a direct result of the person having been a victim of trafficking.” Under D.C. Code § 22-1844(b), a person “arrested but not prosecuted, or whose prosecution was terminated without conviction, for an eligible offense or an ineligible offense, may apply by motion to the Superior Court for the District of Columbia to expunge all records identifying the movant as having been arrested or prosecuted for the offense if the conduct of the person that resulted in the arrest or prosecution was a direct result of the person having been a victim of trafficking.” Applicable procedures are spelled out in D.C. Code §§ 22-1845 through 22-1847.

I. Sealing of juvenile adjudication records

- **Sealing of juvenile delinquency proceedings:** See D.C. Code § 16-2335.

Upon motion by the juvenile or on its own motion, the court will order all records sealed if it finds that 1) a neglected child has reached age of majority or two years has elapsed since final discharge from custody/supervision; and 2) there have been no subsequent convictions or adjudications of delinquency. § 16-2335(a).

Subsequent convictions or adjudications will nullify the sealing order. § 16-2335(e). Upon sealing, all proceedings are treated “as if they never occurred,” including for law enforcement purposes. § 16-2335(c). Any court or agency that “shall reply, and the person who is the subject matter of the records may reply, to any inquiry that no record exists with respect to such person.” *Id.* Per D.C. Code § 16-2335(h), “a juvenile shall not be required to disclose and shall have the right to refuse disclosure of his or her juvenile delinquency history in an application for employment, education, or housing.”

- **Youth Rehabilitation Act:** Under D.C. Code § 24-901 *et seq.*, a person less than 24 years of age (raised from 22 in 2018) who is convicted of a crime other than murder or serious sexual abuse, may be given the benefit of sentencing under this act. If discharged unconditionally prior to completion of probation, the conviction is automatically set aside by the court, § 24-906(a). If the sentence expires before unconditional discharge, the conviction may be set aside by the U.S. Parole Commission, in its discretion. § 24-906(b). A conviction set aside under this section may be used as a predicate offense or to enhance a subsequent sentence, for sex offender registration, and for a firearms offense predicate. § 24-906(f). As a non-conviction record, it is eligible for sealing under D.C. Code § 16-803 (see above). This disposition has been controversial in recent times, especially as it has been broadly used in cases involving firearms crimes, and D.C. officials have **called for its limitation**.

J. Assistance

Sealing services and additional information are offered by the Public Defender Service of the District of Columbia. See <http://www.pdsdc.org/need-legal-advice/record-sealing-and-expungement>.

IV. Criminal record in employment, licensing & housing

A. Employment – ban-the-box for public and private employers

“Returning Citizen Public Employment Inclusion Amendment Act of 2010,” Chapter XX-D of D.C. Merit Personnel Act, D.C. Code § 1-601.01 *et seq.* This Act limits pre-employment inquiries for all municipal government positions except those that require a background check. D.C. Code § 1-620.42. In considering whether to disqualify an applicant for employment or terminate an existing employee based on criminal record, the employer shall consider

- (1) The specific duties and responsibilities of the position sought or held;*
- (2) The bearing, if any, that an applicant’s or employee’s criminal background will have on the applicant’s or employee’s fitness or ability to perform one or more of such duties or responsibilities;*
- (3) The time that has elapsed since the occurrence of the criminal offense;*
- (4) The age of the person at the time of the occurrence of the criminal offense;*
- (5) The frequency and seriousness of the criminal offense;*
- (6) Any information produced regarding the applicant’s rehabilitation and good conduct since the occurrence of the criminal offense; and*
- (7) The public policy that it is generally beneficial for ex-offenders to obtain employment.*

§ 1-620.43. The Fair Criminal Record Screening Act of 2014 expanded the “ban the box” policy to private employers with more than 10 employees.³ The 2014 law prohibits any inquiry into arrests or charges that are not pending and that did not result in a conviction, and bars employers from considering an applicant’s criminal convictions until after the employer has extended a conditional offer of employment. An employer may withdraw a conditional offer of employment based on an applicant’s conviction history only for a “legitimate business reason” that is “reasonable” in light of the seven factors outlined above. If an offer is withdrawn, the applicant is entitled to request within 30 days and receive a written statement explaining the legitimate business reason for the action in light of the seven factors. The applicant may also file a complaint with the D.C. Office of Human Rights (OHR), which can bring administrative proceedings against an employer that it believes has violated the law and levy fines. A portion of these fines may go to the job applicant. In contrast with other matters brought to OHR, however, the new law specifically states that it does not authorize the filing of lawsuits alleging improper denials to job applicants.

B. Limitation on employer liability

Under the Re-entry Facilitation Amendment Act of 2012, D.C. Code § 24-1351, employers will not be held liable for negligent hiring if they have made “a reasonable, good faith determination” that certain factors favored the hiring or retention of an applicant with a criminal record, including nature of the crime, duties of the position, time elapsed since conviction, information relating to rehabilitation and good character, and “the public policy that it is generally

beneficial for persons with criminal records to obtain employment.”

C. Occupational licensure: health and non-health-related

Act A23-0561, signed by Mayor Bowser on January 15, 2021, imposed a detailed regulatory scheme on most occupational licenses issued by the District, amending in similar fashion both the District of Columbia Health Occupations Revision Act of 1985, D.C. Code § 3-1205.01 et seq., and the general licensing provisions of Title 47 of the D.C. Code, § 47-2853.12 et seq., regulating non-health-related professions requiring a license (listed at § 47-2853.04). As amended, the law now provides that no one may be denied a license based on conviction of a crime unless it is “related” (in the case of health care licenses) or “directly related” (in the case of the general licensing provisions) to the occupation for which the license is sought. D.C. Code §§ 3-1205.03(a), 47-2853.12(a). Under prior law a license could be denied if a conviction “bears directly upon the fitness” of the person to be licensed. References to “good moral character” in prior law were struck.

General licensing provisions – The 2021 law establishes a pre-application petition process for individuals seeking licensure under the general licensing provisions to determine their eligibility based on a criminal conviction, which must be completed within 90 days. D.C. Code § 47-2853.12(n). (The law does not state whether an affirmative conclusion at this preliminary stage is binding on the board.) It also prohibits a board from inquiring into or considering an applicant’s criminal conviction until after the applicant is found to be otherwise qualified. After such inquiry, it may not consider a conviction that has been sealed, expunged, vacated, or pardoned, a juvenile adjudication, or non-conviction information, or one that whose elements are not found by “clear and convincing evidence” to be “directly related” to the occupation. In making this determination, a board must consider specific factors relating to the circumstances of the offense, the individual’s other record, evidence of rehabilitation, and “the District’s interest in promoting employment opportunities for individuals with criminal records.” See D.C. Code § 47-2853.17(c-1), (c-2).

Before denying a license based on a conviction a board must notify the applicant about the reasons for denial and offer a hearing, describe the information that may be provided to demonstrate rehabilitation and fitness, give the applicant an opportunity to respond, and issue a final decision within 45 business days after it receives a response. The board must also provide information on legal resources along with a hearing notice.

The Mayor must submit a report to the Council by January 1, 2022, identifying

the statutory and regulatory collateral consequences of criminal records and recommendations for their mitigation or elimination. And, by January 1 of each year, the Mayor must submit to the Council a report with data relating to each board regulating health-related and non-health-related occupations.

Legislation passed in 2006 by D.C. City Council would have included conviction as a basis of prohibited discrimination in D.C. human rights law. This legislation was vetoed by the Mayor.

D. Housing

The **Fair Criminal Record Screening for Housing Act of 2016** (enacted in 2017) is intended to “assist in the successful reintegration of those with a criminal history by removing barriers to securing adequate housing accommodations.” D.C. Code §§ **42–3541.01** et seq.

Conditional offer: Under this law, a housing provider considering an applicant as a tenant may not make an inquiry about or consider an arrest that did not result in a conviction. § **42–3541.02(a)**. A housing provider may not make an inquiry about or consider a conviction or pending criminal accusation prior to making a conditional offer. Before taking an application fee, the provider must disclose in writing the eligibility criteria and a statement that the applicant may provide evidence showing “inaccuracies within the criminal record or evidence of rehabilitation or other mitigating factors.” After making a conditional offer, the provider may only consider, for potential tenants over the age of 18: (1) a pending criminal accusation; or (2) conviction that occurred within the past 7 years, but only if the accusation or conviction is for one of 48 offenses listed in the statute, most of which are violent. § **42–3541.02(d)**.

Withdrawal of offer: A provider may withdraw a conditional offer only after determining “on balance, that the withdrawal achieves a substantial, legitimate, nondiscriminatory interest,” considering six listed factors regarding the offense, the individual, and housing safety considerations. § **42–3541.02(e)**. A written notification must be given, “with specificity, the reason or reasons for the withdrawal of the conditional offer and a notice that advises the applicant of the applicant’s right to file an administrative complaint with the Office of Human Rights.” § **42–3541.02**. Within 20 days of this notice, the applicant may request from the housing provider a copy of all information relied on in considering the applicant, which must be provided, free of charge, within 10 days of the request. *Id.*

Exclusions: These provisions do not apply to a housing provider that owns and occupies an accommodation with 3 or fewer rental units, if a federal law or regulation or D.C. law requires consideration of criminal history “for the

purposes of obtaining a housing accommodation” or allows for denial of an applicant based on certain convictions. § 42–3541.03.

Enforcement: A person may file an administrative complaint with the Office of Human Rights within one year of a violation or discovery thereof, but no private cause of action is available. If the Office of Human Rights determines that there is probable cause, it certifies the complaint to the Commission on Human Rights, who can impose fines, with half awarded to the complainant and half to D.C. §§ 42–3541.04. -.05

Reporting: Starting December 31, 2018, and on an annual basis, the Office of Human Rights must submit a report to the D.C. Council with the number of complaints and investigations and the characteristics of the providers against whom complaints were filed. § 42–3541.06.

Education: The Office of Human Rights is directed to develop a public education curriculum, provide training to housing providers and residents, and model language for housing provider forms and notices. § 42–3541.07. See <https://ohr.dc.gov/page/returningcitizens/housing>.

Immunity: The law gives housing providers immunity “from any claims related to actual or constructive knowledge of an applicant’s pending criminal accusation or criminal conviction obtained as a result of an inquiry under [this chapter](#); provided, that the applicant became a tenant or occupant of the housing provider’s housing accommodation.” § 42–3541.08.

Housing Voucher Program: In 2022, DC augmented its Housing Voucher Program to provide that “The Authority shall neither inquire about nor consider for the purposes of eligibility, admission, or continued occupancy any information about citizenship, immigration status, prior criminal arrests or convictions, or pending criminal matters.” [B-24-0907](#), DC Leg Act 24-635, amending D.C. Code §§ [6-226](#), [6-227](#).

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1. The Mayor of the District has a limited power to pardon violations of municipal ordinances, though this authority has not been used. See D.C. Code § [1-301.76](#) (Mayor may grant “pardons and respites for offenses against the late corporation of Washington, the ordinances of Georgetown and the levy court, the laws enacted by the Legislative Assembly, and the police and building regulations of the District”).



2. Beverly Ann Ibn-Tamas was convicted in D.C. Superior Court in 1976 of second degree murder while armed, and pardoned by President Biden in 2022. Albert Mack, convicted in 1982 in D.C. Superior Court of a controlled substance offense, was pardoned by President Obama in 2013. No sentences imposed under the D.C. Code have been commuted.



3. See Council of the District of Columbia, B20-0642, Fair Criminal Record Screening Act of 2014, <http://lims.dccouncil.us/Legislation/B20-0642>. ↪

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