



# FAQs about Sealing Criminal Records under new Criminal Procedure Law § 160.59

## WHAT IS THE NEW LAW?

Beginning October 7th, 2017, eligible individuals convicted of an eligible offense may request to have their records sealed if they have not been convicted of another crime for a period of 10 years from the day they were sentenced or released from jail/prison (whichever is later).

## WHO IS ELIGIBLE TO APPLY FOR SEALING UNDER THE NEW CPL §160.59?

People are eligible if they have been crime-free for at least 10 years since their conviction and/or release *and* have only two (2) convictions on their criminal record. If they have more than two (2) convictions, they may still be eligible if the convictions are related to the same one or two incidents. For example, if a person was charged and convicted of multiple crimes during one incident, the court may choose to consider those multiple convictions as one incident or conviction when considering your application.

## WHAT CRIMES ARE ELIGIBLE TO BE SEALED UNDER THE NEW LAW?

All misdemeanor convictions, other than those requiring registration as a sex offender, are eligible, and some felonies are eligible to be sealed. A person can, however, seal at most one (1) felony. Sex offenses, violent felonies, and serious felonies are not eligible for sealing.

## HOW LONG DOES IT TAKE TO SEAL A CONVICTION?

This is the first time that New York has had a sealing law like this, so the courts cannot provide an estimate yet.

## WHO CAN SEE THE CONVICTION AFTER ITS BEEN SEALED?

Members of the public (including employers or housing agencies) **will not** be able to see a conviction that is sealed.

The following entities will be able to see the sealed conviction/prosecution:

- Federal, state, and local law enforcement agencies acting within scope of their law enforcement duties;
- Courts in the unified court system;
- Probation departments;
- Sheriffs' offices;
- District attorneys' offices;
- The NY State Department of Corrections and Community Supervision;
- Departments of Correction of any municipality within New York;
- The Financial Frauds and Consumer Protection Unit of the State Department of Financial Services;
- The Office of Professional Medical Conduct of the State Department of Health;
- The Child Protective Services Units of any local departments of social services;

- The Office of Medicaid Inspector General;
- The temporary State Commission of Investigation;
- The Onondaga County Center for Forensic Sciences Laboratory when acting within the scope of its law enforcement duties;
- The division of forensic services of the Nassau county medical examiner's office when acting within the scope of its law enforcement duties;
- Any agency that issues firearm licenses or gun permits; and
- Entities and agencies employing peace officers/police officers.

### **WHAT SPECIFIC RECORDS WILL BE SEALED?**

All official court and Division of Criminal Justice Services records relating to that specific arrest, prosecution, and/or conviction will be sealed.

### **IF A RECORD IS SEALED, DOES THAT ALSO MEAN IT IS COMPLETELY DESTROYED?**

No. Sealing does not mean that the NY state government has to destroy the record.

### **CAN A PERSON SEAL CONVICTIONS FROM OUTSIDE OF NEW YORK?**

This process only applies to sealing convictions that were handed down by a court within New York State. If a person has convictions from other states, they will need to consult the laws of other states to determine whether convictions can be sealed in those states.

### **CAN AN EMPLOYER STILL CONSIDER A SEALED CONVICTION AS A REASON TO NOT HIRE A PERSON OR NOT GRANT ME AN INTERVIEW?**

No. Under the New York State Human Rights Law (NY Executive Law § 296.16), employers are not permitted to ask about or act in response to a conviction that has been sealed, except if a person is applying to be a police or peace officer. If employers ask about convictions in their job applications, they should specify that the question does not include sealed convictions.

### **WHAT IS THE PROCESS FOR APPLYING UNDER CRIMINAL PROCEDURE LAW §160.59?**

**Step 1:** Visit the New York State Courts website at [nycourts.gov/courthelp/sealed/](https://nycourts.gov/courthelp/sealed/) to obtain a copy of the required forms, which include the "Notice of Motion and Affidavit in Support of Sealing Pursuant to CPL §160.59" form and instructions. The instructions also contain a list of crimes that are ineligible for sealing.

**Step 2:** Read and follow the instructions provided to file a motion for sealing with the court.