



these people  
have something  
in common

**MAKING  
POLICY  
PUBLIC**

About 45 million people in the United States have criminal records. **That's more than one in five adults.**

These men and women have an especially hard time finding decent jobs, because most employers can't see past a criminal record. It's New York State policy to encourage the employment of men and women with criminal records. Employers have the right to consider a job applicant's record, but ARTICLE 23-A of New York Corrections Law requires employers to consider a record in a broader context.

IN NEW YORK STATE, EMPLOYERS HAVE TO CONSIDER :

*How relevant is the offense to the duties of the job?*

According to a University of California study, almost half of surveyed employers said that they would automatically reject a candidate with a record, without regard to the nature of the offense or any other individual factors. Since these figures are self-reported, the actual percentage is likely much higher.

*How long ago was the last offense?*

The risk of re-offense drops dramatically the longer a person stays crime-free. After seven years, people with records pose no greater crime risk than people without records.

*How old was the candidate when the offense was committed?*

People with records from young adulthood generally stop committing crimes as they get older. Once they hit their mid-thirties, people with records pose no greater crime risk than people without records.

*How serious was the offense?*

Most convictions in New York State are for nonviolent crimes, and many are for drug offenses that involved no violence or property crime.

*Has the candidate sought official rehabilitation?*

In New York, people with records can apply for certificates of good conduct and certificates of relief from disability from the state. Under New York law, employers have to consider these as evidence of rehabilitation.

they  
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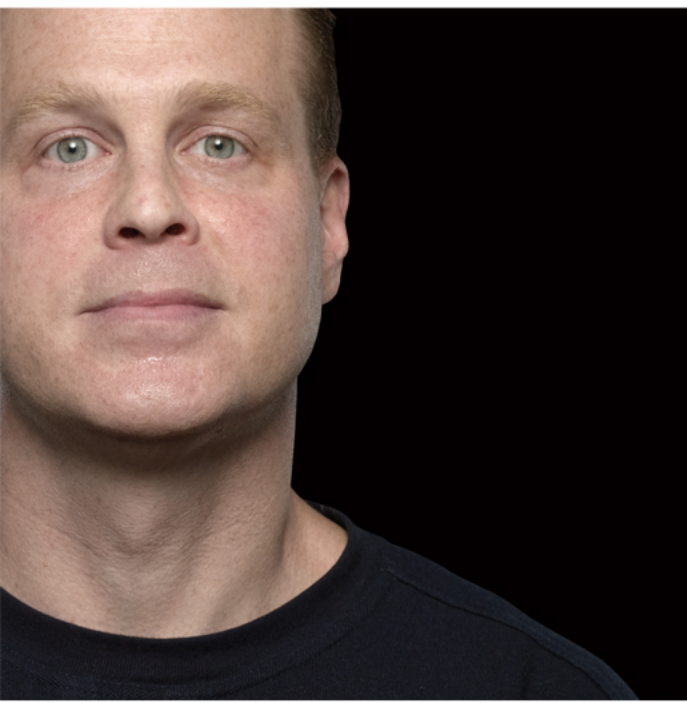
I was in the painters' union. And I was living in a halfway house for people just out of prison. The union rep sat down with me and he asked me where I lived. I told him the address. He said, "I know that address." I said, "Do you?" He said, "Yeah, I picketed that place from opening. It's in my neighborhood and I never wanted it there." Up until then, I was getting good work—\$35 an hour, \$250 a day.



As soon as he realized where I lived, I never got another day's work.

Never got a phone call. Never heard back from him.

CHRIS CARNEY



The interview that sticks out in my head was for a receptionist position. We had a really good thing going on, and then she asks the felony question. It was like, all of a sudden I saw her shoulders, her whole demeanor, her whole body language change. I eventually got hired at another company, but because I had a criminal background, I couldn't be more than a cashier. I couldn't be a supervisor, I couldn't be a night shift supervisor, I couldn't be anything but a cashier.



So I was the best damn cashier they ever had.

VILMA ORTIZ-DONOVAN



I have been trying to get a job since the day I got home. I didn't want to depend on anyone or feel like a burden. I just wanted to find work, to get my own place, and to learn to live. But every job I go to they ask about the crime. I'm not a common criminal.



I was nineteen. That was 27 years ago.

People say I have a mean look. I don't notice the mean look. I apologize for the mean look. I just want to be productive. I spent so much time not talking that I don't know what to say. I don't know what to say except that I am going to succeed no matter what anyone says.

KEVIN ULYSSES NELSON III



there's a person behind the record

# It is illegal to deny someone a job based solely on a criminal record.

§ 751. The law applies to both public and private employers. 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 been convicted of one or more criminal offenses in this state or in any other jurisdiction, and to any license or employment sought by any person whose conviction of one or more criminal offenses in this state or in any other jurisdiction has resulted in a mandatory forfeiture of a license or a disability or bar to employment is imposed by law and has not been removed by an executive order, certificate of relief, pardon, clemency or certificate of good conduct. Nothing in this article shall be construed to affect any right an employer may have with respect to an individual's misrepresentation in connection with an application for employment made by a prospective employee or an application made by a current employee.

§ 752. Employers cannot refuse to hire an applicant simply because he or she has been convicted of a crime. Unfair discrimination against persons prevented from obtaining one or more criminal offenses is prohibited. No application for a license or employment, and no employment or license sought by an individual, to which the provisions of this article apply, shall be denied or acted upon adversely by reason of the individual 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 the nature of the individual's criminal offenses and the specific license or employment sought by the individual; or (2) the issuance, denial, suspension or revocation of the license or the granting or continuation of the employment would involve an unreasonable risk to property or to the safety of specific individuals or the general public.

§ 753. Employers may consider criminal history along with other factors in a broad evaluation. Factors to be considered concerning a previous conviction; presumption. (1) In making a determination pursuant to section seven hundred fifty-two of this chapter, the public agency or private employer shall consider the following factors in determining the public policy of this state, as expressed in this article, 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 by the individual. (c) The benefit to society, the criminal offense or offenses for which the person was previously convicted may have on his fitness or ability to perform one or more such duties or responsibilities which are necessary to the issuance of the license or the production of the offense or offenses. (e) The age of the individual at the time of occurrence of the criminal offense or offenses. (f) The seriousness of the offense or offenses committed by the individual or produced on his behalf, in relation to rehabilitation and good conduct. (h) The legitimate interest of the public agency or private employer in protecting the public interest in specific individuals or the general public. (2) In making a determination pursuant to section seven hundred fifty-two of this chapter, the public agency or private employer shall create a presumption of rehabilitation in regard to the offense or offenses committed therein.

§ 754. Jobseekers with criminal records have a right to request a list of reasons for being rejected from a job. 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 by a public agency or private employer shall provide, within thirty days of a request, a written statement setting forth the reasons for the denial.

§ 755. Jobseekers with criminal records have a right to take action if they feel wrongfully rejected. Enforcement. In relation to actions by public agencies, the provisions of this article shall be enforced pursuant to the provisions of the public practice law and rules. (2) In relation to actions by private employers, the provisions of this article shall be enforced pursuant to the powers conferred upon the courts by article fifteen of the executive law, as amended, and currently, by the New York City Commission on Human Rights.