

# Sealing arrest and conviction records in New York State

## Next Door Project

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When a person is charged with an offense, that charge can be resolved in one of two ways: a non-criminal disposition or a criminal conviction. In New York, only felonies or misdemeanors are criminal convictions. **Every other ending** to a charge is non-criminal: a conviction for a violation, like disorderly conduct, an adjournment in contemplation of dismissal (or “ACD”), dismissal for any other reason, and a youthful offender adjudication. Non-criminal dispositions should be sealed. When they should be sealed differs based on the disposition, but they cannot be used against you **for civil purposes**.

### **What does it mean when a case is “sealed?”**

A sealed case will not appear on a criminal background check, **even if you are fingerprinted**. Employers can only fingerprint you if a law says they can. Laws allow fingerprinting if you want to work with vulnerable people, like children, the elderly, or people with disabilities, but even those jobs can’t see sealed cases. The only jobs that can are police and peace officers, which include firefighters, correction officers, and others who are allowed to arrest someone and carry a firearm. Sealed cases appear if you want to get a gun license.

In New York State, once an **ACD** is granted, it is effectively **sealed**, even if it isn’t sealed by the court yet. You can’t be asked about it; it should not appear on any background checks; and it can’t be used against you if it does. This rule is the same for **violation** convictions, but only in **New York City**.

### **Can’t I get my case expunged? I want all the records destroyed.**

Some states allow expungement of cases in their courts, but not New York. Sealing is the best outcome of criminal charges here.

### **What kind of convictions can be sealed in New York?**

Several options to seal felony and misdemeanor convictions have a waiting period. The clock begins running when a person is sentenced, unless they were incarcerated. Then it begins on the most recent release date. This means the clock runs even during parole or probation. Sealing is available for people who:

- Completed a **court-ordered diversion program for a substance use disorder**. If the underlying case is eligible, they may seal it, along with up to three related misdemeanors. Note: This is the only type of sealing that can be taken away, which happens if the person is convicted of a new felony or misdemeanor.

- Have **no more than two convictions**, only one of which can be a felony, after **ten years** has passed. If you ended up with more than one conviction from the same case, that only counts as one conviction; however, convictions outside of New York or in the federal system count toward the two-conviction minimum. Certain serious convictions, violent felony offenses, and sex offenses make someone ineligible, however.
- Were eligible to be adjudicated as a **youthful offender** but were not. If five years have passed with no new felony or misdemeanor convictions, you can ask a judge to adjudicate you as a youthful offender, which will seal your case. Some serious convictions are not eligible, however.
- Were convicted for possessing up to 16 ounces or selling up to 25 grams of **marijuana**. These convictions have been sealed automatically. Also, individuals with more serious convictions may petition to be resentenced to a lower level of crime.
- Were victims of **labor or sex trafficking** and committed the crime as a result of that.

### What about the Clean Slate Act?

In November 2027, the Clean Slate Act will automatically begin sealing eligible convictions after **three years** for misdemeanors and DWAI infractions and **eight years** for felonies.

When the three- or eight-year period runs, the conviction will seal as long as the person has no pending charges and is not on parole, probation, or post-release supervision for that conviction. The clock resets only if, before a case seals, the person is convicted of a new crime or is incarcerated for a parole violation. It does not restart if the person is convicted of a violation or is not incarcerated after a parole violation. Once a conviction is sealed under Clean Slate, however, it does not become “unsealed” if a person is convicted of a new crime.

Sealing under the Clean Slate is **not as strong** as sealing under the laws mentioned in the previous section. Unlike typical sealing, cases sealed under Clean Slate are visible to:

- Agencies that, using a fingerprint-based criminal background check, clear people to work at a private employer serving a vulnerable population like people with disabilities or who need a home health aide;
- Jobs with the government;
- Licenses to do a job; or
- Jobs that exclude people with certain records.

Sealing your record makes it invisible for most civil purposes.

All other entities, including landlords, educational institutions, and most employers, cannot see, ask about, or act based upon these sealed cases.

Some convictions can **never be sealed** under Clean Slate. While all drug convictions can be sealed, any other Class A felonies, along with sex offenses, cannot. A person with an ineligible conviction will still have other eligible convictions sealed, however.

**Immigration** authorities can still see cases sealed under any law, unless the charges were completely dismissed.

If you think you may be eligible for sealing or want to find out when your convictions will seal under Clean Slate, contact CSS: We may be able to help you **for free**.