

MODEL LAWS

New York State has two model laws that explicitly provide protections to people with records of arrests that did not lead to conviction. One law nullifies the effect of a criminal record disposed of in favor of the accused and the other offers additional protection by limiting the use and consideration of these records by employers, licensing agencies and providers of credit or insurance.

Model Law Limiting Inquiry Into and the Use of Arrest Records

The New York State Executive Law Section 296 (16) makes it unlawful for any employer, licensing agency, and provider of credit or insurance to inquire about in any form, or act adversely upon, information regarding arrests that terminated in favor of the accused. This law applies to both private and public employers, and explicitly forbids both asking about and using any arrests that never led to conviction (typically by dismissal or acquittal). There are exceptions for law enforcement agencies and jobs requiring gun possession

New York's Executive Law, Section 296 (16) reads as follows:

It shall be an unlawful discriminatory practice, unless specifically required or permitted by statute, for any person, agency, bureau, corporation or association, including the state and any political subdivision thereof, to make any inquiry about, whether in any form of application or otherwise, or to act upon adversely to the individual involved, any arrest or criminal accusation of such individual not then pending against that individual which was followed by a termination of that criminal action or proceeding in favor of such individual, as defined [in a separate statute], in connection with the licensing, employment or providing of credit or insurance to such individual; provided, however, that the provisions hereof shall not apply to the licensing activities of governmental bodies in relation to the regulation of guns, firearms and other deadly weapons or in relation to an application for employment as a police officer or peace officer...

Model Law Regarding the Effect of a Termination of a Criminal Action in Favor of the Accused

New York's Criminal Procedure Law, Section 160.60 makes explicit the effect of the termination of a criminal action in favor of the accused:

Upon the termination of a criminal action or proceeding against a person in favor of such person, as defined by law for this state, the arrest and prosecution shall be deemed a nullity and the accused shall be restored, in contemplation of law, to the status he occupied before the arrest and prosecution. The arrest or prosecution shall not operate as a disqualification of any person so accused to pursue or engage in any lawful activity, occupation, profession, or calling. Except where specifically required or permitted by statute or upon specific authorization of a superior court, no such person shall be required to divulge information pertaining to the arrest or prosecution.

New York's Criminal Procedure Law also provides for the sealing of information regarding arrests that did not lead to conviction. For more information on this topic, please click on Legal Action Center's [Toolkit on Sealing Arrests and Convictions](#).