

First Advantage® Corporation

Statutory Summary: A Notice to Clients Operating Within the State of New York

Federal, New York State and New York City law strictly regulate the use of criminal background reports by employers operating within the State of New York. Some of the relevant laws, and their key provisions, are set forth in the chart below.

Please note that states other than New York may have laws that contain identical or similar requirements.

NOTE:

This document is intended only as a general summary of certain requirements of these statutes. Our goal is to update this information periodically. The information contained in this document is provided for information purposes only and does not constitute legal advice. Service Provider strongly encourages its customers to consult with legal counsel regarding the applicability and effect of all of these laws.

Statute	Citation	Key Provisions
Title VII of the Civil Rights Act of 1964	42 U.S.C. §§ 2000e <i>et seq.</i>	<ul style="list-style-type: none"> In interpreting Title VII, the Equal Employment Opportunity Commission takes the position that excluding applicants from consideration for employment on the basis of their arrest or conviction records creates a rebuttable presumption of an unlawful adverse impact on Black and Hispanic applicants.
Federal Fair Credit Reporting Act	15 U.S.C. §§ 1681 <i>et seq.</i>	<ul style="list-style-type: none"> Prohibits the reporting of records of arrest older than seven years or until the governing statute of limitations has expired, whichever is longer. Prohibits the reporting of certain other adverse items of information older than seven years.
New York State Fair Credit Reporting Act	N.Y. Gen. Bus. Law §§ 380 <i>et seq.</i>	<ul style="list-style-type: none"> Prohibits the reporting of records of arrest or criminal charges unless there has been a criminal conviction for such offense, or unless such charges are still pending. Prohibits the reporting of records of convictions of crimes which, from the date of disposition, release, or parole, are older than seven years. Prohibits the reporting of certain other adverse information older than seven years.
New York Labor Law	N.Y. Labor Law § 201-f	<ul style="list-style-type: none"> Requires employers in the state of New York to conspicuously post a copy of article 23-A of the correction law and any regulations promulgated thereunder relating to the licensure and employment of persons previously convicted of one or more criminal offenses.

Statute	Citation	Key Provisions
New York Human Rights Law	N.Y. Exec. Law §§ 296(1), (15) and (16)	<ul style="list-style-type: none"> Prohibits an employer from refusing to hire or employ a person, or from barring or discharging a person, or from discriminating against a person in compensation or in terms, conditions or privileges of employment based on the person's age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status, or domestic violence victim status. Limits the circumstances in which an individual may be denied employment by reason of his or her having been convicted of a criminal offense to those set forth in N.Y. Correction Law §§ 752- 53. Prohibits an employer from making an inquiry about or acting adversely with respect to an individual based on a non-pending arrest or criminal accusation of such individual that was followed by a termination of that action or proceeding in favor of such individual (such as most convictions for violations, sealed convictions or dismissed charges).
New York Correction Law	N.Y. Correction Law §§ 752-53	<ul style="list-style-type: none"> Prohibits an employer, except under limited circumstances, from denying an application or acting adversely upon an employee based upon the applicant's or employee's having been 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 been convicted of a criminal offense. Requires employers to consider, among other things, whether there is a direct relationship between the criminal offense and the type of employment sought, whether the individual has been issued a certificate of relief or a certificate of good conduct, and eight specific factors listed in Section 753. Among the eight factors are the duties and responsibilities of the position; the bearing of the offense on the applicant's ability to perform the responsibilities; the time that has elapsed since the offense; the age of the person at the time of the offense; the seriousness of the offense; information produced by the applicant regarding his or rehabilitation and good conduct; and the legitimate interest of the employer in protecting property and the safety and welfare of individuals or the public. In making a determination, the employer shall give consideration to a certificate of relief from disabilities or a certificate of good conduct, which shall create a presumption of rehabilitation.
New York City Administrative Code § 8-107(10)	N.Y. City Admin. Code § 8-107(10)	<ul style="list-style-type: none"> Prohibits employment practices that violate N.Y. Correction Law §§ 752-53.