



DO YOU QUALIFY FOR NEW YORK'S NEW SEALING LAW?

Brooklyn Defender Services believes that nobody should be defined by the worst thing they might have done, especially not for their entire lives. A criminal record can unfortunately have just that effect. The good news is that a new state law¹ allows some New Yorkers to seal their criminal records and move on with their lives. We can help you to figure out if you are eligible and, if so, counsel you through the process.

1) **Who is eligible to have their criminal record sealed?** You are eligible to apply if:

- At least 10 years have passed since you were last sentenced or released from jail or prison, and
- You have:
 - No pending charges
 - No more than two criminal convictions
 - No more than one felony²
 - Not already sealed the maximum number of convictions allowed under CPL 160.58

2) **What convictions can be sealed?** Up to two convictions³, only one of which can be a felony which, among other exceptions, must not be a sex offense, homicide, violent felony, or Class A felony. For example:

- One misdemeanor conviction
- Two misdemeanor convictions
- One eligible felony conviction
- One eligible felony conviction and one misdemeanor conviction

¹ CPL 160.59

² Being convicted of an ineligible offense does not make a person ineligible for sealing of an eligible offense.

³ Conviction of more than one offense as part of same transaction (per P.L. 40.10(2)) is considered one conviction

3) What is the application process? (Reminder: If you are a Brooklyn resident, we can help you through it.)

- **Fill out an application.** A standard application is available online at http://www.nycourts.gov/FORMS/cpl_160.59_sealing_application/index. One application can be submitted for two offenses. The application must include:
 - Certificate(s) of Disposition
 - Sworn statement from applicant regarding other applications for sealing
 - Copy of any other application for sealing, if applicable
 - Sworn statement regarding conviction for which relief is being sought
 - Sworn statement of reason(s) why relief should be granted, including supporting documents demonstrating applicant's rehabilitation
- **Submit your application with the Sentencing Court.** The application should be submitted to the court in which the most serious conviction eligible for sealing occurred. If the offenses are of equal seriousness, the application should be sent to the court in which the most recent conviction occurred.
- **Serve the prosecutor.** The prosecutor has 45 days to object to the application:
 - If they object, the court is required to hold a hearing
 - If they do not object, the court may grant sealing without a hearing.
- **The Court issues a decision.**

4) How will the Court evaluate the application? The Court has discretion when deciding whether to grant a request for sealing. Assuming the basic eligibility requirements are met, the Court will consider any evidence put forward by the applicant and the prosecutor, and make a final decision based on multiple factors, including, but not limited to:

- Time that has elapsed since the last conviction
- Circumstances and seriousness of the convictions, and underlying arrest charges, for which the applicant is seeking relief
- Circumstances and seriousness of applicants' other conviction(s)
- Character of applicant, including efforts towards rehabilitation
- Statement by victims of any relevant offenses
- Impact of sealing on community reintegration and rehabilitation
- Impact of sealing on public safety, and
- Other relevant facts.

5) If a conviction is sealed under CPL 160.59, what does that mean? While the conviction can still be used in certain circumstances for future criminal proceedings, it should be invisible to the public, landlords, colleges, and most employers.

**Need help with sealing? Stop by BDS' Community Office at
566 Livonia, Brooklyn, NY 11207 – Monday through Friday, between 9 am and 5 pm.**