Dear New Yorkers,

For too long, the old and misguided outlawing of marijuana has unfairly punished people of color. But laws have changed recently, making recreational marijuana legal and clearing many people's records of marijuana convictions. These changes promise fairer treatment. Records of marijuana convictions will no longer block people's access to higher education, public housing, or good jobs.

To help you understand how the new law may affect you, this brochure explains which marijuana- and cannabis-related convictions can be cleared ("expunged") and when records will be removed from criminal background checks. We have also listed organizations and agencies that can help you review and get copies of your records.

Sincerely,

Letitia James

New York
Attorney General
Letitia James

Resources

If you believe someone has discriminated against you or denied you a job or housing because of a criminal marijuana conviction, contact:

Office of the New York State Attorney General Civil Rights Bureau

28 Liberty Street, New York, NY 10005
(212) 416-8250
civil.rights@ag.ny.gov
ag.ny.gov/bureau/civil-rights

For general information on the new law, contact:

New York State Unified Court System

25 Beaver Street, New York, NY 10004
(800) 268-7869
question@nycourts.gov
nycourts.gov/courthelp/Criminal/
marihuanaExpunge.shtml

To find out if your conviction is eligible for sealing, contact:

The Case Closed Project at The Legal Aid Society

(212) 298-3120
CaseClosed@legal-aid.org
legalaidnyc.org/programs-projects-units/
case-closed-project

To learn how clearing your record may affect your immigration case, contact:

Immigrant Defense Project Hotline

(212) 725-6422

To request a copy of your RAP sheet, visit or contact:

Division of Criminal Justice Services

(518) 457-9847 or (518) 485-7675
RecordReview@dcjs.ny.gov
criminaljustice.ny.gov/ojis/recordreview.htm

Marijuana Legalization and Record Expungement

Know Your Rights

Office of the New York State
Attorney General
Letitia James

Understanding New York's Marijuana Regulation & Taxation Act

- The 2021 Marijuana Regulation & Taxation Act (MRTA) gives New York courts two years to clear (expunge) records of certain convictions, including:
  - » possession of up to 16 ounces of marijuana
  - » sale of up to 25 grams of marijuana
  - » possession of up to 1 ounce of concentrated cannabis (hashish).

- This process happens automatically. You do not have to do or pay anything.

- You may be able to clear your record of other marijuana or cannabis convictions.

How does expungement work?

- Your conviction will be dismissed in your favor, and your record will be treated as if you were never convicted or arrested for this offense.

- The Office of Court Administration and the Division of Criminal Justice Services (DCJS) will mark your eligible records as expunged.

- Expunged charges:
  - » will not show up on a criminal-history background check
  - » cannot be used against you when you apply for a license, housing, a student loan, or a job
  - » do not have to be reported on a school or job application
  - » will still be visible when you apply for a gun license or for certain jobs, such as in law enforcement or the federal government.

What Can the Courts Expunge?

Convictions under the old (PL 220, PL 221, PL 240) and new (PL 222) provisions of the penal law (PL) will be automatically expunged:

- » PL 221.05: Unlawful possession of marijuana

- » PL 221.10, 221.15, 221.20: Criminal possession of marijuana in the third, fourth, or fifth degree

- » PL 221.35, 221.40: Sale of marijuana in the fourth or fifth degree

- » PL 222.25: Unlawful possession of more than 3 ounces of cannabis or more than 24 grams of concentrated cannabis

- » PL 220.06, 220.03: Criminal possession of a controlled substance (concentrated cannabis) in the fifth or seventh degree

- » PL 222.45: Sale of cannabis

- » PL 222.10: Restrictions on cannabis use

- » PL 222.15: Personal cultivation and home possession of cannabis

- » PL 240.36: Loitering in the first degree when the only substance involved was marijuana and the conviction was only a misdemeanor or violation

Can I Get Other Convictions Expunged?

Marijuana convictions other than those listed above will not be automatically expunged. To ask the court that convicted you to vacate, dismiss, or reduce the charges, or to reduce the sentence, file a CPL 440.46-a form, available on the court's website (https://nycourts.gov/LegacyPDFs/forms/criminal/pdfs/MarijuanaResentencingApplicationCPL440.46-a-fillable.pdf).

You may also want to speak to a lawyer in the following cases:

- » If you are not a U.S. citizen, because you may have to make sure that the expungement of your conviction is effective for immigration purposes

- » If you are thinking about having the physical records of your expunged conviction destroyed, because this could create other problems for you

How Does the Expungement Process Work?

- » Expungement happens automatically, so you most likely do not have to do anything.

- » Your conviction will not show up on criminal background-check searches if it falls under Article 221 (PL 221.05, PL 221.10, PL 221.15, PL 221.20, PL 221.35, PL 221.40).

- » For Articles other than PL 221, New York courts and DCJS have until March 31, 2023, to finish expunging records.

- » You will not receive a notice that your record has been expunged.

- » If your case includes a conviction for another charge in addition to an eligible marijuana or cannabis charge, only the eligible marijuana or cannabis charge will be expunged.

Get Proof

If you want proof that your record was properly expunged, request a Certificate of Disposition from the court where the case was decided or a copy of your RAP sheet from DCJS.

nycourts.gov/LegacyPDFs/forms/criminal/pdfs/CoDRequestForm-fillable.pdf

- » If you want to seal or expunge a conviction that's not related to marijuana, including sealing records under Section 160.59 of the Criminal Procedure Law (nycourts.gov/LegacyPDFs/forms/criminal/pdfs/CPL160.59SealingApplication.pdf)