

UPDATING NEW YORK STATE'S EMPLOYMENT RESTRICTIONS

for People with Criminal Convictions

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Introduction

The journey back to society after a criminal conviction is filled with legal hurdles that make stable employment hard to find. Many states — including New York State (NYS) — have passed or are in the process of passing “Clean Slate” laws. These require automatic criminal record expungement, sealing, and other forms of relief after a certain time and under other specific criteria.¹ One common objective is to decrease *private* discrimination by employers. This theoretically increases justice-impacted individuals’ access to work and related protective factors. However, these initiatives often do little to address *public*, government-imposed collateral consequences resulting from statutory and regulatory occupational restrictions.

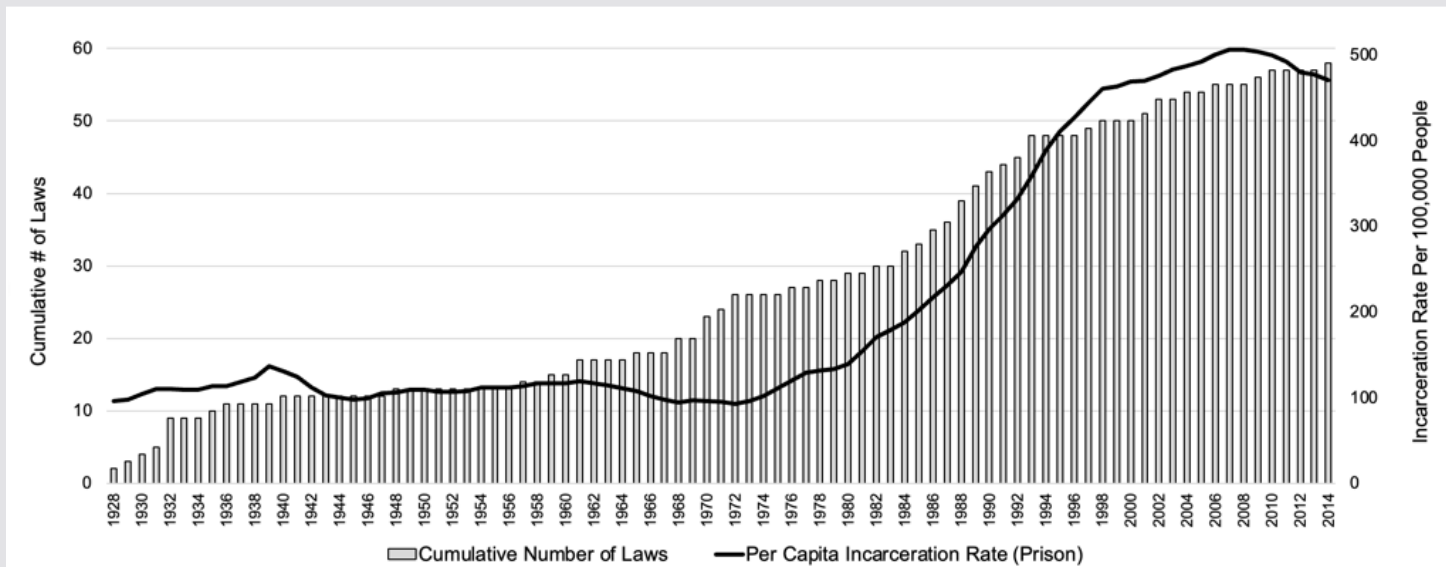
As NYS continues to implement reforms to increase rehabilitation and reduce perpetual punishment, policymakers must examine laws and regulations that impose restrictions on employment, training, and income security. Work restrictions are one type of *collateral consequence* of justice involvement.²

Collateral consequences are statutory, regulatory, or administrative rules restricting access to rights and entitlements such as housing, voting, benefits, driver’s licenses, bank accounts, etc.³ These restrictions often extend beyond a formal sentence. Sometimes they follow a person for life.⁴ Restrictions to work make up the majority of all collateral consequences.⁵

Employment Restrictions Research

In the U.S., there are tens of thousands of laws that restrict access to work for people with convictions.⁶ Research by Cornell University found that the number of federal laws restricting work access for people with convictions grew dramatically during the peak era of mass incarceration (see Figure 1).⁷ This indicates that such lawmaking might be tied to punitive ideologies, rather than public safety and rehabilitation efforts.

Figure 1. Cumulative Federal Work Restriction Laws & Imprisonment Rate, 1928-2014





New York State Examples

Legal restrictions to work often exist in sector- and industry-specific rules. They are often a minor provision within broader workplace regulations. Many restrictions create mandatory bans, while others allow discretion for employers or regulators.⁹ Some merely impose background check or notification requirements.¹⁰ Many discretionary restrictions still result in denials — overturnable by a state Certificate of Relief from Disabilities (CRD) or Certificate of Good Conduct (CGC).¹¹ Mandatory rules result in automatic disqualification. The trend in NYS is to move towards discretionary provisions. But there are often competing mandatory and discretionary provisions even in the same industry.¹²

In NYS, most job sectors are subject to some restriction. Using the National Inventory of Collateral Consequences of Conviction (NICCC),¹³ we identified sectors subject to broad *mandatory* restrictions based on any felony conviction — or a broad category of convictions — in NYS.

Table 1 (page 8) samples NYS mandatory restrictions for a broad category of convictions. Many of these require review. Sometimes, a rule applies to multiple sectors at once (e.g., Education/Childcare/Arts & Entertainment; Agriculture/Retail; Professional Activities/Public Administration).

NYS currently has nearly 500 laws and regulations imposing collateral consequences to employment. 20% of these are *mandatory* and apply to a broad range of convictions — in many cases *any* felony conviction.¹⁴ Most are indefinite, meaning they do not specify when the restriction will be lifted.¹⁵ Others are time limited.¹⁶ While the intentions of these restrictions may try to protect vulnerable populations and uphold public trust, they frequently lack

We found significant restrictions in:

- Human Health & Social Work
- Public Administration
- Transportation
- Financial & Insurance Activities
- Construction
- Professional, Scientific, & Technical Activities
- Arts, Entertainment, & Recreation
- Agriculture, Forestry, & Fishing
- Manufacturing
- Wholesale & Retail

subtlety. They end up automatically disqualifying people based on any felony conviction, regardless of job duty relevance. Some rules in NYS are in fact narrowly tailored and contain a rational basis for the restriction. For example:

- Auctioneer license restrictions for offenses of fraudulent misrepresentation of goods at auction;¹⁷
- Rules restricting lobbying because of crimes related to political corruption;¹⁸ and
- Rules restricting access to childcare positions because of youth endangerment offenses.¹⁹

The objective of this brief is not to recommend that rationally based, narrowly tailored restrictions be repealed, but rather to identify areas where restrictions do not meet those criteria. Next, we turn to examples of restrictions that range from confusing to unduly punitive.

POLICY RECOMMENDATIONS

In this section, we provide examples of overly burdensome NYS restrictions and provide five recommendations for reform. Even within one sector, rulemaking is often inconsistent. As noted above, the Health and Social Work sector is heavily regulated for policy reasons like: (1) patient vulnerability; (2) public safety; and (3) job-related access to regulated items like pharmaceuticals. This sector contains restrictions that range from simple reporting and background check requirements,²⁰ to blending discretionary with mandatory restrictions narrowed to only person-based and relevant offenses.²¹ Some impose outright, mandatory restrictions based on any felony conviction ever.²²

Let's review examples. NYS Public Health Law allows for the **denial**, **suspension**, or **revocation** of radiation therapy licenses based on a felony conviction. The statutory language reads:

"No person convicted of a felony shall...hold a license to practice radiologic technology, unless he or she has been granted an executive pardon, a certificate of relief from disabilities or a certificate of good conduct...and, the commissioner at his or her discretion, restores the license after determining that the individual does not pose a threat to patient health and safety."

N.Y. C.L.S. Pub. Health § 3510(2)(a).

First, the positives. This restriction does allow for some discretion, and the policy objective is clearly stated. However, the discretion only applies to license **restoration**. Importantly, some restrictions apply only to felonies committed **during** employment,²³ while others are retroactive. The restriction itself, which also applies to license refusals,²⁴ favors blanket denials for all felonies. Although the rule earlier specifies certain crimes which have "a direct relationship to the employment or licensure at issue,"²⁵ this requirement is subsequently undone.²⁶

Contradictory language is a common problem. While in theory the relationship between certain felonies and patient safety is rational, the vast majority of felonies do not involve person-based or violent offenses.²⁷ So the relationship of most felonies to a "radiation technologist" position is unclear at best. A review of relevant NYS job postings for radiation technologists confirms that regular job duties do not apply to all felonies.²⁸ Rules like this require review to ensure coverage of only relevant convictions.

RECOMMENDATION #1

All 500 NYS laws should be reviewed for language covering all felonies. By definition, such language is not narrowly tailored to actual job duties.

One example of state-level reforms has been to require that restrictions only cover offenses that are "substantially related" to job duties, rather than merely "related."²⁹

RECOMMENDATION #2

NYS should adopt uniform requirements across all restrictions requiring that only convictions "substantially related to actual job duties" are covered.

Other rules in the same sector are more artful and make sure that restrictions only apply to offenses directly related to a public policy objective, such as client safety. Take this example from respite care:

"Respite consisting of paid supervision shall...utilize only workers who have been screened for any history of client abuse and any history of conviction for a related felony." 9

N.Y.C.R.R. § 6654.18(d)(1).

This language is more narrowly tailored. It requires only denials based on histories of "client abuse" or related felonies. It is also more discretionary in that the employer — and regulating bodies — have leeway in deciding what counts as a "related felony." The introduction of discretion wherever possible is a progressive practice. Neither of the above rules contain **duration limits**. While certificates of relief and other pathways to removing the restriction are present, time is not explicitly a factor in the ban.



These are common issues. Even where rules **do** allow covered individuals to pursue relief, it is up to the job or license seeker, and there is no automatic time limit. Getting CRDs and CDGs can be a difficult, time intensive process, and evidence from NYS suggests that access rates of these and similar options are low.³⁰ Making it the responsibility of the individuals to seek relief is likely not the most effective approach. One best practice is the use of **automatic duration limits**. We can call such limits a “best practice” because in the empirical research literature, **time** is one of the strongest predictors of reoffending for people convicted of low- and mid-level offenses.³¹ So, restrictions should reflect the fact that age and time since last offense are two of the strongest predictors of reduced likelihood of reoffending.

RECOMMENDATION #3

Except for the most serious, job-related offenses, all restrictions should contain automatic duration limits.

As we will see, almost all NYS employment restrictions require some correction to align with progressive lawmaking efforts. Let’s turn to a new sector (transportation), and a rule covering “accident prevention instructors”:

“An instructor of a motor vehicle accident prevention course must...have not been convicted within 10 years prior to becoming an instructor of a felony or crime involving violence, dishonesty, degeneracy, moral turpitude, deceit... theft, forgery, making false written statements, rape, perjury, fraud or bribery.” 15 N.Y.C.R.R. § 138.7(b)(7).

This example **does** introduce an automatic duration limit (10 years) and specifies felonies covered by the rule. However, the list of felonies sounds nearly random. It is also difficult to identify any substantial relationship to the job duties of an accident prevention instructor for many of them. It is also odd that there is no mention of driving or safety-related felonies. This illustrates a lack of narrow tailoring.

Ten years is also a long limit for most felonies and can run counter to policy efforts that attempt to quickly reconnect returning citizens to employment. Let’s review another transportation example that contains a shorter duration limit (5 years). But, this one is not narrowly tailored to actual job duties. State law on stevedore licenses requires that a prospective licensee organization:

“Does not have...any individual [under employment] who has been convicted of a felony within the preceding five years.” 21 N.Y.C.R.R. § 3.2(b)(3).

While this provision goes on to list specific felonies - such as racketeering and association with organized crime, terrorist groups,



or drug cartels - read literally the law constitutes a blanket restriction based on any felony conviction, and a mandate on organizations pursuing stevedore licensing.

Now let’s turn to two other highly regulated sectors: financial services and professional services. Historically, the financial sector has been one of the most highly regulated.³² Financial employment is hard to navigate because of rules that are differently applied, require retroactive and proactive reporting rules and other factors. While not all of these rules are unreasonable, the array of restrictions are highly difficult to navigate, and in practice (if not literally) can functionally exclude people with criminal convictions from a large swath of jobs. As an example, let’s review the rule covering insurance adjusters:

“No such license shall be issued to any person who has ever been convicted of a felony, or of any crime or offense involving fraudulent or dishonest practices...nor shall a licensee under this section employ any person who has ever been convicted of a felony or such a crime or offense.” N.Y. C.L.S. Ins. § 2108(3).

This example is highly restrictive. Deceptively, the statutory language does mention specific, narrowly tailored felony offenses (“fraudulent or dishonest practices”). However, this follows the coordinating conjunction “or,” and a prior statement that essentially restricts access to the profession for “any person who has ever been convicted of a felony.”³³ This is broad, mandatory, and contains no durational limit. Additionally, the rational relationship of many felonies to the profession of “insurance adjuster” is highly tenuous.³⁴ This adds to the potential need for scrutiny in rules like this, especially where they ban access to professions that are upwardly mobile and pose comparatively minimal societal risk. By contrast, mandatory rules covering certified public accountants are more narrowly tailored to a rational public policy basis, specifying that the restriction applies only to crimes such as fraud, bribery, or racketeering.³⁵

Another example, from the professional services sector, can be found in NYS restrictions on fire and security alarm technicians.

Different parts of the state code contain competing rules. One of these attempts to tailor the restriction to specific offenses like theft and forgery.³⁶ Another appears to institute a blanket restriction where “it is determined that such employee has been convicted of such a felony or has a criminal action pending.”³⁷ Neither provision states a duration limit. Many professional activities vaguely involve the public trust. But related restrictions are not tailored to actual job duties in any way. Take this discretionary rule covering employment as a private security guard:

“No security guard company shall knowingly employ to perform security guard functions, any individual...who has been convicted of a serious offense, or of a misdemeanor in the state or of any offense in any other jurisdiction which, if committed in this state, would constitute a misdemeanor, and which, in the discretion of the secretary, bears such a relationship to the performance of the duties of a security guard, as to constitute a bar to employment”. N.Y. C.L.S. Gen. Bus. § 89-g(3)(a).

This example appears to be discretionary. But there are confusing “or” statements that make it unclear whether “serious offense[s]” are subject to blanket restriction. Nevertheless, the proviso contains language requiring that the offenses “bear[...]a relationship to the performance of the duties of security guard.”³⁸ Again, we would recommend updating this language to require a “substantial relationship” to work duties. We would also recommend clarifying whether that condition applies to all of the felonies and misdemeanors mentioned in the restriction. And, we would recommend removing misdemeanors from coverage.

RECOMMENDATION #4

“Or” conjunctions that apply coverage to an overbroad array of felonies should be removed from all restrictions. Except in instances of a “substantial relationship” to actual job duties, all misdemeanor offenses should be removed from restrictions.

A final recommendation simply involves the need for as many of the restrictions on the books to be made discretionary as possible. Discretionary restrictions can still pose significant barriers. Mandatory restrictions — which make up about 20% of all restrictions — should only be used in instances of severe offenses that bear a substantial relationship to actual job duties. It is also important that these rules specify which **types** of jobs within a sector and industry are prohibited. For example, certain offenses might affect a person’s ability to work in direct service/client roles but not in maintenance or other roles. All laws and regulations should tailor the types of jobs covered as much as possible to reduce artificial narrowing of the labor market for returning citizens.



RECOMMENDATION #5

All mandatory restrictions should be reviewed to ensure automatic denials only for offenses that are severe, recent, and substantially job related. Robust, uniform due process and transparency protections should cover discretionary rules.

To close, let’s return to the Healthcare sector, which illustrates many of the above points. This sector exemplifies the importance of also reviewing discretionary restrictions, which can be as much a source of **artificial labor market narrowing** as mandatory bans. According to the U.S. Bureau of Labor Statistics, employment in healthcare occupations is projected to grow much faster than the average for all other occupations during the next decade, with about 1.8 million openings projected each year.³⁹ Healthcare support jobs are essential, entry-level employment providing access to the middle class. NYS and the rest of the nation are also facing a labor shortage crisis related to healthcare and disability service provision.⁴⁰

State law requires that all healthcare support workers - including certified nurses’ aides, home health care aides, and host of other positions such as, cooks, janitors, and cleaners - must have their criminal histories reviewed by the Department of Health (DOH).⁴¹ NYS Executive Law § 845-b is an example of criminal history employment clearance restrictions that are both mandatory and discretionary. They are both hyper specific and grossly overbroad. To begin with, DOH employment clearance review is overbroad in that clearances review is not tailored to employment position or job role. So, by definition these are not “substantially related” to “actual job role.” Under this provision, jobs requiring personal contact with patients are reviewed in the same capacity as the nursing homes cooks and cleaners, who certainly do not have any direct contact with patients in a nursing home. For example, individuals who work in the cleaning department of a nursing home may be denied employment because of a misdemeanor Drinking While Driving (DWI) offense, despite having no driving responsibilities.

Regarding offenses covered, the statute specifically restricts individuals with convictions for endangering the welfare of people with disabilities and vulnerable elderly populations.⁴² This, of course, makes perfect sense. No critic would argue that these specific crimes are not “substantially related” to the “actual job role” of providing healthcare to elderly or disabled groups. The statute also restricts access based on crimes related to stealing prescription medications, with a ten-year restriction.⁴³ Again this appears rational, narrowly tailored, and imposes an arguably reasonable duration limit. However, the statute also contains extremely broad presumptive disqualifications of any Class A felony (without durational limit).

The rights of people with Class A felonies may not immediately draw sympathy from the general public. However, upon closer review it is easy to see how bias against such people with these types of convictions and failure to actually ensure public safety are at play. For example, this presumptive disqualification would cover someone convicted at the height of the War on Drugs for a Controlled Substance offense. Presumptive disqualification for Class A felonies also has impacts on individuals’ ability to be caretakers for their own elderly or disabled relatives.

Similarly broad restrictions cover person offenses (with a 10-year durational limit). In other words: crimes where the victim is an individual. While again these are unsavory, the statutory language risks going too far by including Class B or C felonies that are not substantially related to actual jobs. While sex crimes and violent crimes are understandably covered, so too are crimes like First-Degree Welfare Fraud, Criminal Mischief, Computer Tampering, and other Class B and C felonies that disproportionately penalize poorer communities.⁴⁴ This rule highlights the fact that even well-intentioned, discretionary rules can be overbroad and create issues of fairness and due process.

Conclusion

The collective effect of these restrictions substantially limits job markets for individuals with criminal records. This results in sky-high unemployment levels reminiscent of the Great Depression. Against this backdrop, the role of state legislators and policymakers in modernizing these rulemaking becomes crucial to prevent the perpetuation of punitive measures.

NYS has made commendable strides in this regard, but efforts have been uneven and mostly sector specific. There’s an urgent need for a shift from broad, automatic, punitive restrictions to more narrowly tailored, discretionary ones. Emphasis should be on advocating for individualized assessments, with outright bans being a last resort, and applicable only when the conviction is recent and aligns with policy objectives like public safety. It is also crucial to underscore the value of public sector employment, with the government setting the standard as a “model employer.”



Table 1. Sample Industry and Sector Mandatory Restrictions in New York State

Industry	Sector	Sample Rules & Regulations
Residential Care	Health & Social Work	10 N.Y.C.R.R. § 402.7 (employment in home/long-term care agency)
Disability Services	Health & Social Work	14 N.Y.C.R.R. §§ 633.22, 687.4, 701.6 (disability services); 14 N.Y.C.R.R. §§ 550.6, 595.6; N.Y. C.L.S. Exec. § 845-b (health services provider)
Eldercare	Health & Social Work	9 N.Y.C.R.R. § 6654.18 (respite services)
Childcare	Health & Social Work	10 N.Y.C.R.R. § 7-2.5 (children's camp director); 18 N.Y.C.R.R. § 418-1.13 (child daycare center); 18 N.Y.C.R.R. § 414.13; 14 N.Y.C.R.R. § 594.6
Education	Health & Social Work	8 N.Y.C.R.R. § 83.6 (teacher certification); N.Y. C.L.S. Educ. § 3035 (district/charter/private school staff); N.Y. C.L.S. Educ. § 305 (administrator)
Healthcare	Health & Social Work	N.Y. C.L.S. Pub. Health § 3510 (radiation therapy license)
Commercial Driver	Transportation	N.Y. C.L.S. Veh. & Tr. §§ 401, § 509-f; 514-a (taxi driver, bus driver, commercial driver); 15 N.Y.C.R.R. § 138.7-9 (accident prevention instructor)
Shipping	Transportation	21 N.Y.C.R.R. § 3.2 (stevedore); N.Y.C.L.S. Unconsol., Ch. 307 § 1 (pier super)
Public Accountant	Professional Activities	10 N.Y.C.R.R. § 98-3.6; 11 N.Y.C.R.R. § 89.5 (certified public accountant)
Lobbying	Professional Activities	N.Y. C.L.S. Legis. § 1-c (lobbyist)
Attorney	Professional Activities	N.Y. C.L.S. Jud. § 90 (attorney); N.Y. C.L.S. Jud. § 499-f (prosecutor)
Notary Public	Professional Activities	N.Y. C.L.S. Exec. § 130
Private Security	Professional Activities	N.Y. C.L.S. Gen. Bus. § 89-g (security guard)
Auctioneer	Professional Activities	N.Y. C.L.S. Gen. Bus. § 24 (auctioneer license)
Alarm Technician	Professional Activities	19 N.Y.C.R.R. § 195.15; N.Y. C.L.S. Gen. Bus. § 69-q (security/fire alarms)
Insurance	Financial Services	N.Y. C.L.S. Ins. § 2108 (insurance adjuster)
Stocks, Bonds, & Securities	Financial Services	N.Y. C.L.S. Gen. Bus. § 359-g; 13 N.Y.C.R.R. § 10.4; 3 N.Y.C.R.R. §§ 403.5, 405.5 (securities, banking & lending); 3 N.Y.C.R.R. § 420.19 (mortgage loans)
Public Works	Construction	N.Y. C.L.S. Labor § 861-e (officer of construction contractor); 21 N.Y.C.R.R. § 9602.3 (general contractor for NYC schools)
Civil Office	Public Administration	N.Y. C.L.S. Pub. O. § 3 (civil office)
Public Order & Safety	Public Administration	N.Y. C.L.S. Pub. A. § 1204 (transit authority patrolman); N.Y. C.L.S. Standards & Admin. Pol. § 36.2 (court personnel); N.Y. C.L.S. Correc. § 22-a (corrections officer); N.Y. C.L.S. Pub. A. § 1266-h; N.Y. C.L.S. Town § 151; N.Y. C.L.S. Vill. §§ 10-1010, 10-1012 (police/fire department officers/staff)
Election Staff	Public Administration	N.Y. C.L.S. Elec. §§ 3-418, 5-206 (election monitor/inspector/poll clerk)
Social Security	Public Administration	N.Y. C.L.S. Ins. § 4413 (employment in employee welfare fund)
Land Use	Public Administration	N.Y. C.L.S. E.C.L. §§ 21-0701, 21-1301 (river basin commissions); 21 N.Y.C.R.R. § 4.6 (emergency employment at waterfront commission)
Gambling & Betting	Arts, Entertainment, & Recreation	9 N.Y.C.R.R. §§ 4607-4608, 4820.35 (games of chance); N.Y. C.L.S. Gen. Mun. § 481 (bingo); N.Y. C.L.S. Racing & Wagering § 1318-1323 (casinos)
Chemical Products	Manufacturing	N.Y. C.L.S. Labor §§ 459, 909 (asbestos handling; explosives company); 10 N.Y.C.R.R. § 80.11 (controlled substances manufacture/distribution)
Wildlife	Agriculture	6 N.Y.C.R.R. § 183.2, 184.3 (license issuing officer, wildlife rehabilitator)
Retail	Wholesale & Retail	13 N.Y.C.R.R. § 200.2 (prospective franchisee); N.Y. C.L.S. Gen. Bus. § 64 (second-hand goods dealer); N.Y. C.L.S. Tax. § 480 (Tobacco wholesaler); N.Y. C.L.S. Pub. Health § 3365 (marijuana grower/dispensary); N.Y. C.L.S. Al. Bev. § 102; N.Y. C.L.S. Al. Bev. § 126 (alcoholic beverages license)
Other Services	Other Services	N.Y. C.L.S. Unconsol. Ch. 139, § 34 (garbage/refuse disposal); N.Y. C.L.S. Gen. Bus. § 750-e (pet cemetery/crematorium license); N.Y. C.L.S. Ins. § 6802 (bail bonds); N.Y. C.L.S. Unconsol., Ch. 307, Pt. V, §§ 8, 11 (labor organizer)

Endnotes

- 1 See, e.g., New York State Assembly, *The Clean Slate Act*, A.1029-C (2023).
- 2 Caleb Foote, *Pardon Policy in the Modern State*, 39 PRIS. J. 3 (1959).
- 3 Alessandro Corda, Marti Rovira & Andrew Henley, *Collateral Consequences of Criminal Records From the Other Side of the Pond: How Exceptional is American Penal Exceptionalism?*, CRIMINOLOGY & CRIM. JUST. 1 (2023).
- 4 JAMES B. JACOBS, *THE ETERNAL CRIMINAL RECORD* (2015).
- 5 JOHN MALCOLM & JOHN-MICHAEL SEIBLER, *COLLATERAL CONSEQUENCES: PROTECTING PUBLIC SAFETY OR ENCOURAGING RECIDIVISM* (2017) (noting that 60-70% of the 46,000 state and local collateral consequences in the U.S. apply to employment).
- 6 *Id.*
- 7 MATT SALEH, TIMOTHY MCNUTT, JODI ANDERSON JR., ETHAN MULROY, SAMANTHA NA, & SARINA ZHOU, "CIVIL DEATH" AND LABOR MARKET ALIENATION: COMPARATIVE ANALYSIS OF LEGISLATION LIMITING ACCESS TO WORK FOR THE JUSTICE IMPACTED IN OECD COUNTRIES, CONFERENCE PAPER PRESENTED AT THE INTERNATIONAL LABOUR ORGANIZATIONS 5TH ANNUAL REGULATING FOR DECENT WORK CONFERENCE.
- 8 See, e.g., Federal Alcohol Administration Act of 1935, 27 U.S.C. § 204(a)(1)-(2) (U.S.);
- 9 See N.Y. C.L.S. Pub. Health § 230 (medical practitioner license); 9 N.Y.C.R.R. § 6190.6 (forensic laboratory); 18 N.Y.C.R.R. § 417.2 (family day care); N.Y. C.L.S. Agr. & M. § 96-f (slaughterhouse license); 3 N.Y.C.R.R. § 403.4 (sales finance company); N.Y. C.L.S. Agr. & M. § 129 (commercial feed registration); 19 N.Y.C.R.R. § 160.13 (hairdressing/cosmetology license).
- 10 See, e.g., 15 N.Y.C.R.R. § 6.17 (requirement of notifying employer of motor vehicle conviction for bus drivers).
- 11 DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION, CERTIFICATE OF RELIEF / GOOD CONDUCT & RESTORATION OF RIGHTS, <https://on.ny.gov/3EWcpyJ>; DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION, CERTIFICATE OF RELIEF FROM DISABILITIES - CERTIFICATE OF GOOD CONDUCT APPLICATION AND INSTRUCTIONS, 1, <https://bit.ly/3ZspOYU>.
- 12 Compare N.Y. C.L.S. E.C.L. § 71-2703 (solid waste management and resource recovery facilities) and N.Y. C.L.S. E.C.L. § 71-2703 (waste transporting) with N.Y. C.L.S. Unconsol. Ch. 139, § 34 (garbage/refuse disposal); compare N.Y. C.L.S. Racing & Wagering § 220 (horse racing licensee) with 9 N.Y.C.R.R. § 4404.1 (regional off-track betting corporation); compare 6 N.Y.C.R.R. § 325.23 (pesticide application business) with N.Y. C.L.S. Labor § 459 (asbestos handling business).
- 13 NATIONAL REENTRY RESOURCE CENTER, NATIONAL INVENTORY OF COLLATERAL CONSEQUENCES OF CONVICTION (2023).
- 14 This mirrors national trends. See COUNCIL OF STATE GOVERNMENTS JUSTICE CENTER, FAIR CHANCE LICENSING: REGULATORY SUCCESSES AND PERSPECTIVES (2023) (about one-quarter of employment restrictions nationwide are mandatory, meaning that they must be imposed without exception if the person has a disqualifying conviction).
- 15 See, e.g., N.Y. C.L.S. Veh. & Tr. § 514-a; 18 N.Y.C.R.R. § 402.2; 10 N.Y.C.R.R. § 98-3.6; N.Y. C.L.S. Veh. & Tr. § 509-f; 3 N.Y.C.R.R. § 403.4; 21 NYCRR § 4.6.
- 16 See, e.g., N.Y. C.L.S. Labor § 909.
- 17 N.Y. C.L.S. Gen. Bus. § 24.
- 18 N.Y. C.L.S. Legis. § 1-c.
- 19 See, e.g., 10 N.Y.C.R.R. § 7-2.5; 18 N.Y.C.R.R. § 418-1.13; 18 N.Y.C.R.R. § 414.13; 14 N.Y.C.R.R. § 594.6.
- 20 10 N.Y.C.R.R. § 405.3 (hospital staff); N.Y. C.L.S. Pub. Health § 2803-e (medical practitioner); 14 N.Y.C.R.R. § 633.5(6)-(7) (employment/volunteer position at entity affiliated/contracting with Office of Persons with Developmental Disabilities).
- 21 10 N.Y.C.R.R. § 402.7(2)-(5) (limiting mandatory restrictions in long-term care settings only to felonies such as sexual, violent, and welfare endangerment offenses committed in prior 10 years; requiring discretionary administrative review for other felonies/misdemeanors); 14 N.Y.C.R.R. § 550.6(ii)(a)-(d) (similar in disability services context); N.Y. C.L.S. Exec. § 845-b (similar). Many mandatory bars in the healthcare sector are both very specific and very vague at the same time. For example, under N.Y. C.L.S. Exec. § 845-b, The Criminal History Record Check (CHRC) system is used to process all applications for unlicensed staff with patient or patient property contact at all health care facilities subject to regulation. This affects a huge swath of workers in regulated facilities (Nursing Homes, Hospice, Adult Care Facilities and Home Health Care) but also including all non-licensed staff (i.e. Certified Nurses Aides and Home Health Care Aides but also cooks, janitors, cleaners, drivers and other non-licensed staff at these facilities).
- 22 N.Y. C.L.S. Pub. Health § 3510(a)-(b).
- 23 See, e.g., N.Y. C.L.S. Jud. § 90(4)(a)-(e) ("any person being an attorney and counsellor-at-law who shall be convicted of a felony...shall...cease to be an attorney...for the purposes of this subdivision, the term felony shall mean any criminal offense classified as a felony under the laws of this state...or...any other state, district, or territory..."); N.Y. C.L.S. Jud. § 499-f (similar rule for prosecutors); N.Y. C.L.S. Pub. Health § 230 (medical practitioner license suspension).

- 24 N.Y. C.L.S. Pub. Health § 3510(1)(p).
- 25 N.Y. C.L.S. Pub. Health § 3510(1)(m).
- 26 N.Y. C.L.S. Pub. Health § 3510(2)(b) (“A conviction of a felony shall include the conviction of a felony by any court in this state or by any court of the United States or by any court of any other state of the United States”).
- 27 See U.S. DEP’T OF JUST., FED. BUREAU OF INVESTIGATION, CRIME IN THE UNITED STATES, 2019 (2020), <https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019/topic-pages/persons-arrested.pdf> [<https://perma.cc/XL4W-BSTP>]; Matt Saleh, *Falling Away into Disease: Disability-Deviance Narratives in American Crime Control*, 95 St. John’s L. Rev. 1037 (2022).
- 28 See, e.g., Mount Sinai, Full-Time Radiologic Technologist Job Posting, Req. Id. 2717292, <https://bit.ly/3Fe9H86>.
- 29 See COUNCIL FOR STATE GOVERNMENTS JUSTICE CENTER.
- 30 See, e.g., Alec C. Ewald, *Rights Restoration and the Entanglement of US Criminal and Civil Law: A Study of New York’s “Certificates of Relief,”* 41 L. & Soc. Inquiry 5 (2016); NEW YORK STATE ASSEMBLY, PUBLIC HEARING: SEALING OF CRIMINAL RECORDS AND EXPANSION OF YOUTHFUL OFFENDER STATUS (2019) (noting that only 1% of eligible New Yorkers applied for record sealing, which is a much more powerful form of relief).
- 31 Anna Bindler & Randi Hjalmarsson, *Prisons, Recidivism and the Age–Crime Profile*, 152 ECON. LETTERS 46 (2017); WILLIAM RHODES, AMERICAN PRISONS ARE NOT A REVOLVING DOOR: MOST RELEASED OFFENDERS NEVER RETURN, LONDON SCHOOL OF ECONOMICS (2014) (describing the relationship between “time from release” as a variable and likelihood of successful re-entry).
- 32 See, Saleh, McNutt, Anderson Jr., et al., “Civil Death.”
- 33 N.Y. C.L.S. Ins. § 2108(3).
- 34 See, e.g., U.S. Bureau of Labor Statistics, Claims Adjusters, Appraisers, Examiners, and Investigators, <https://bit.ly/3Q8QABr>.
- 35 See, e.g., 10 N.Y.C.R.R. § 98-3.6 (public accountant); 11 N.Y.C.R.R. § 89.5 (certified public accountant).
- 36 19 N.Y.C.R.R. § 195.15(b)(3)-(4) (requiring fingerprinting and background checks to ascertain whether or not an employee working as an alarm technician “has ever been convicted of an offense (other than a minor motor vehicle offense)...”).
- 37 N.Y. C.L.S. Gen. Bus. § 69-q(5).
- 38 N.Y. C.L.S. Gen. Bus. § 89-g(3)(a).
- 39 U.S. BUREAU OF LABOR STATISTICS, HEALTHCARE OCCUPATIONS, <https://www.bls.gov/ooh/healthcare/home.htm> (2022).
- 40 NYS GOVERNOR’S OFFICE, GOVERNOR HOCHUL ANNOUNCES DIRECT PAYMENTS TO HEALTHCARE WORKERS AS PART OF \$10 BILLION HEALTHCARE PLAN, 1, <https://bit.ly/40o59G2> (2022) (“The pandemic has dramatically exacerbated healthcare workforce concerns...As of June 2021, New York’s healthcare workforce was still 3 percent below pre-pandemic levels, and 11 percent below where it would need to be...to keep up with...projected demand.”)
- 41 N.Y. C.L.S. Exec. § 845-b.
- 42 N.Y. Penal Code §§ 260.25, 260.32, 260.34.
- 43 N.Y. Penal Code § 178.00.
- 44 N.Y. Penal Code §§ 145.12, 158.25.

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