

IS A CRIMINAL RECORD KEEPING YOU UNEMPLOYED?



Employment
Justice Center

What Should I Do if a Criminal Record Keeps Me From Becoming Employed?

- Obtain a Copy of Your Criminal Record. Your criminal record is a printout that shows what arrests and convictions you have. In DC, you can check your records from the Metropolitan Police Department (MPD), D.C. Superior Court, U.S. District Court, and FBI. To get a copy of your record, call or write to the following offices:

MPD Records Division
300 Indiana Ave., NW, Room 3055
Washington, DC 20001
Phone number: 202-727-4245

D.C. Superior Ct.
Criminal Information Center
500 Indiana Ave. Room 4001
Washington, D.C. 20001
Phone number 202-879-1373

U.S. District Court House
333 Constitution Ave. NW,
Clerk's Office
Washington, D.C. 20001
Phone number (202) 354-3120

FBI
CJIS Division – Record Request
1000 Custer Hollow Rd.
Clarkburg, WV 26306
Phone number 304-625-3878

After I Access a Copy of My Record, What Should I Look for Next? Look for the following:

- Incomplete entries: Example- if there is no outcome to the case.
- Incorrect entries: Example- if you see that a listed charge is wrong.
- Double entries: Example- the same charge could be listed twice.
- Juvenile records: Your juvenile records should NEVER appear on your criminal record.
- Mistakes: Some mistakes can be corrected by the court clerk or by writing a letter which explains what happened. Keep a copy of the letter for yourself.

Is it Possible to “Expunge” My Record?

- “Expunging” a record destroys a criminal charge and all records related to it. In rare cases, a criminal conviction can be expunged. This is generally only an option in first time drug possession cases and parental kidnapping cases. A conviction may also be expunged when a worker proves that he or she is actually innocent of the crime for which he or she was arrested, charged or convicted.

Can I “Seal” My Criminal Record?

- “Sealing” a criminal record is to restrict it from public access. A record of the offense(s) will still exist and may be accessed by the court or law enforcement under certain circumstances. A worker can move to seal some criminal records, mainly misdemeanors. The rules for sealing a criminal record are complicated. For example, an arrest record for an eligible misdemeanor may only be sealed if the worker has **no disqualifying arrests or convictions** and at least **two years** have elapsed after the case terminated. The waiting period to seal an arrest for offenses other than an **eligible misdemeanor** is **5 years**. You must wait **10 years** to seal a **conviction** for an eligible misdemeanor.

What Rights Do I Have if an Employer Denies Me a Job Because of a Criminal Background Check?

- **Permission:** You must have first provided permission for the employer to do a background check.
- **Notice:** If an employer takes an adverse action against you (lack of hiring, firing, demotion, etc.), you are entitled to be notified if the background check is the reason for the adverse decision. Also, the employer must identify the credit reporting company that provided the background check report.
- **Opportunity to Contest the Report:** If the background check is used against you, you have a right to contest the report, especially if the report has inaccurate information.
- **Bring a claim:** If you are a minority and you are fired, denied a job, or denied a promotion because of your record, you may be able to bring a discrimination claim against the employer. Consult an attorney for more information.

If I Do Have a Criminal Record, How Should I Fill Out a Job Application?

- **Only answer what is asked.** Read all questions carefully! For example, if a question asks “Have you ever been convicted of a felony?” you can say “no” if you only have MISDEMEANORS.
- **Answer truthfully.** Saying “no” when the answer should be “yes” has consequences. If your employer finds out, you could be denied the job or fired later for lying on your application.
- **Don’t leave it at “yes.”** If, for example, you answer a question about your record by writing, “Yes, but I got my GED while I was incarcerated,” you show that you are educated, focused, and want to better yourself. Another suggestion is to attach a prepared, written explanation of your situation.
- **Note:** If you are applying for a job **within the D.C. government, it is against the law for the agency to ask questions about your criminal history on a job application.** The employer may ask for this information after the initial application process; however, it may not exclude you from consideration based on a criminal record unless the offense(s) are relevant to the job for which you are applying. In **Maryland**, employers cannot inquire about your arrests and convictions that have been expunged; arrests that did not lead to conviction; or refuse to hire you because you refuse to answer questions about arrests that did not lead to conviction or expunged records. Employers in **Virginia** are similarly prohibited, but some exceptions apply. For example, law enforcement agencies or providers of home-based services may legally inquire about an applicant’s criminal background.

If I Do Have a Criminal Record, How Should I Answer Questions in an Interview?

- If the employer likes your application, you will probably be called for an interview. You might have to talk about your criminal record in an interview. To get ready:
 - **Come prepared with an explanation.** Practice makes perfect. If you think about and practice what you are going to say about your record before you go, you will be less nervous.
 - **Steer the conversation toward the positive.** If the interview starts asking about your criminal history, politely tell the interviewer you would rather focus on the good things you have done.
 - **Focus on your life NOW.** Make the interviewer aware of why you want to move forward in life and how you plan to do it through working hard at a responsible job.
 - **Stay relaxed to show confidence.** When you get to questions about your criminal record in an interview, try not to “freeze.” If you are comfortable answering questions, your body language will show confidence. An employer may get nervous about hiring you if you look too nervous to answer the question.

How Do I Begin the Process in Maryland and Virginia?

- In *Maryland*, you can check your own criminal history by visiting your local sheriff’s office or police barracks to request an individual review. You will need to provide the office with your fingerprints and a money order for \$18. For more information, please call the CJIS Help Desk at 888-795-0011. You can search the Maryland court records system at <http://www.courts.state.md.us/courtrecords.html>.
- In *Virginia*, you should first contact your local police station and request a copy of your criminal history record. You can then search your record by visiting <https://apps.vsp.virginia.gov/ncjis/publicforms.do>. To search the Virginia Court System visit <http://www.courts.state.va.us/caseinfo/home.html>. For information pertaining to the expungement process, contact the Virginia State Police at (804) 674-6723.

For more information about your workplace rights come to EJC’s Workers’ Rights Clinic from 6 – 9p.m. on Wednesdays at Bread for the City, NW (1525 7th Street, NW, between P and Q Streets, NW; list starts at 5 p.m.) or, from 11:00 a.m. – 2:00 p.m. the first and third Fridays of each month at Bread for the City, SE (1640 Good Hope Road, SE). The clinic is first-come, first served, and no appointment is necessary. For more information, visit the D.C. Employment Justice Center website at www.dcejc.org.

This fact sheet is intended to provide accurate, general information regarding legal rights relating to employment in Washington, D.C. Because laws and procedures frequently change, the D.C. Employment Justice Center cannot ensure that the information in this fact sheet is current nor be responsible for any use to which it is put. Do not rely on this information without consulting an attorney or the appropriate agency about your legal rights.

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