



Governor Hochul Signs the Clean Slate Act – Certain Criminal Convictions To Be Sealed

November 17, 2023

Yesterday, Governor Kathy Hochul signed the Clean Slate Act ([S.7551A/A.1029C](#)), which will automatically seal some criminal convictions after a certain passage of time from either imposition of sentence or release from parole or probation, and if the individual does not have a subsequent criminal charge pending against them. This legislation is effective on November 16, 2024, and provides the New York State Office of Court Administration up to three (3) years to implement processes necessary to identify and seal all eligible criminal records. This legislation will most definitely impact employers seeking to do criminal background checks on hiring candidates.

The Clean Slate Act will add a new section to the New York State Criminal Procedure Law - § 160.57 (Automatic Sealing of Criminal Convictions), add a new section to the New York State Civil Rights Law - §50-g, and amend other sections of the New York State Correction Law, New York State Executive Law and New York State Judiciary Law.

Records of individuals with eligible misdemeanor convictions will be sealed after three (3) years and those with certain felony convictions, after eight (8) years, following their release from incarceration, subject to certain conditions and exceptions. The Clean Slate Act will not seal the records of individuals convicted of sex crimes, murder or other non-drug Class A felonies (i.e., kidnapping in the first degree, terrorism, criminal possession of a chemical weapon or biological weapon in the first degree). The Clean Slate Act also seals all palmprints, fingerprints, retina scans, and other items associated with the sealed criminal conviction. It does not, however, require the sealing or destruction of DNA information maintained in the New York State DNA Databank, even if the individual's record is sealed.

Under the Clean Slate Act, most employers will be unable to access these criminal records once they are sealed. The legislation provides certain exceptions for courts, a defendant's counsel, law enforcement, prosecutors, the New York State Education Department and others.

Notably, New York Civil Rights Law §50-g(1) allows a person who has had a criminal conviction sealed under New York State Criminal Procedure Law § 160.57 to bring a cause of action against any party who, without the consent of the subject person, discloses the sealed criminal conviction. The person bringing the cause of action must demonstrate (a) the disclosing party owed the person whose conviction was sealed a duty of care under New York State Criminal Procedure Law § 160.57; (b) the disclosing party knowingly and willfully breached such duty; (c) the disclosure caused injury to the person whose criminal conviction was sealed; and (d) the disclosing party's

breach of the duty not to disclose the events caused injury to the person. New York Civil Rights Law §50-g(2) defines the “duty of care” owed to persons whose criminal convictions are sealed. As discussed above, however, there are exceptions to disclosure of criminal convictions that would not give rise to a cause of action.

During the [signing ceremony](#), Governor Hochul stated, “The best crime-fighting tool is a good-paying job. That’s why I support giving New Yorkers a clean slate after they’ve paid their debt to society and gone years without an additional offense.” New York now joins eleven (11) other states, including Utah, South Dakota, Oklahoma, New Jersey, Michigan and Pennsylvania, with similar legislation.

Cullen and Dykman LLP will continue to monitor important developments in labor and employment law. Should you have any questions about this legal alert, please feel free to contact [Brian Selchick \(bselchick@cullenllp.com\)](mailto:bselchick@cullenllp.com) or [Ciara Villalona \(cvillalona@cullenllp.com\)](mailto:cvillalona@cullenllp.com).

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Practices

- Labor and Employment

Attorneys

- Brian B. Selchick
- Ciara Villalona-Lockhart