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Sealing Pursuant to CPL 160.59

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WHAT IS SEALING PURSUANT TO CPL 160.59?

- Sealing Pursuant to 160.59 refers to the legal process by which, and statute under which, a New York State criminal conviction is sealed. Once a NYS criminal conviction has been sealed it has been made non-public, and you no longer have to disclose its contents when applying for housing, education, and all jobs except for those in law enforcement.

HOW DO I BEGIN THE PROCESS OF SEALING MY RECORD?

- The sealing process begins with obtaining your Division of Criminal Justice Services (DCJS) rap sheet. A DCJS rap sheet is a document that contains your entire history of involvement with the criminal justice system in NYS—hence the acronym RAP, or “Record of Arrests and Prosecutions.” LawNY may assist you with obtaining and reviewing this document. Upon reviewing your DCJS rap sheet, we can then assess whether you are eligible to have your record sealed.

HOW DO I DETERMINE WHETHER I AM ELIGIBLE FOR SEALING?

- There are three requirements that you must fulfill in order to be eligible for sealing. You must meet all three requirements.
 - The number of convictions. If your rap sheet contains
 - Only one misdemeanor
 - Only two misdemeanors
 - One misdemeanor and one felony

- Only one felony
- The amount of time since the conviction(s). It must be either
 - At least ten years since the most recent conviction OR
 - If any jail or prison time was served, it must be at least ten years since the release date
- The nature of the conviction(s). If you have any of the following types of convictions, then you are not eligible for sealing.
 - Any sexual offenses
 - Any Violent Felony Offenses
 - Any attempt or conspiracy convictions to commit the above non-eligible offenses

I HAVE DETERMINED THAT I AM ELIGIBLE. NOW WHAT?

- Once you have been determined eligible, LawNY will assist you with assembling an application to seal your record. The most important part of the application is the affidavit. The affidavit is a sworn statement, written by LawNY staff with information supplied by you, that explains the circumstances of your convictions, including any positive, rehabilitative steps you have taken since.

WHAT COUNTS AS A POSITIVE, REHABILITATIVE STEP?

- Lots of things! Gainful employment, education, volunteer work, Certificates, hobbies, and even simply taking care of one's family may serve as evidence of rehabilitation. Remember: this is your chance to tell your story to the Court and the District Attorney!

WHAT HAPPENS ONCE THE APPLICATION HAS BEEN COMPLETED?

- Once the application has been completed, LawNY will send you a copy of the affidavit which you must sign and have notarized by a notary public. You will then send this signed and notarized affidavit back to us, so that LawNY can "serve" the entire application to the sentencing court and the district attorney. It may take up to four months for a decision to be made regarding the sealing of your record.

WHO CAN SEE MY RECORD ONCE IT HAS BEEN SEALED?

- Only a handful of people and organizations may access your sealed record. These include you, your attorney, prosecutors, courts, police departments, and probation, parole, and correctional officials. Additionally, if you apply for a job as a law enforcement officer or as an armed security guard, these employers will have access to your sealed record. Finally if you are applying for a license to own a firearm, your sealed record will be subject to review. All other people and organizations are legally forbidden from inquiring into your sealed record.

WHAT ELSE SHOULD I KNOW?

- If you are a NYS resident with a criminal conviction record (NYS criminal conviction or out-of-state criminal conviction or Federal Court conviction), you are eligible for some form of legal relief. Therefore, even if you are not eligible for sealing you are still eligible for either a Certificate of Relief From Disability or a Certificate of Good Conduct. For further information on these documents, please see our brochure titled "Certificates of Relief."
- 160.59 is a NYS specific statute. Therefore, NYS cannot seal any out-of-state or federal offenses.
- If LawNY is unable to assist you with sealing your record, then you may wish to proceed without an attorney. For instructions on how to do so, please see www.nycourts.gov/LegacyPDFs/forms/criminal/pdfs/CPL160.59SealingApplication.pdf

LawNY® Reentry Services

LawNY® serves individuals reentering society from incarceration and those with criminal records. Priority is given to those seeking to obtain or maintain employment, including but not limited to, the following issues:

- Denial or Termination of Employment
- Due to Criminal Record
- Denial or Ineligibility for Licensure,
- Clearances, or Contracts Due to Criminal Record
- Disqualification from Higher Education Due to Criminal Record
- Rap Sheet Corrections
- Certificates of Rehabilitation

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This article provides general information about this subject. Laws affecting this subject may have changed since this article was written. For specific legal advice about a problem you are having, get the advice of a lawyer. Receiving this information does not make you a client of our office.

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