

Are There Housing Protections For People With Criminal Legal System Interactions?

Under the New York State Human Rights law, it is illegal to discriminate against a current or prospective tenant based solely on certain types of criminal legal system interaction. This means you cannot be treated differently by landlords, sellers, agents, banks, management companies, operators of facilities, co-op boards, or other housing providers solely because of arrests or criminal accusations resolved in your favor. For these types of criminal records, it is also unlawful for housing providers to ask if you have ever been arrested.

What types of interactions are protected?

- Arrest resolved in your favor
- Sealed conviction records
- Youthful adjudication
- Criminal accusation resolved in your favor
- Adjournment in contemplation of dismissal

I was arrested for a criminal offense, but no charges were ever filed. Can I be asked about this arrest?

No. It would be unlawful for a housing provider to ask you about this arrest or to include a question about it on an application form.

What if a landlord *does* ask about an arrest record?

New York State law explicitly provides that if you are asked an unlawful question, you may answer as if the protected arrest, sealed conviction, or adjudication never occurred.

Don't landlords usually run background checks?

Guidance from the U.S. Department of Housing and Urban Development recommends housing providers refrain from using criminal background checks to screen tenants, as criminal legal system interaction is not a good predictor of housing success. Housing providers who do conduct background checks must perform them consistently for all applicants, and must consider applicants with criminal legal system interaction on a case-by-case basis. More information on these guidelines can be found at hud.gov/reentry.

Protections in NYC-Funded Housing

Housing providers participating in New York City housing subsidy and loan programs face strict prohibitions and other rules regarding the use of criminal background checks. Lookback periods are capped for certain offenses, and evidence of an applicant's rehabilitation must be considered, such as current employment or volunteer activities. Full details are available from the Department of Housing Preservation and Development at nyc.gov/site/hpd/services-and-information/marketing.page.

Where can I learn more?

If you think you are experiencing any form of housing discrimination, contact the FHJC. We will help sort out the facts and provide you with information about your rights and options under fair housing laws. You can also contact us – anonymously if you prefer – if you know about housing discrimination that is happening to others. Our counseling and investigative services are provided for free, regardless of income.