

NEW YORK CORRECTION LAW
ARTICLE 23-A
LICENSURE AND EMPLOYMENT OF PERSONS PREVIOUSLY
CONVICTED OF ONE OR MORE CRIMINAL OFFENSES

§750. Definitions.

For the purposes of this article, the following terms shall have the following meanings:

- (1) "Public agency" means the state or any local subdivision thereof, or any state or local department, agency, board or commission.
- (2) "Private employer" means any person, company, corporation, labor organization or association which employs ten or more persons.
- (3) "Direct relationship" means that the nature of criminal conduct for which the person was convicted has a direct bearing on his fitness or ability to perform one or more of the duties or responsibilities necessarily related to the license, opportunity, or job in question.
- (4) "License" means any certificate, license, permit or grant of permission required by the laws of this state, its political subdivisions or instrumentalities as a condition for the lawful practice of any occupation, employment, trade, vocation, business, or profession. Provided, however, that "license" shall not, for the purposes of this article, include any license or permit to own, possess, carry, or fire any explosive, pistol, handgun, rifle, shotgun, or other firearm.
- (5) "Employment" means any occupation, vocation or employment, or any form of vocational or educational training. Provided, however, that "employment" shall not, for the purposes of this article, include membership in any law enforcement agency.

§751. Applicability.

The provisions of this article shall apply to any application by any person for a license or employment at any public or private employer, who has previously been convicted of one or more criminal offenses in this state or in any other jurisdiction, and to any license or employment held by any person whose conviction of one or more criminal offenses in this state or in any other jurisdiction preceded such employment or granting of a license, except where a mandatory forfeiture, disability or bar to employment is imposed by law, and has not been removed by an executive pardon, certificate of relief from disabilities or certificate of good conduct. Nothing in this article shall be construed to affect any right an employer may have with respect to an intentional misrepresentation in connection with an application for employment made by a prospective employee or previously made by a current employee.

§752. Unfair discrimination against persons previously convicted of one or more criminal offenses prohibited.

No application for any license or employment, and no employment or license held by an individual, to which the provisions of this article are applicable, shall be denied or acted upon adversely by reason of the individual's having been previously convicted of one or more criminal offenses, or by reason of a finding of lack of "good moral character" when such finding is based upon the fact that the individual has previously been convicted of one or more criminal offenses, unless: (1) There is a direct relationship between one or more of the previous criminal offenses and the specific license or employment sought or held by the individual; or (2) The issuance or continuation of the license or the granting or

continuation of the employment would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public.

§753. Factors to be considered concerning a previous criminal conviction; presumption.

1. In making a determination pursuant to section seven hundred fifty-two of this chapter, the public agency or private employer shall consider the following factors:

- (a) The public policy of this state, as expressed in this act, to encourage the licensure and employment of persons previously convicted of one or more criminal offenses.
- (b) The specific duties and responsibilities necessarily related to the license or employment sought or held by the person.
- (c) The bearing, if any, the criminal offense or offenses for which the person was previously convicted will have on his fitness or ability to perform one or more such duties or responsibilities.
- (d) The time which has elapsed since the occurrence of the criminal offense or offenses.
- (e) The age of the person at the time of occurrence of the criminal offense or offenses.
- (f) The seriousness of the offense or offenses.
- (g) Any information produced by the person, or produced on his behalf, in regard to his rehabilitation and good conduct.
- (h) The legitimate interest of the public agency or private employer in protecting property, and the safety and welfare of specific individuals or the general public.

2. In making a determination pursuant to section seven hundred fifty-two of this chapter, the public agency or private employer shall also give consideration to a certificate of relief from disabilities or a certificate of good conduct issued to the applicant, which certificate shall create a presumption of rehabilitation in regard to the offense or offenses specified therein.

§754. Written statement upon denial of license or employment.

At the request of any person previously convicted of one or more criminal offenses who has been denied a license or employment, a public agency or private employer shall provide, within thirty days of a request, a written statement setting forth the reasons for such denial.

§755. Enforcement.

1. In relation to actions by public agencies, the provisions of this article shall be enforceable by a proceeding brought pursuant to article seventy-eight of the civil practice law and rules.
2. In relation to actions by private employers, the provisions of this article shall be enforceable by the division of human rights pursuant to the powers and procedures set forth in article fifteen of the executive law, and, concurrently, by the New York city commission on human rights.

DISCLOSURE AND AUTHORIZATION FORM TO OBTAIN CONSUMER REPORTS FOR EMPLOYMENT PURPOSES

Please Read Carefully Before Signing the Authorization

DISCLOSURE

In considering you for employment and, if you are employed, in considering you for subsequent promotion, assignment, reassignment, retention, or discipline, Jamestown Community College (“the Company”) may request and rely upon one or more consumer reports about you that we obtain from a consumer reporting agency, such as IntelliCorp Records, Inc. The consumer report(s) shall be limited to a Social Security Number verification and Criminal Conviction verification.

IntelliCorp Records, Inc. can be contacted by mail at 3000 Auburn Dr, Suite 410; Beachwood, OH 44122; or phone: 1-888-946-8355; or website: www.intellicorp.net. New York State applicants will be processed through SUNY Admin. or their website: System.SUNY.edu.

For explanation purposes:

- a “consumer report” is a written, oral or other communication of any information by a consumer reporting agency bearing on your credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in making an employment-related decision about you. Such information may include, for example, credit information, criminal history reports, or driving records; and

Under the FCRA, before the Company can obtain a consumer report, we must have your written authorization. Before we take adverse action on the basis, in whole or in part, of information in that report, you will be provided a copy of that report, the name, address, and telephone number of the consumer reporting agency, and a summary of your rights under the FCRA.

AUTHORIZATION

AUTHORIZATION

I have read and understand the foregoing Disclosure, and authorize Jamestown Community College to obtain and rely upon consumer reports concerning me. By my signature below, I authorize the Company to obtain any such reports, which shall be limited to a Social Security verification and Criminal Conviction verification, and to share the information received with any person involved in their decision about me.

I do _____ do not _____ authorize you to contact *my current* employer for Employment and Reference Verifications

(This will authorize immediate inquiries to the Human Resources Department and to any listed supervisors or references in the Employment/Reference Section of your application.)

I also agree that this Disclosure and Authorization in original, faxed, photocopied, or electronic (including electronically signed) form will be valid for any consumer reports that may be requested about me by or on behalf of the Company.

Printed Name

Applicant Signature

Date

Parent or Legal Guardian Signature
(for searches conducted on minors under
the age of 18)

Date



S U N Y

Jamestown Community College
State University of New York

Authorization for Pre-Employment Background Check

All information is required. Employment offer is conditional until this background check has been completed and approved.

Form with fields: Have you ever been an employee of Jamestown Community College in the past? (Yes/No), If you answered yes, what was the last date of employment? (Month/Year), Last Name/First Name/Middle Initial, Former Last Name (if applicable)/Date of Birth, Social Security Number/Home Phone Number, Driver's License Number/Driver's License State, Position You Are Being Offered/Campus or Extension Center (Jamestown/Cattaraugus/North County/Warren).

Permanent Legal Address:

Table with 6 columns: Street Address, City, State, Zip, County, Years resided.

Do you currently reside in New York State? (Yes/No) If yes, for how long? (Years/Months)

If you do not currently reside in New York State, or have resided here for less than ten years, please list your addresses, states, counties, and periods of residency for the past ten years:

Table with 6 columns: Street Address, City, State, Zip, County, Years resided. Rows 1, 2, 3.

For Office Use Only:

Form with fields: Position, Campus (JT/Cattaraugus/North County/Warren), Supervisor/Division, Student Assistant, Work Study.

PLEASE DATE AND SIGN THE AUTHORIZATION FORM.