

BACKGROUND CHECK LAWS

FCRA vs. NEW YORK STATE LAW

QUICK REFERENCE FOR EMPLOYERS

TOPIC	BAN THE BOX	CRIMINAL LOOKBACK	SALARY HISTORY	CREDIT REPORT	PRE-ADVERSE WAITING PERIOD
FCRA	None	No Limit	None	No Restriction	Reasonable Time
NY	No*	7 Years*	Banned	Restricted	No Min*

*Ban the Box: no statewide law, but NYC, Buffalo, Rochester, Suffolk County, and others have local ordinances — see Local Ordinances below. Criminal Lookback: 7-year cap does not apply to positions paying \$25,000/year or more. Pre-Adverse Waiting Period: NYC's Fair Chance Act separately requires 5 business days.

TOPIC	FCRA	NEW YORK STATE LAW	SOURCE
Ban the Box / Fair Chance Hiring	- No federal ban-the-box law. - Employers may ask about criminal history at any time, subject to other laws.	- New York State has no statewide ban-the-box law; Article 23-A governs how a conviction may be considered, not when it may be asked about. *NYC and several counties/cities have their own local ordinances — see Local Ordinances below.	N.Y. Correction Law Art. 23-A
Criminal Record Lookback	- No federal limit on reporting convictions. - Arrest records not resulting in conviction limited to 7 years.	- Consumer reporting agencies may not report conviction records more than 7 years old, measured from disposition, release, or parole. *This limit does not apply to positions paying \$25,000/year or more.	N.Y. Gen. Bus. Law § 380-j(f)
Reporting Restrictions	Arrest records not resulting in conviction capped at 7 years old.	- CRAs may not report an arrest or criminal charge unless it resulted in a conviction or the charge is still pending, regardless of the arrest's age. - Reports also may not include race, religion, color, ancestry, ethnic origin, or medical debt information.	N.Y. Gen. Bus. Law § 380-j(a)
Expunged / Sealed Records (Clean Slate Act)	No federal expungement provision beyond standard reporting limits.	- Most convictions are automatically sealed after 3 years (misdemeanors) or 8 years (felonies) from sentencing/release; sex offenses and non-drug Class A felonies are not eligible. - Employers may not ask about or act on a sealed conviction.	N.Y. Crim. Proc. Law § 160.57
Salary History Ban	No federal restriction on salary history.	- Employers may not ask about or rely on an applicant's or employee's salary history in hiring or pay decisions, statewide. - Applicants may still voluntarily disclose salary history without prompting.	N.Y. Labor Law § 194-a

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Credit Report Restrictions	- Requires a permissible purpose. - Requires written authorization.	- As of April 18, 2026, employers may not request or use consumer credit history for employment decisions, statewide (mirrors NYC's existing law). - Narrow exemptions apply (legally required roles, law enforcement, fiduciary/trade-secret positions).	N.Y. Gen. Bus. Law § 380 et seq. (as amended by S03072)
Bankruptcies	Cannot report if more than 10 years old (15 U.S.C. § 1681c(a)(1)).	Bankruptcies may not be reported more than 14 years after the date of adjudication of the most recent bankruptcy — longer than the federal 10-year standard.	N.Y. Gen. Bus. Law § 380-j(f)(i)
Civil Judgments & Lawsuits	Cannot report if more than 7 years old (15 U.S.C. § 1681c(a)(2)).	- Civil judgments may not be reported more than 7 years after entry, or until the statute of limitations expires, whichever is longer. - Judgments satisfied within 5 years must be removed 5 years after entry.	N.Y. Gen. Bus. Law § 380-j(f)(ii)
Tax Liens & Collections	Cannot report if more than 7 years old (15 U.S.C. § 1681c(a)(3)-(4)).	- Paid tax liens may not be reported more than 7 years after payment. - Collection accounts may not be reported more than 7 years after being placed for collection, or more than 5 years after being paid.	N.Y. Gen. Bus. Law § 380-j(f)(iii)–(iv)
Marijuana / Drug Testing Protections	No federal protection for legal marijuana use.	- State law protects lawful, off-duty cannabis use; employers generally cannot drug test for cannabis unless required by law or the employee shows specific, articulable signs of on-the-job impairment. - Smell of cannabis or a positive test alone do not qualify.	N.Y. Labor Law § 201-d
Pre-Adverse Action Notice & Waiting Period	- Must provide a copy of the report and a summary of rights. “Reasonable time” to respond, often treated as 5 business days.	- New York State sets no waiting period of its own; employers follow the federal FCRA “reasonable period” standard (generally 5–7 business days). *NYC's Fair Chance Act separately requires a 5-business-day waiting period — see NYC Fair Chance Act below.	15 U.S.C. § 1681b(b)(3)

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Adverse Action Notice Requirements	Must provide notice with the CRA's name, address, and phone number, and a copy of "A Summary of Your Rights."	- Same core FCRA notice, plus: if the report contains conviction information, the employer must also provide a copy of Article 23-A. - If denied due to a conviction, the applicant may request a written statement of reasons; employer must provide it within 30 days.	N.Y. Gen. Bus. Law §§ 380-c, 380-g; N.Y. Correction Law § 754
Authorization Requirements	- Written authorization required. - Must be clear and readable.	- Written authorization required, consistent with the federal FCRA framework. - If the report may include conviction information, the disclosure must also include a copy of Article 23-A at the time authorization is requested.	N.Y. Gen. Bus. Law § 380-c
Individualized Assessment (Article 23-A)	No federal requirement (EEOC guidance recommends one).	- Employers may deny employment based on a conviction only if there is a direct relationship to the job, or hiring would pose an unreasonable risk to safety or property. - Employers must weigh 8 statutory factors, including public policy favoring rehabilitation, job duties, time elapsed, age at offense, seriousness, and evidence of rehabilitation.	N.Y. Correction Law §§ 750–755 (Article 23-A)
NYC Fair Chance Act	No specific federal requirement at this level of detail; applies only to employers with a New York City presence.	- Employers with 4+ employees in NYC may not ask about criminal history until after a conditional offer is extended. - If a record is found, employers must complete a Fair Chance Analysis (7 factors similar to Article 23-A's 8), provide a written copy, and allow 5 business days to respond before a final adverse decision.	N.Y.C. Admin. Code § 8-107(11-a)

LOCAL ORDINANCES THAT MAY APPLY

JURISDICTION	APPLIES TO	KEY REQUIREMENT	SOURCE
Buffalo, NY	Employers with 15+ employees	No criminal history questions before first interview.	Buffalo City Code § 154-25
Rochester, NY	Employers with 4+ employees	No criminal history questions until after initial interview or conditional offer.	Rochester Municipal Code §§ 63-12–63-16

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Rockland County, NY	Employers with 15+ employees	Delays inquiries until after conditional offer determination.	Rockland County Code Ch. 290, Art. I
Suffolk County, NY	Employers with 15+ employees	Delays inquiries until after application submitted and first interview.	Suffolk County Code § 528-21
Westchester County, NY	Employers with 4+ employees	No criminal history questions until application is submitted.	Westchester County Code § 700.03(a)(10)
Yonkers, NY	Public and private sector	Covered by both city and Westchester County ordinances.	Yonkers City Code (Fair Chance Ordinance)

This list reflects known local ordinances at the time of publication and may not be exhaustive. Employers should confirm requirements for every city or county where they hire.

WHAT THIS MEANS FOR EMPLOYERS

New York laws are designed to limit how criminal, credit, and salary history are used in hiring decisions. To stay compliant:

- ✓ Follow ban-the-box timing in NYC and other covered localities
- ✓ Limit criminal record reporting to what's allowed by law
- ✓ Avoid asking for salary history
- ✓ Do not use credit reports for employment purposes
- ✓ Do not drug test for marijuana without a qualifying exception
- ✓ Recognize and exclude sealed Clean Slate records
- ✓ Conduct individualized assessments under Article 23-A before adverse action