

STANDARDS FOR EMPLOYING PEOPLE WITH CRIMINAL RECORDS

Model Laws

HAWAII

- **Hawaii Revised Statutes § 378-2.5 - Employer inquiries into conviction record**
- Hawaii law prohibits employment discrimination by all non-federal employers, even those with only one employee, based on applicants' criminal records. Employers may consider applicants' convictions insofar as they are rationally related to the employment. Hawaii is unique in forbidding employers in most fields from inquiring about applicants' criminal records until they have extended a conditional offer of employment, and in only allowing employers to consider convictions that occurred within the past ten years.
[Click here](#) to see the full text of the Hawaii statute.

KANSAS

- **Kansas Statutes Annotated § 22-4710 - Criminal History Record Information - Unlawful for employers to require certain acts; exceptions; penalties.**
- Kansas law provides that for an employer to refuse to hire an applicant, his or her criminal history must reasonably bear on his or her trustworthiness or the safety or well-being of the employer's employees or customers. The statute applies to both public and private employers. In addition, the statute limits liability for employers regarding the employment decision, as long as the applicable standard is followed.
[Click here](#) to see the text of the Kansas statute.

NEW YORK

- **New York Executive Law § 296(15),(16) - Human Rights Law - Unlawful Discriminatory Practices**
- **New York Correction Law §§ 750-755 - Licensure and Employment of Persons Previously Convicted of One or More Criminal Offenses**
- The New York State Human Rights Law prohibits both private and public employers from having a blanket policy of denying people with criminal records employment. In addition, an employer may not inquire about nor act upon an arrest that was terminated or determined in favor of the individual. A person with a criminal record who is denied employment is entitled to a statement of the reasons for such denial. New York Corrections Law, Article 23-A lists the factors that a public or private employer or agency must consider when evaluating an applicant's prior convictions. It states that an applicant may not be denied employment or licensure because of his or her conviction record unless there is a direct relationship between the offense and the job or license sought, or unless hiring or licensure would create an unreasonable risk to property or to public or individual safety. This law applies to employers with ten or more employees.
Upon request and within thirty days, the applicant must be given a written statement of the reasons why employment was denied. The provisions of this law do not apply to the licensing activities of governing bodies in relation to the regulation of firearms or an application for employment as a police officer or peace officer.
[Click here](#) to see the full text of the New York statutes.

PENNSYLVANIA

- **18 Pennsylvania Consolidated Statutes § 9125 – Use of records by licensing agencies**
- **18 Pennsylvania Consolidated Statutes § 9125 – Use of records for employment**
- Employers in Pennsylvania may only consider a job applicant's felony or misdemeanor convictions if they relate to the applicant's suitability for the particular type of employment in question. Occupational licensing agencies may consider any felony, but only job-related misdemeanor convictions. If an applicant is denied employment based upon a criminal history, or licensure based upon a conviction, he or she is entitled by law to a written explanation.
[Click here](#) to see the full text of the Pennsylvania statute.

WISCONSIN

- **Wisconsin Statute § 111.335 - Arrest or conviction record; exceptions and special cases**
- Wisconsin prohibits discrimination based on arrest or conviction records in the same manner it prohibits discrimination against members of other protected classes. The statutes apply to employers, labor organizations, employment agencies and licensing agencies. Several types of employers are exempted from the statute and in many cases licensing agencies are not covered.

Employers cannot ask applicants about an arrest record, unless a charge is pending. If an applicant's arrest is pending, employers can refuse to consider hiring him or her if the arrest substantially relates to the particular nature of the employment. Employers can only consider convictions insofar as they substantially relate to the particular nature of the employment or affect an applicant's bondability.

[Click here](#) to see the full text of the Wisconsin statute.