Barriers to Finding and Securing Employment

There are some situations when having certain types of convictions on your record could or will disqualify you from getting certain types of jobs. It is important that you know about these situations beforehand, so that you can realistically set your sights on jobs that you can have. Barriers can be due to either job restrictions or occupational licensing barriers.

What job restrictions do I face with a criminal conviction record?

It depends. Although this list is incomplete, below are some examples of jobs that have legal restrictions for people with certain convictions. In general, these are jobs where you would have access to private or sensitive information (like financial records); vulnerable people (like children, the elderly, or ill people), or high-security places, where there might be a greater risk of harm to the public.

- Airport security screeners (or anyone with unsupervised access to secure airport areas); ¹
- Federal law enforcement officers;²
- Defense contractors;³
- Prisoner transportation personnel;⁴
- Port workers;⁵
- Bank employees;⁶
- Insurance personnel;⁷
- Jobs that administer employee benefits plan;⁸
- Childcare workers in federal facilities or agencies.⁹

Whether you can become eligible to get these jobs in the future depends on the very specific rules about what convictions will disqualify you. It will depend on the specific laws, regulations, and other rules that apply to that type of work.¹⁰ It is recommended that you ask a lawyer to review your RAP sheet and explain how your convictions may affect your ability to get the job you want.

² 5 U.S.C. § 7371(b).
⁴ 42 U.S.C. § 13726b(b)(1).
⁵ 46 U.S.C. § 70105(c).
Do I face any state licensing barriers?

Maybe. Hawai‘i’s Uniform Act on Status of Convicted Persons provides that a prior conviction by itself may not be the basis for disqualification from state employment or licensure unless a person is applying for a liquor license or has been convicted in the past 10 years (excluding any period of incarceration) of a crime that “bears a rational relationship” to the responsibilities and duties of a job, occupation, trade, vocation, profession, or business.11

Furthermore, like employers, the state or any of its branches, political subdivisions, or agencies CANNOT consider your criminal conviction history to deny, suspend, or revoke your license or certificate unless:

- The conviction bears a rational relationship to the responsibilities and duties of the job, occupation, trade, vocation, profession, or business, AND
- The conviction is within the last 10 years (excluding periods of incarceration).12

Arrest records not followed by a valid conviction, or records that have been expunged, may not be used in determining the eligibility of a person seeking or keeping a license or certificate unless an exception applies.13

The state or any of its branches, political subdivisions, or agencies MAY consider your criminal conviction as possible justification for refusal, suspension, or to revoke your license or certificate for convictions that have not been expunged and occurred in the past 10 years when the offense directly relates to:

- The applicant’s possible performance in the job applied for;
- The employee’s possible performance in that job that he or she holds;
- The applicant’s or holder’s possible performance in the occupation, trade, vocation, profession, or business for which a permit, license, registration, or certificate is applied for or held.14

After consideration of your criminal conviction, an agency can only take a negative action (denial, suspension, or revocation) after it has determined that the person convicted has not been sufficiently rehabilitated to warrant the public trust by:

- Conducting an investigation
- Notifying you of the results and planned action against you; AND
- Giving you an opportunity to meet and contest its finding.15

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While this is not an exhaustive list, some occupations that can deny you a license or certificate using your criminal conviction as justification are:

- Staff member of a youth correctional facility
- Staff member of a correctional facility, or staff members that include the power to arrest
- Employee of a detention shelter facility
- Employee or agent of a contractor of the department of taxation with access to federal tax information\(^\text{16}\)