



## JUSTICE INITIATIVES

Quick Guide

Got a Record? **Know Your Rights**

# Employment

A photograph of a job application form. The form is tilted and shows various fields for personal information. The word 'Application' is printed in a large, bold, serif font across the middle of the form. Below it, a black header bar contains the text 'PERSONAL INFORMATION' in white, sans-serif font. The form includes fields for 'Last Name', 'Address', 'Home Phone', 'Social Security Number', and 'Cell Phone'. There are also checkboxes for 'Are you a U.S. Citizen?' and 'Have you ever been convicted of a felony?'. The text 'Are you currently employed?' and 'Hourly or Salary' is visible at the bottom of the form. The top of the form has fields for 'Last', 'First', 'City/State', 'Street', '(Apt)', 'City/State', 'Home Telephone', and 'Mobile Telephone'. The word 'REASON' is partially visible at the top left.



## Employment

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### Why is my criminal record important?

Having a criminal record can make it hard to get a job, even if it has been years since your offense. Many employers ask about criminal records and refuse to hire people who have them. In addition, some jobs are off-limits to people with certain convictions. To get and keep a job, you need to know what is on your criminal record.

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### How can I find out what is on my criminal record?

If you have only Michigan convictions, get your record from the Michigan State Police's Internet Criminal History Access Tool. Visit [www.michigan.gov/msp](http://www.michigan.gov/msp) and click on "ICHAT." You will have to pay \$10 to get your record. If you don't have \$10, click on "FAQs" on this website for information about how to get your record for free. Be aware that ICHAT may not contain certain types of misdemeanors. Also check with your local law enforcement agency, city, or county where your conviction occurred. If you have out-of-state convictions, get your record from the FBI at [www.fbi.gov](http://www.fbi.gov) or from a private company that sells criminal records. If you are denied a job because of your record, ask the employer for a copy.

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### How long will my convictions show up on my criminal record?

Forever. Convictions do not automatically drop off your record over time. In most cases, once you have a conviction, it will stay on your record for the rest of your life.

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### Can I get rid of my criminal record?

If you have only been convicted only 1 offense and not more than 2 minor offenses, you may be able to have your criminal record "expunged." Minor offenses are those with maximum sentences of 90 days in jail or a fine of \$1000 that occurred when you were less than 21 years old. If your record is expunged, your conviction will not show up on a background check. If your record is expunged, you may state that you do not have a criminal record. If you think you might be eligible for an expungement, contact an attorney or go to <http://www.michigan-legalhelp.org> the free legal help site. Convictions for a felony or attempted felony punishable by life imprisonment may not be expunged.

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## My defense attorney told me my record would be sealed. What should I do if my conviction is still showing up on a background check?

If your defense attorney told you that your record would be sealed but your conviction is still showing up, contact an attorney.

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## Why is my juvenile record showing up on a background check?

In Michigan, most juvenile records are public. (However, if you were in a juvenile diversion program or if you were sentenced under the Holmes Youthful Trainee Act, your record should normally be sealed.) Although juvenile offenses may show up on a criminal record, a juvenile offense is not legally the same as an adult conviction. Many of the laws that prohibit people from working in particular jobs do not apply to people with juvenile records. If your juvenile record is holding you back, talk to an attorney.

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## What if there are mistakes on my criminal record?

If the mistakes are on your Michigan State Police record, contact the Michigan State Police at (517) 241-0606. If the mistakes are on another type of record, you need to contact the agency that produced the record.

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## What if my record shows an arrest, but the case was dropped?

If you were arrested but not convicted, or if your case was dismissed, you should file a Motion for Return of Fingerprints to get the arrest removed from your record. Contact the court where you were prosecuted for a motion form, or get one at <http://www.michiganlegalhelp.org>.

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## What can an employer ask me about my criminal record?

Employers can ask if you have convictions and if you have felony arrests. In most cases, employers cannot ask about misdemeanor arrests that did not result in a conviction. However, misdemeanor arrests may still show up on a background check.

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## Can an employer choose not to hire me because I have a record?

It depends. Employers can generally make decisions about whom to hire. In some cases, there are laws that prevent employers from hiring people with criminal records. However, employers who refuse to hire anyone with a criminal record, even though the record has nothing to do with the job, may be violating laws against race discrimination. If an employer refuses to hire anyone with a record, contact an attorney, or call the Equal Employment Opportunity Commission at (800) 669-4000 or the Michigan Department of Civil Rights at (800) 482-3604.

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### Can an employer fire me because I have a record?

It depends. See the answer to the question above. In addition, if you are a member of a union, the employer usually needs a very good reason to fire you, and an old record is probably not enough. Contact your union for help.

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### What if the employer wants to hire me, but says there is a law against hiring people with records for that job?

In some jobs—especially healthcare, daycare, private security, transportation, and government employment—there are laws or policies that prevent employers from hiring people with certain convictions. However, these laws are very complicated. An employer may think you can't work even though you can. Talk to an attorney, or go to <http://www.michiganlegalhelp.org> for more information.

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### If I'm fired because I have a criminal record, can I get unemployment?

If you are otherwise qualified, the fact that you have a criminal record won't prevent you from getting unemployment benefits. However, if you lied on your job application or if you committed a crime related to your job (e.g., stealing from your employer), that could be considered misconduct. If you commit misconduct, you cannot get unemployment.

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### What if I'm denied an occupational license because of my record?

For some jobs, like being a barber or plumber or taxi driver, you need a license. If you are denied a license because of your record, you can usually appeal. The appeal is your chance to prove that your record shouldn't stop you from getting the license. Use things like your work history, letters of recommendation, educational/vocational certificates, and volunteer activities to show you are a good person who deserves the license. You may want to ask an attorney for help with your appeal.

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### What should I say on job applications about my criminal record?

Be honest. Most employers do background checks and will find out about your record anyway. If you lie, they'll know. You can always write "yes, will explain," and then talk about your record in your job interview. It's important to have a copy of your record so that you know exactly what your convictions were for and how old they are. If you were issued a Certificate of Employability from the Michigan Department of Corrections (available after January 1, 2014 pursuant to MCL 791.234d), you should include that fact on your application. The Certificate provides some protection for an employer against liability for hiring people with a criminal history. Certificates are good for 4 years after they are issued so make sure you received it within the last 4 years before stating that you have one.

Also, read the question carefully. If it asks about convictions in the last 5 years and your conviction is 10 years old, you don't have to include.

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### Should I tell my employer about a new arrest or a new conviction?

It depends. In certain fields, particularly long-term care and education, you are legally required to tell your employer about certain arrests or convictions. If you do not report, you could be prosecuted. If you are unsure about whether you have to report your arrest or conviction, ask your defense attorney. If you are not legally required to tell your employer, it is up to you whether you do so. Before you decide, think about whether your employer will find out anyway through a regular background check, and about how your employer will react to the news.

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### Can I see a copy of the record the employer used to deny me a job?

Yes. If the employer used a credit reporting agency to get your record, the employer must show you your record before denying you a job. You can also get a copy of your record by contacting the company that prepared the record. If mistakes on the record cost you a job, contact an attorney.

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### How can I get more information?

Go to <http://www.michiganlegalhelp.org> for more information. To find an attorney, contact the State Bar of Michigan Lawyer Referral Service at (800) 968-0738. If you cannot afford an attorney, ask to be referred to your local legal aid office.



*Got a Record? Know Your Rights* is a series of informational booklets for people reintegrating into society.

*Know Your Rights Quick Guide Titles*

*Children, Child Support, and Parental Rights*

*Employment Brochure*

*Housing Brochure*

*Immigration Brochure*

*Attorney Client Questionnaire*

*Reentry Resources*

The Michigan Reentry Law Wiki

<http://reentry.mplp.org/> works to provide individuals with criminal records, as well as attorneys, judges, and social service providers, with valuable information about how to overcome reentry issues.

If you have questions or would like additional copies, please contact [materials@mail.michbar.org](mailto:materials@mail.michbar.org)

Disclaimer: A reasonable effort was made to ensure the information in this brochure is timely, accurate and complete. However, because each legal issue depends on its individual facts and because the law is constantly changing, readers are advised to consult with an attorney before relying on any of the information. The information is provided "AS IS", without warranty of any kind, express or implied, and should not be construed as formal legal advice or as forming an attorney/client relationship.

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