

# Know Your Rights

## New York's New Marijuana Expungement Law

On March 31, 2021, New York State legalized possession of up to 3 ounces of flower marijuana and up to 24 grams of concentrated marijuana<sup>1</sup> by people over 21 years old. This law also requires the expungement of certain convictions for possession and sale of marijuana.

**What convictions are eligible for expungement under the new law?** New York State convictions for possession of up to 16 ounces or sale of up to 25 grams of marijuana, including convictions for these offenses: Penal Law §§ 221.05, 221.10, 221.15, 221.20, 221.35, or 221.40.

**What is expungement?** “Expungement” means that your conviction will be automatically dismissed, considered “terminated in [your] favor,” and “deemed a nullity.” All electronic court records of the conviction will be marked as expunged and then sealed from public view.

**When will these convictions be expunged from my record?** The law allows the court system two years to fully complete the expungement process. However, in the meantime these convictions will be suppressed from public records and should not appear on a background check.

**What does this mean for me as a jobseeker?** Most employers should not see the conviction on a background check. You can legally deny that the case existed if you are asked about it in *almost all* employment situations. However, employers for these and certain other positions are likely permitted to see and consider expunged convictions – call the Legal Action Center for more information:

- Law enforcement or peace officer jobs
- Federal government employers, employers subject to federal employee clearance or licensing laws, and the Port Authority of New York and New Jersey

**I have a prior marijuana conviction. What should I do?** Expungement under this law will happen *automatically*, so there is no need to apply and most people will not have to take any additional steps. However, there are a few situations where you should still seek a lawyer's help:

1. If you are a non-citizen whose convictions are expunged, you may still want to apply to have the convictions vacated.<sup>2</sup>
2. Even if your marijuana convictions are not eligible for automatic expungement, you may still be eligible to apply to have the conviction vacated or to have your sentence reduced.
3. If you want to request that the court's physical records of your expunged conviction(s) be destroyed. This is a bad idea in most circumstances, particularly if you are not a US citizen.

*Do you know whether your convictions are eligible for expungement? Have questions about applying for a job with a conviction record or other questions about your New York State RAP sheet?*

**Call the Legal Action Center at (212) 243-1313 for free legal services.**

<sup>1</sup> Under the new law “marijuana” is now referred to as “cannabis.”

<sup>2</sup> To “vacate” a conviction means the conviction is legally canceled or undone.