

Understanding Louisiana's Fair Chance Hiring Act

Louisiana is an “at will” employment state. This means that a person can be fired or not hired for many reasons or no reason at all, but it is important to apply for jobs you are interested in and qualified for because you will never know until you try, AND employers make mistakes and you must protect your rights!

For job seekers with criminal records, you should know that a criminal record = an arrest or citation/ticket, with or without conviction. Even if you have never been in a courtroom, or your case was dismissed, an employer may be able to see that record unless it is expunged. You have protections about when and how an employer can use your record for employment. These laws will give you a more FAIR CHANCE at being hired.

What is a background check?

A background check will almost always include your criminal history, but can sometimes include your credit or financial information as well. All of this is publicly available information that companies buy and sell. As of 2019, 94% of employers use background checks during the hiring process!

Since 2021, Louisiana law (R.S. 23:291.2) does not allow an employer to deny a person a job based only on an arrest record.



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What you should do when applying for jobs with a criminal record

1. Fill out the application and know your rights
 - For private jobs - you only need to “check the box” on applications if you have been convicted of a crime and it has not been expunged. Employers are not allowed to consider “arrest only” records at all. If your entire record has been expunged, state law says you do NOT have to check the box that you have a criminal record because employers should never see this information.
 - For government jobs - some cities/parishes, and the State of Louisiana have “banned the box” on job applications. This means they cannot ask you about your record until you are being offered a job. If you have a conviction, they may still legally deny you employment based on how serious the charge was, how long ago you were convicted, and the type of job you are applying for now.
 - It will be important throughout the hiring process to make a written record of everything that happens - when, where, what and who. WRITE EVERYTHING DOWN! Communicate with employers in writing (email or text) whenever possible. Make a document where you write down the dates and times of every phone call and in-person conversation and what was discussed.
2. Be prepared for the employer to run a background check
 - Employers must get your written permission before getting a background check.
 - Ask for a copy of the background check in writing - the law requires the employer to give you a copy.
 - Review your background check carefully to be sure that all the information on it is complete and accurate.
 - If you were arrested but not convicted, or you pleaded to a less serious charge than you were arrested for, the background check should clearly show this.
3. Be prepared to answer questions about your record
 - Employers must consider the connection between your conviction and the job you are seeking:
 - What your conviction was for (e.g., felony vs. misdemeanor or “non-violent” vs. “violent”)
 - How long it’s been since your conviction (e.g., 1 year vs. 7 years)
 - What job responsibilities you will have if you are hired (if you have a theft conviction are you trying to work at a bank and handle money?)
 - REMEMBER: employers cannot deny you employment because of an arrest that did not result in a conviction

4. Be prepared to explain why YOU are the BEST person for the job
 - Does your application or resume list all your qualifications and experiences? What are your skills, experiences, schooling, or certifications that would help in this job?
 - Are you a different person now than you were then? How have you grown?
5. What if an employer denies you a job?
 - In most cases employers will not tell you why you didn't get the job, just that you didn't get it. That's allowed by law, BUT if you think it was because of your record you are allowed to:
 - Ask for your background check in writing. If there is incorrect information on your background check, you should let the employer know and ask for a chance to provide them with the correct information (such as an order of expungement, a minute entry showing that your charges were dismissed, or that you were convicted of a lesser charge). Employers are NOT required to accept such information or reconsider your application though.
 - If your background check had wrong information on it, YOU must dispute it with the company that provided the background check to the employer. Every background check company should have a process for disputing incorrect information. Get this information fixed before you apply to a different job!
 - If an employer tells you you didn't get the job because of your background, ASK FOR THE REASONS IN WRITING. You want to check that they followed the correct process and didn't violate the law.



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Have you been fired, denied a promotion or denied employment because of your criminal record? JAC may be able to help! Call 504-273-1091.

FREQUENTLY ASKED QUESTIONS



② What if a background check still has expunged charges on it?

This should NOT happen. Once a record is expunged you are NOT required to tell any public or private employers about it. You may still have to answer questions to law enforcement, government agencies, or state licensing boards - but those questions will tell you when to disclose expunged information. If your expunged information is on a background check you should immediately dispute the information with the company and send proof of your expungement to have it removed as soon as possible.

② What if there are errors on my background check?

Errors are more common than most people think! Companies can mismatch your information with someone else, or report incomplete and inaccurate information (like not reporting the outcome of a case), or say that a charge is a felony when it was a misdemeanor. These mistakes happen because companies are buying A LOT of bulk data and are not careful to check full names, dates of birth, or other personal information before putting criminal records into a person's report.

② What are my rights when it comes to a background check?

You have rights and protections under the Fair Credit Reporting Act (FCRA) against companies that buy and sell your background check information.

- You must give written permission to run your background check - this is usually a box or notice in an application that a background check will be run and you will initial or sign your name acknowledging that may happen
- You must be given a copy of your rights under FCRA. Did you get paperwork when you applied for the job? That paperwork probably has this information in it, so keep it and read it carefully in case you have background check issues.
- If you are denied a job because of your background check, the company/employer must provide you with notice of the name of the company that provided the information and your rights to “dispute” or challenge the results.