



Crime and Employment: A Guide for Job Seekers

Having a criminal record can make it difficult to travel out of the country, go to certain Universities or limit the type of work you can do, but over 3 million people in Canada have a criminal record, and most of them have jobs. (CBC News, 2004) The following are some of the Frequently Asked Questions surrounding employment and having a criminal record.

Does an employer have access to my criminal record?

Many employers have employment agreements that a new employee must sign before starting their job. Often in these agreements, the potential employee gives the employer the right to conduct a criminal record check.

Can my employer find my criminal record if I have received a Pardon (now called a Record Suspension)?

After a Record Suspension is granted, it is sealed from public access. When a criminal record check is done after a Record Suspension is granted, the check will be returned stating no criminal record was found. (When a Record Suspension is granted, any non-conviction information is also sealed.)

Can my employer find charges that were withdrawn?

Maybe. Both local police agencies and the RCMP keep information on your criminal history for both convictions and non-convictions. A non-conviction is any court decision that results in a finding other than “guilty”, such as not guilty, acquitted, withdrawn, stays of proceeding or peace bond. Non-conviction

information is available to police agencies but is not *normally* released for background checks.

Each police agency has its own policy with respect to the destruction of non-conviction records. If you have non-conviction information in multiple jurisdictions, you will need to apply to the police agency in each jurisdiction to have the records destroyed. If they approve your request for record, they will also request that RCMP destroy records of your non-conviction. The RCMP will then approved or deny the request.

I am a Young Offender. Does my employer have the right to ask me if I have a Criminal Record?

Yes, but you are NOT obligated to admit that you have a criminal record. However, if they do a criminal record search they will find it. Therefore, it is best to be responsible and admit it. Also, unlike an adult record, a youth record will be automatically sealed when you reach age 18, provided you don't commit more crimes. The length of time is dependent on how severe the offence was and how court proceedings went. After that occurs, the charges are removed and cannot be accessed by any law enforcement agency.

I have had the same job for several years. How can my record affect my employment?

Even if a person has worked for the same employer for several years, they are not protected against future criminal record search requests within the company or organization. Many employers that have recently implemented criminal record searches for new employees are now also requiring the same of existing employees.

I am applying for a job promotion. Will my criminal record affect my application?

It may. Many companies that never before required criminal record searches are now doing so in cases where employees have applied for internal job promotions. Discovery of a criminal record may not only hinder an employees opportunity for career advancement within the company, but may also lead to being fired.

I am on government assistance. How will I pay for my record suspension application?

The new processing fee is \$631. If a criminal record is directly affecting your ability to become employed, your social assistance worker may decide to pay for the cost of your Record Suspension application.

I am self-employed. How can my criminal record affect my employment?

People who are self-employed are not immune to criminal record search requirements. Many companies who sub-contract to individuals or to small businesses are now requiring criminal record searches to be conducted on the employees and the owners of the business.

This is especially true in situations where the independent contractor will have access to confidential information or will be working with vulnerable people, such as children. Computer programmer, accountant and care-giver are just three examples of jobs where criminal record searches are increasingly required.

Can I be bonded if I have a criminal record?

Being bonded means that the employer has taken out insurance against the risk of employees committing crimes, such as theft. Most people are insurable even if they have a criminal record. However, if the insurer considers a person's criminal record to increase risk because of the serious or the nature of the charge, they would charge a higher premium to bond that person. This higher premium could have an impact on whether or not a person is hired.

Do employers ever pay for an employee's Record Suspension?

Yes. When you excel at your job but your criminal record interferes with your ability to do your job (for example, you are unable to leave the country), your employer may decide to pay the cost. Many employers

consider this a cost of doing business and the benefit of keeping you as an employee outweighs the cost of the Record Suspension application. Your employer may be able to use the cost of the Record Suspension as a tax write-off.

Can I travel to the U.S. for my job if I have a criminal record?

No. Canadians may be ineligible to enter the United States with a Canadian criminal record, unless you have a valid U.S. Entry Waiver (I-192, Application for Advance Permission to Enter as Nonimmigrant), For further information on this topic, refer to the U.S. Customs and Border Protection Help site at

<https://help.cbp.gov/>

and search for the topic "Entry into the U.S. - Canadian with criminal record or overstay, waiver".

I am a trucker. Will a Pardon/Record Suspension help me get a FAST Card?

Yes. Canadian Border Services, the federal agency that grants FAST Cards, does check your criminal record. To ensure there is no reason for your application to be denied, it is best to obtain a Record Suspension and Record Destruction *before* applying for a FAST Card, .

I want to work with children, disabled, elderly or other vulnerable people. Will I first need to do a criminal record check?

Yes. However, if you want to work with vulnerable people (children, the aged, people with disabilities), you need a Vulnerable Sector Criminal Record Check. If you have been convicted of certain offences, and you get a Vulnerable Sector Criminal Record Check, CPIC will show your name as flagged, even if you have been pardoned. You will then be asked to let employers see your record.

John Howard Society of British Columbia

763 Kingsway
Vancouver, BC
V5V 3C2
Tel: 604-872-5651



www.johnhowardbc.ca

"Effective, just and humane responses to the causes and consequences of crime."