

## Criminal Record

"Criminal record" generally refers to documentation of a person's criminal conviction that is kept on file by government agencies, most commonly court and police records. The main source of information about criminal records in Canada is the automated Canadian Police Information Centre (CPIC) maintained by the RCMP.

## Criminal Record – Record Suspension

If you were convicted of a criminal offence and received an "**absolute discharge**" you cannot apply for a record suspension (pardon). Records of your conviction will automatically be removed from the CPIC one year after your conviction.

If you were convicted of a criminal offence and received a "**conditional discharge**," you cannot apply for a record suspension (pardon). Records of your conviction will automatically be removed from the CPIC 3 years after your conviction.

You can apply 5 years after completing your sentence for **summary conviction** offences and 10 years for **indictable** or **hybrid** convictions.

Most employment application forms ask the question "Do you have a criminal record for which you have not received a record suspension or pardon?" That is an acceptable question. It would not be acceptable to ask "have you ever been convicted of a criminal offence?" or "have you ever been to jail?"

An employer may conduct a criminal record check on you with your permission. The employment application itself may ask you "Do you have a criminal record for which a record suspension/pardon has not been granted?" and the fine print on the bottom of the application form may be a permission to the prospective employer to verify that the statements made are true.

A criminal record check will not show convictions for which there has been a record suspension (pardon). The records of the offences for which you have been pardoned will be kept separate from other criminal records. They can be accessed, but only in a circumstance such as a later conviction for a serious offence.

A record suspension (pardon) will not erase a criminal conviction. The RCMP allows third parties (e.g. law enforcement agencies in Canada and the U.S.) access to the CPIC database. Information held by third parties may not be the most up to date version of records.

## Record Suspensions For Simple Possession of Marijuana

Bill C-93 has been introduced to speed up and eliminate the fee for a record suspension, now that cannabis is legal in Canada. The Bill could become law by the summer of 2019.

## Criminal Record - Getting A Job

An employer **may** be able to refuse to employ you if you have a criminal record, for which a record suspension (formerly called a pardon) has not been granted. The *Ontario Human Rights Code* and the *Canadian Human Rights Act* generally prohibit an employer from discriminating against you because of your criminal record if you have a record suspension. However, even if you have received a record suspension, there may be certain circumstances in which an employer may refuse to employ you because of your past convictions. You should seek legal advice if this happens to you.

*The Canadian Human Rights Act* applies to employment in the areas that the federal government regulates, for example, airlines, radio and TV stations, banks, shipping lines, federal civil service and railways. The *Ontario Human Rights Act* applies to other employers in Ontario.

## RESOURCES

- **The Parole Board of Canada** published Record Suspension Guide (and application forms) that can be found at: <http://pbc-clcc.gc.ca/prdons/servic-eng.shtml> (free). Most Legal clinics, MPP offices and MP offices may have these in hard copy. The Parole Board of Canada provides telephone assistance completing the Application: 1-800-874-2652
- **The John Howard Society** in Ontario has published a brochure on Record Suspension applications, which is available at <http://www.johnhoward.on.ca/resources/record-suspensions-pardons/> (free). The John Howard Society Belleville, 613-968-6628 assists with Record Suspension applications
- **Canadian Civil Liberties Association** information sheet: [Police Record Checks in Employment and Volunteering: Know Your Rights](http://ccla.org/recordchecks/resources/), available at <http://ccla.org/recordchecks/resources/> (free).
- **Steps to Justice** - <https://stepstojustice.ca/questions/employment-and-work/can-employer-ask-me-if-i-have-police-record>
- **Your Legal Rights** – [Record Suspension Kit](#) (Prepared by the Elgin-Oxford Legal Clinic) (free)

There are companies that will prepare your application for a fee. If you choose to hire someone, read any contract carefully to be sure you understand what you are paying for.

### ➤ Ontario Works

Some Ontario works offices may cover the cost of a Record Suspension Application for those receiving Ontario Works. Contact your worker if you would like to ask about these services.