



This Lifeline contains general information, and does not constitute individual legal advice about your situation. You should consult with an attorney for individual legal advice about your situation and to find out how this information applies to your situation. To see if you qualify for free legal services, call the Legal Aid office nearest you.

Marijuana/Cannabis Expungement

Effective March 31, 2021, it is no longer a crime to smoke or possess limited amounts of Marijuana/Cannabis in New York State. Article 221 of the New York State Penal Law, which made the possession, use, and sale of Marijuana illegal, is no longer in effect. Individuals who were convicted of a Marijuana-related crime prior to March 31, 2021 may be eligible for expungement of those records.

What does “expungement” mean?

It is the process by which a criminal conviction is erased, treating the conviction as if it never occurred and removing it from a criminal record.

What are the benefits of expungement?

Expunged convictions will not:

- appear or show up on a criminal history or background check;
- be used against an individual when applying for housing, student loans, or a job;
- be found by law enforcement unless you apply for a gun license or for a job in law enforcement; and
- have to be listed on a job or school application that asks if you have been arrested or convicted.

Which crimes are eligible for expungement?

- PL 221.05 Unlawful Possession of Marijuana in the Second Degree
- PL 221.10 Unlawful Possession of Marijuana in the First Degree
- PL 221.15 Criminal Possession of Marijuana in the Fourth Degree
- PL 221.20 Criminal Possession of Marijuana in the Third Degree
- PL 221.35 Criminal Sale of Marijuana in the Fifth Degree
- PL 221.40 Criminal Possession of Marijuana in the Fourth Degree
- PL 222.10 Restrictions on Cannabis Use
- PL 222.15 Personal Cultivation and Home Possession of Cannabis
- PL 222.25 Unlawful Possession of Cannabis
- PL 222.45 Unlawful Sale of Cannabis

If the only controlled substance involved in the case was Cannabis, then also:

- PL 240.36 Loitering in the First Degree
- PL 220.03 Criminal Possession of a Controlled Substance in the Seventh Degree
- PL 220.06 Criminal Possession of a Controlled in the Fifth Degree

How do I apply for record expungement?

Conviction of any of the above crimes will result in automatic expungement, requiring no further action from you. As of March 31, 2023, the courts are expected to have completed all expungements.

Will the Court notify me once my convictions have been expunged?

No, the court will not notify you of the expungement. However, you can request a certificate of disposition from the court where your case was decided to ensure the expungement has occurred. You can also request a copy of your RAP sheet from the New York State Division of Criminal Justice Services to verify there are no mistakes. If you do encounter a mistake on your RAP sheet, you can submit a certificate of disposition to the NYS DCJS and request corrections be made.

What if I have a Marijuana conviction for a crime not listed above?

For all other Marijuana-related crimes not listed above for automatic expungement, you may apply to the court where your case was heard to have the conviction vacated, charges dismissed or reduced, or to reduce a sentence currently being served.

What if I am a New York State Resident with out-of-state or federal Marijuana-related convictions?

Unfortunately, this New York State law only affects the expungement of the New York State Marijuana convictions listed above. It has no effect in modifying your criminal record for other states or federally. These out-of-state or federal convictions will continue to show up on a background check of your criminal history despite your status as a New York State resident.

What if I am not a U.S. citizen?

If you are not a U.S. citizen, the expungement may not be automatic, and if so, you will need to file a motion with the court to request the expungement.

Is all Marijuana use now legal in New York State?**It is now legal for an adult 21 years of age or older to:**

- possess, display, purchase, obtain, or transport up to 3 ounces of cannabis and up to 24 grams of concentrated cannabis;
- give or transfer up to 3 ounces of cannabis and up to 24 grams of concentrated cannabis without compensation to another adult 21 years of age or older;
- smoke cannabis anywhere that smoking tobacco would be permitted unless another law, rule, or local policy forbids it;
- possess up to 6 cannabis plants (3 mature plants and 3 immature plants).

It remains illegal to:

- smoke cannabis in any place that smoking tobacco products is forbidden;
- smoke cannabis in schools, workplaces, or cars;
- operate a vehicle while impaired by Marijuana;
- possess or sell more than three ounces of cannabis or more than 24 grams of concentrated cannabis; and
- possess more than 6 cannabis plants (3 mature plants and 3 immature plants).

Under New York State law, if you smoke cannabis in public in a location where it is not permitted, you can face civil penalties and be fined up to \$25 or directed to perform 20 hours of community service. The penalty for growing more than the legal number of plants is a civil penalty up to \$200.