



Community Advocacy & Legal Centre

CRIMINAL RECORDS, PARDONS AND EMPLOYMENT

(UPDATED: OCT 2011)

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I applied for a job and as soon as I said that I have a criminal record, the employer showed me the door.

"Criminal record" generally refers to documentation of a person's criminal conviction that is kept on file by government agencies, most commonly, in court and police records.

The main source of information about criminal offenders in Canada today is the automated Canadian Police Information Centre (CPIC) maintained by the RCMP. CPIC is a national repository of fingerprint and criminal record information that is given out to authorized law enforcement agencies throughout Canada and the U.S., to government departments for security/reliability investigations, and to individuals requiring police certificates for employment, visas and travel documents.

Human rights laws allow an employer to discriminate against you if you have a criminal record *for which there has not been a pardon.* (*Ontario Human Rights Code* sections 5 & 10, and *Canadian Human Rights Act*, sections 3(1), 7 & 25.)

Unless there has been a pardon, an employer can discriminate against you because you have a criminal record. An employer can refuse to hire a person even if, for example, the person was convicted of a very minor offence many years ago.

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

If you were convicted of a criminal offence and received an "absolute discharge" you cannot apply for a 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 pardon. Records of your conviction will automatically be removed from the CPIC three years after your conviction.

If you have a *pardon* for a criminal offence, an employer usually cannot discriminate against you. An employer can still discriminate against you in very limited circumstances. The most common circumstance is if the pardon is for an offence that is relevant to the job qualifications. For example, if you have been convicted of fraud, a bank may still refuse to hire you.

Most employment application forms ask the question "do you have a criminal record for which you have not received a 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 only. The employment application itself may ask you "Do you have a criminal record for which a pardon has not been granted?" and the fine print on the bottom of the application form will be a permission to the prospective employer to verify that the statements made are true.

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Your community legal clinic

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

The Parole Board of Canada can grant pardons for criminal offences. This is an agency of the federal government. How long you have to wait before you can ask for a pardon depends on the nature of the offence that you were convicted of.

When a pardon is granted, the criminal record is sealed. The Parole Board of Canada sends a letter to the police department where the charge originally arose, requiring them to remove the record of the conviction from their files.

A pardon will not erase references to a criminal conviction. The RCMP allows third parties (e.g. law enforcement agencies in Canada and the US) access to the CPIC database. These third parties are able to retrieve CPIC records and store them. So, for example, if you have a criminal record that was pardoned in 2005, the CPIC database that was accessed by the US Immigration authorities in 2004 will contain information about your conviction. This will be stored on the US computers. Because the RCMP cannot control the use of information outside of Canada, such information could be stored in the databases of employment agencies and bonding companies.

RESOURCES

- **Pardon Application Guide**, published by the Parole Board of Canada. Most clinics, MPP offices and MP offices have these in hard copy. They are also available on the Parole Board of Canada website: <http://www.pbc-clcc.gc.ca/prdons/pardon-eng.shtml>. (Some Ontario Works offices may pay for all or part of the cost of the Pardon Application using discretionary funds. Ask your caseworker.)
- **The John Howard Society** in Belleville, 613-968-6628 assists with Pardon applications. The Alberta John Howard Society has published an excellent guide called [Understanding Criminal Records](#) as well as [A Guide to Pardons](#), both available at www.johnhoward.ab.ca. The Ontario John Howard Society has published a Tip Sheet #19 entitled: [Pardons: What, where, when, how and why?](#) Which is available at <http://www.johnhoward.on.ca/research/facts.html>.
- **The Parole Board** provides telephone assistance completing the Application Guide: 1-800-874-2652

Ontario Works (Hastings County) - <http://www.hastingscounty.com/>

They will cover the costs of the pardon application for those on Ontario Works. They also hold pardon workshops every Wednesday in Belleville at the John Howard Society at 19-21 Wallbridge Crescent, next to Gleaners. Call the John Howard Society for an appointment. **Ontario Works Offices:** **Belleville:** 613-966-8032 **Trenton:** 613-392-1387 **Madoc:** 613-473-5258 **Bancroft:** 613-332-3410.

Ontario Works (Prince Edward and Lennox & Addington) - <http://www.pelass.org/>

They do not have the same program as Hastings but you should ask your worker about "discretionary benefits." Call 613-354-0957 or toll free 1-866-354-0957.

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