these people have something in common
About 45 million people in the United States have criminal records. That’s more than one in five adults.

These men and women have an especially hard time finding decent jobs, because most employers can’t see past a criminal record. It’s New York State policy to encourage the employment of men and women with criminal records. Employers have the right to consider a job applicant’s record, but Article 23-A of New York Corrections Law requires employers to consider a record in a broader context.

In New York State, employers have to consider:

How relevant is the offense to the duties of the job? According to a University of California study, almost half of surveyed employers said they would automatically reject a candidate with a record, without regard to the nature of the offense or any other individual factors. Since these figures are self-reported, the actual percentage is likely much higher.

How long ago was the last offense? The risk of re-offense drops dramatically the longer a person stays crime-free. After seven years, people with records pose no greater crime risk than people without records.

How old was the candidate when the offense was committed? People with records from young adulthood generally stop committing crimes as they get older. Once they hit their mid-thirties, people with records pose no greater crime risk than people without records.

How serious was the offense? Most convictions in New York State are for nonviolent crimes, and many are for drug offenses that involved no violence or property crime.

Has the candidate sought official rehabilitation? In New York, people with records can apply for certificates of good conduct and certificates of relief from disability from the state. Under New York law, employers have to consider these as evidence of rehabilitation.
As soon as he realized where I lived, I never got another day’s work. Never got a phone call. Never heard back from him.

CHRIS CAINEY

I was in the painters’ union. And I was living in a halfway house for people just out of prison. The union rep sat down with me and he asked me where I lived. I told him the address. He said, “I know that address.” I said, “Do you?” He said, “Yeah, I picked that place up from an opening. It’s in my neighborhood and I never wanted it there.” Up until then, I was getting good work—$5 an hour, $30 a day.

The interview that sticks out in my head was for a receptionist position. We had a really good thing going on, and then she asked the felony question. It was like, ‘all of a sudden I saw her shoulders, her whole demeanor, her whole body language change. I eventually got hired at another company, but because I had a criminal background, I couldn’t be more than a cashier. I couldn’t be a supervisor, I couldn’t be anything but a cashier.

So I was the best damn cashier they ever had.

VILMA ORTIZ-GONZALEZ

I have been trying to get a job since the day I got home. I didn’t want to depend on anyone or feel like a burden. I just wanted to find work, to get my own place, and to learn to live. But every job I go to they ask about the crime. I’m not a common criminal.

I was nineteen. That was 27 years ago.

People say I have a mean look. I don’t notice the mean look. I apologize for the mean look. I just want to be productive. I spent so much time not talking that I don’t know what to say. I don’t know what to say except that I am going to succeed no matter what anyone says.

KEVIN CLAYBERRY, MISSION III
It is illegal to deny someone a job based solely on a criminal record.

§ 731. The law applies to both public and private employers. Applicability of provisions of this article shall apply to any application by any person for a license or employment at any public or private employer who has been convicted of one or more criminal offenses in the state or in any other jurisdiction, and to any license or employment by any person whose conviction of one or more criminal offenses in the state or in any other jurisdiction has been deterred or prevented or in any other way been affected, by the issuance of a certificate of relief from conviction or certificate of good conduct. Nothing in this article shall be construed to affect any right an employer may have with respect to any criminal misrepresentation in connection with an application for employment made by a prospective employee or employee made by a current employee.

§ 732. Employers cannot refuse to hire an applicant simply because he or she has been convicted of a crime. Unfair discrimination against persons previously convicted of one or more criminal offenses is prohibited. No application for any sort of employment, and no employment or license granted by an individual, to which the provisions of this article apply, shall be denied or acted upon adversely by reason of the individual having been previously convicted of one or more criminal offenses, or by reason of a finding of lack of “good moral character” based upon such finding is based upon the fact that the individual has previously been convicted of one or more criminal offenses. The issuance of the license or employment shall be affected by the individual; or (2) the issuance or denial of the license or employment, or granting a license or granting of a license, except where a mandatory forfeiture of a license or certificate of good conduct. Nothing in this article shall be construed to affect any right an employer may have with respect to any criminal misrepresentation in connection with an application for employment made by a prospective employee or employee made by a current employee.

§ 733. Employers may consider criminal history along with other factors in a broad evaluation. Factors to be considered concerning a previous conviction or conviction: presumption. (1) In making a determination pursuant to section seven hundred fifty-two of the chapter, the public agency or private employer shall consider the following factors: (a) The public policy of this state, as expressed in 1927, and (b) The specific duties and responsibilities necessarily related to the license or employment sought.

§ 734. Jobseekers with criminal records have a right to request a list of reasons for being rejected from a job. Written statement upon denial of employment. At the request of any person previously convicted of a criminal offense who has been denied employment or license, the public agency or private employer shall provide to the person, within thirty days of a request, a written statement of the reasons for the denial of employment or license which is based upon since the occurrence of the criminal offense or offenses.

§ 735. Jobseekers with criminal records have a right to take action if they feel wrongfully rejected. Enforcement. In connection to actions by public agencies, the provisions of this article cannot be enforced by the New York City Commission on Human Rights or the New York City Human Rights Commission. In connection to actions by private employers, the provisions of this article cannot be enforced by the New York City Commission on Human Rights or the New York City Human Rights Commission.