

OFFICIAL LIST

(Revised – 1/1/2022)

NEW YORK STATE OFFICE OF CHILDREN AND FAMILY SERVICES

CRIMINAL HISTORY RECORD ASFA REVIEW STANDARDS

**I. Social Services Law Section 378-a
Subdivision 2, Paragraph (e), Subparagraph (1), Clause A**

If the applicant has a conviction, at any time, for one of the following crimes, as defined in the New York State Penal Law, then he or she must be disqualified:

(i) Child Abuse or Neglect

120.25 – Reckless Endangerment
135.50 – Custodial Interference
255.25 – Incest 3rd degree
255.26 – Incest 2nd degree
255.27 – Incest 1st degree
260.00 – Abandonment of a Child
260.06 – Non-support 1st degree

NOTE: There are other crimes, such as assault, which could be child abuse or neglect if the defendant is the parent and the victim is their child.

(ii) Spousal Abuse

Social Services Law section 378-a(2)(j) defines “spousal abuse” as an offense defined in the following sections, where the victim of such offense was the defendant’s legal spouse:

120.05 – Assault 2nd degree
120.10 – Assault 1st degree
121.12 – Strangulation causing physical impairment, loss of consciousness or stupor
121.13 – Strangulation 1st degree, severe injury

(iii) Crimes Against a Child, Including Child Pornography

The following is a list of offenses, in which the age of the victim is a factor:

120.01 – Reckless Assault of a Child by a Child Day Care Provider
120.02 – Reckless Assault of a Child
120.05 – Assault 2nd degree/Subdivision (8) & (9)
120.12 – Aggravated Assault Upon a Person Less than 11 years old
120.55 – Stalking 2nd degree/Subdivision 4
120.70 – Luring a Child

130.25 – Rape 3rd degree/Subdivision (2)
130.30 – Rape 2nd degree/Subdivision (1)
130.35 – Rape 1st degree/Subdivision (3) & (4)
130.40 – Criminal Sexual Act 3rd degree/Subdivision (2)
130.45 – Criminal Sexual Act 2nd degree/Subdivision (1)
130.50 – Criminal Sexual Act 1st degree/Subdivision (3) & (4)
130.53 – Persistent Sexual Abuse
130.65 – Sexual Abuse 1st degree/Subdivision (3) & (4)
130.65-a – Aggravated Sexual Abuse 4th degree
130.66 – Aggravated Sexual Abuse 3rd degree/Subdivision (1)(c)
130.67 – Aggravated Sexual Abuse 2nd degree/Subdivision (1)(c)
130.70 – Aggravated Sexual Abuse 1st degree/Subdivision (1)(c)
130.75 – Course of Sexual Conduct Against a Child 1st degree
130.80 – Course of Sexual Conduct Against a Child 2nd degree
130.85 – Female Genital Mutilation
130.90 – Facilitating a Sex Offense with a Controlled Substance
130.96 – Predatory Sexual Assault Against a Child
135.50 – Custodial Interference
135.55 – Substitution of children
220.28 – Use of a Child to Commit a Controlled Substance Offense*
222.55 – Criminal Sale of Cannabis 2nd degree/Subdivision (2)*
230.05 – Patronizing a Prostitution 2nd degree*
230.06 – Patronizing a Prostitution 1st degree
230.08 – Patronizing a Person for Prostitution in a School Zone
230.11 – Aggravated Patronizing a Minor for Prostitution 3rd degree
230.12 – Aggravated Patronizing a Minor for Prostitution 2nd degree
230.13 – Aggravated Patronizing a Minor for Prostitution 1st degree
230.25 – Promoting Prostitution 3rd degree/Subdivision (2) where the child is under age 18
230.30 – Promoting Prostitution 2nd degree/Subdivision (2)
230.32 – Promoting Prostitution 1st degree
230.34a – Sex Trafficking of a Child
235.21 – Disseminate Indecent Material to Minors 2nd degree
235.22 – Disseminate Indecent Material to Minors 1st degree
260.00 – Abandonment of a Child
260.06 – Non-support 1st degree
263.05 – Use of a Child in a Sexual Performance
263.10 – Promoting an Obscene Sexual Performance by a Child
263.11 – Possessing an Obscene Sexual Performance by a Child
263.15 – Promoting a Sexual Performance by a Child
263.16 – Possessing a Sexual Performance by a Child
263.30 – Facilitating a Sexual Performance by a Child with a Controlled Substance or Alcohol
265.14 – Criminal Sale of a Firearm with the Aid of a Minor
1192.2(12) – Vehicle and Traffic Law - DWI with a child in the car - felony

(iv) A Crime Involving Violence, Including Rape, Sexual Assault, or Homicide [but not including crimes defined in Social Services Law section 378-a(2)(3)(1)(B)]

1. Rape

130.25 – Rape 3rd degree

130.30 – Rape 2nd degree

130.35 – Rape 1st degree

2. Sexual Assault

130.40 – Criminal Sexual Act 3rd degree

130.45 – Criminal Sexual Act 2nd degree

130.50 – Criminal Sexual Act 1st degree

130.53 – Persistent Sexual Abuse

130.65 – Sexual Abuse 1st degree

130.65(a) – Aggravated Sexual Abuse 4th degree

130.66 – Aggravated Sexual Abuse 3rd degree

130.67 – Aggravated Sexual Abuse 2nd degree

130.70 – Aggravated Sexual Abuse 1st degree

130.75 – Course of Sexual Conduct against a Child 1st degree

130.80 – Course of Sexual Conduct against a Child 2nd degree

130.90 – Facilitating a Sex Offense with a Controlled Substance

130.91 – Sexually Motivated Felony

130.95 – Predatory Sexual Assault

250.45 – Unlawful Surveillance 2nd degree

250.50 – Unlawful Surveillance 1st degree

3. Homicide

125.10 – Criminally Negligent Homicide

125.11 – Aggravated Criminally Negligent Homicide

125.12 – Vehicular Manslaughter 2nd degree

125.13 – Vehicular Manslaughter 1st degree

125.14 – Aggravated Vehicular Homicide

125.15 – Manslaughter 2nd degree

125.20 – Manslaughter 1st degree

125.21 – Aggravated Manslaughter in the 2nd degree

125.22 – Aggravated Manslaughter in the 1st degree

125.25 – Murder 2nd degree

125.26 – Aggravated Murder

125.27 – Murder 1st degree

4. Other Crimes Involving Violence

a. Any of the following Class A-1 or A-II felonies:

- 105.17 – Conspiracy 1st degree
- 125.25 – Murder 2nd degree
- 125.27 – Murder 1st degree
- 130.91 – Sexually Motivated Felony
- 135.25 – Kidnapping 1st degree
- 150.20 – Arson 1st degree
- 490.45 – Criminal Possession of a Chemical Weapon or Biological weapon 1st degree
- 490.50 – Criminal Use of a Chemical Weapon or biological weapon 2nd degree
- 490.55 – Criminal Use of a Chemical Weapon or biological weapon 2nd degree

b. Any of the following Class B violent felonies:

- 120.07 – Gang Assault 1st degree
- 120.10 – Assault 1st degree, if convicted within the previous five years or where the victim is the defendant's spouse or a child under 18
- 120.11 – Aggravated Assault on a Police Officer, if convicted within the previous five years
- 130.35 – Rape 1st degree
- 130.50 – Criminal Sexual Act 1st degree
- 130.70 – Aggravated Sexual Abuse 1st degree
- 130.75 – Course of Sexual Conduct against a Child 1st degree
- 130.91 – Sexually Motivated Felony
- 135.20 – Kidnapping 2nd degree
- 140.30 – Burglary 1st degree
- 150.15 – Arson 2nd degree
- 160.15 – Robbery 1st degree
- 215.12 – Tampering with a witness 1st degree
- 215.17 – Intimidating a Witness or Victim 1st degree
- 265.04 – Criminal Possession of a Dangerous Weapon 1st degree
- 265.09 – Criminal Use of a Firearm 1st degree
- 265.13 – Criminal Sale of a Firearm 1st degree
- 490.35 – Hindering Prosecution of Terrorism 1st degree
- 490.40 – Criminal Possession of a Chemical Weapon or Biological weapon 2nd degree
- 490.47 – Criminal Use of a Chemical Weapon or Biological weapon 3rd degree

c. Any of the following Class C violent felonies

An attempt to commit any of the Class B violent felonies listed in (b)

- 120.06 – Gang Assault 2nd degree
- 120.08 – Assault on a Police Officer, Firefighter or Emergency Medical Service Professional

121.13 – Strangulation 1st degree, severe injury
130.67 – Aggravated Sexual Abuse 2nd degree
130.91 – Sexually Motivated Felony
140.25 – Burglary 2nd degree
160.10 – Robbery 2nd degree
265.03 – Criminal Possession of a Weapon 2nd degree
265.08 – Criminal Use of a Firearm 2nd degree
265.12 – Criminal Sale of a firearm 2nd degree
265.14 – Criminal Sale of a Firearm with the Aid of a Minor
265.19 – Aggravated Criminal Possession of a Weapon
490.15 – Soliciting or Providing Support for an Act of Terrorism 1st degree
490.30 – Hindering Prosecution of Terrorism 2nd degree
490.37 – Criminal Possession of a Chemical Weapon or Biological weapon 3rd degree

d. Any of the following Class D violent felonies

An attempt to commit any of the Class C violent felonies listed in (c)

120.18 – Menacing a Police Officer
120.60 – Stalking 1st degree
121.12 – Strangulation causing physical impairment, loss of consciousness or stupor
125.12 – Vehicular Manslaughter 2nd degree
130.65 – Sexual Abuse 1st degree
130.80 – Course of Sexual Conduct against a Child 2nd degree
130.66 – Aggravated Sexual Abuse 3rd degree
215.12 – Tampering with a witness 2nd degree
215.16 – Intimidating a Victim or Witness 2nd degree
240.60 – Falsely Reporting an Incident
240.62 – Placing a False Bomb 1st
240.63 – Placing a False Bomb in a Sports Arena
265.02 – Criminal Possession of a Weapon 3rd degree/Subdivisions 4, 5, 6, 7 and 8
(subdivision 4 repealed 11/1/2006)
265.11 – Criminal Sale of a Firearm 3rd degree
405.18 – Aggravated Unpermitted Use of Indoor Pyrotechnics 1st degree
490.10 – Soliciting or Providing Support for an Act of Terrorism 2nd degree
490.20 – Making a Terroristic Threat

e. Any of the following Class E felonies*

120.55 – Stalking 2nd degree
125.10 – Criminally Negligent Homicide
130.53 – Persistent Sexual Abuse
130.65(a) – Aggravated Sexual Abuse 4th degree
130.90 – Facilitating a sex offense with a controlled substance
135.10 – Unlawful Imprisonment 1st degree

- 240.55 – Falsely Reporting an Incident 2nd degree
- 240.61 – Placing a False Bomb or Hazardous Substance 2nd degree
- 265.02 – Criminal Possession of a Weapon 3rd degree/Subdivisions 5-8

* A conviction for an attempt at any of the above listed Class E felonies does not result in a presumptive disqualification conviction.

f. Terrorism

- 490.25 – Crime of Terrorism - violent felony when person commits murder, assassination or kidnapping with intent to intimidate, coerce or influence the policy of government

5) Former Penal Law Offenses**

- 70 – Abduction
- 221 – Arson 1st degree
- 222 – Arson 2nd degree
- 240 – Assault 1st degree
- 242 – Assault 2nd degree
- 402 – Burglary 1st degree
- 403 – Burglary 2nd degree
- 480 – Abandonment of Children
- 481 – Abandonment of Children under 14 years of age
- 483-a – Carnal Abuse of a Child
- 483-b – Carnal Abuse of a Child, 10 years of age and less than 16
- 484-c – Employment of Children in Drug Traffic
- 690 – Sodomy, Crime against Nature
- 1042 – Homicide
- 1044 – Murder 1st degree
- 1046 – Murder 2nd degree
- 1049 – Non-Negligent Manslaughter
- 1050 – Manslaughter 1st degree
- 1052 – Manslaughter 2nd degree
- 1053 – Criminal Negligence in Operation of Motor Vehicle
- 1110 – Incest
- 1250 – Kidnapping
- 1400 – Maiming
- 1760 – Willfully Poisoning Food
- 1895 – Endangering Life by Maliciously Placing Explosives Near Building
- 2010 – Rape, 1st and 2nd degree
- 2124 – Robbery 1st degree
- 2126 – Robbery 2nd degree

** The list of Former Penal Law Offenses set forth above is not an all-inclusive list and is intended to include felony offenses which contain elements similar to the existing offenses referenced in this official list.

**II. Social Services Law Section 378-a
Subdivision 2, Paragraph (e), Subdivision (1), Clause B**

If the applicant has a conviction, in the past 5 years, for one of the following crimes then he or she must be disqualified:

Physical Assault, Battery

- 120.00H – Assault/Hate Crime (enhances misdemeanor to felony)
- 120.03 – Vehicular Assault 2nd degree
- 120.04 – Vehicular Assault 1st degree
- 120.04-a – Aggravated Vehicular Assault
- 120.05 – Assault 2nd degree
- 120.06 – Gang Assault 2nd degree
- 120.07 – Gang Assault 1st degree
- 120.08 – Assault on a Police Officer
- 120.09 – Assault on a Judge
- 120.10 – Assault 1st degree
- 120.11 – Aggravated Assault on a Police Officer

NOTE: The commission of one of these assaults in the past 5 years is a disqualifier, however, an assault conviction older than 5 years can still be a disqualifying crime if it is subject to (i) or (ii).

Drug-Related Offenses

- 178.15 – Criminal Diversion of Prescription Medications 3rd degree
- 178.20 – Criminal Diversion of Prescription Medications 2nd degree
- 178-25 – Criminal Diversion of Prescription Medications 1st degree
- 220.06 – Criminal Possession of a Controlled Substance 5th degree
- 220.09 – Criminal Possession of a Controlled Substance 4th degree
- 220.16 – Criminal Possession of a Controlled Substance 3rd degree
- 220.18 – Criminal Possession of a Controlled Substance 2nd degree
- 220.21 – Criminal Possession of a Controlled Substance 1st degree
- 220.31 – Criminal Sale of a Controlled Substance 5th degree
- 220.34 – Criminal Sale of a Controlled Substance 4th degree
- 220.39 – Criminal Sale of a Controlled Substance 3rd degree
- 220.41 – Criminal Sale of a Controlled Substance 2nd degree
- 220.43 – Criminal Sale of a Controlled Substance 1st degree
- 220.44 – Criminal Sale of a Controlled Substance in or near School Grounds
- 220.46 – Criminal Injection of a Narcotic Drug***

220.55 – Criminally Using Drug Paraphernalia 1st degree
 220.60 – Criminal Possession of Precursors of Controlled Substances***
 220.65 – Criminal Sale of a Prescription for a Controlled Substance
 220.71 – Criminal Possession of Methamphetamine Material 1st degree
 220.72 – Criminal Possession of precursors of Methamphetamine
 220.73 – Unlawful Manufacture of Methamphetamine 3rd degree
 220.74 – Unlawful Manufacture of Methamphetamine 2nd degree
 220.75 – Unlawful Manufacture of Methamphetamine 1st degree
 220.76 – Unlawful Disposal of Methamphetamine Laboratory Material***
 220.77 – Operating as a Major Trafficker
 221.25 – Criminal Possession of Marihuana 2nd degree¹
 221.30 – Criminal Possession of Marihuana 1st degree¹
 221.45 – Criminal Sale of Marihuana 3rd degree¹***
 221.50 – Criminal Sale of Marihuana 2nd degree¹
 221.55 – Criminal Sale of Marihuana 1st degree¹
 222.35 – Criminal Possession of Cannabis 2nd degree/Subdivision (1) & (2)***
 222.40 – Criminal Possession of Cannabis 1st degree/Subdivision (1) & (2)
 222.55 – Criminal Sale of Cannabis 2nd degree/Subdivision (1) & (2)***
 222.60 – Criminal Sale of Cannabis 1st degree
 222.65 – Aggravated Criminal Sale of Cannabis - More than 100lbs
 Public Health Law § 3304 – Unlawful possession, manufacture, sale, prescription, distribution,
 etc. of a controlled substance

¹ This only applies to a conviction prior to 3/31/2021. As of 4/1/2026, the five year look back will expire and these convictions will no longer result in mandatory disqualification.

*** Attempts to commit these crimes will be misdemeanors and are thus not disqualifications.

III. **Attempts**

With the exception of a conviction for an attempt of a Class E felony, a felony conviction for the attempt to commit any disqualifying crime set forth above, is also a disqualifying crime.

IV. **Hate Crimes**

A conviction for one of the crimes listed below as a result of section 485.05 of the Penal Law, transforms a reportable conviction into a disqualifying conviction. That crime will be categorized as a crime involving violence. The following crimes will become disqualifying convictions when DCJS identifies them as a hate crime:

120.00 – Assault 3rd degree
 120.20 – Reckless Endangerment 2nd degree
 150.05 – Arson 4th degree
 150.10 – Arson 3rd degree