

**OFFICIAL LIST
(Revised –March 2016)**

**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

Section 378-a(2)(j) of the Social Services Law 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

(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
130.25 – Rape 3rd degree/Subdivision (2)
130.30 – Rape 2nd degree/Subdivision (1)
130.35 – Rape 1st degree/Subdivision (3)
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)
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*
230.05 – Patronizing a Prostitution 2nd degree*
230.06 – Patronizing a 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
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
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 Section 378-a(2)(3)(1)(B) of the Social Services Law]

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

120.06 – Gang Assault 2nd degree
120.08 – Assault on a police officer, fireman or emergency medical 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

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 witness or Victim 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 – sub 4 repealed Nov 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 subdivisions 5-10

*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

** (Note: 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
120.10 – 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*
220.76 – Operating as a Major Trafficker
221.20 – Criminal Possession of Marihuana 3rd degree*
221.25 – Criminal Possession of Marihuana 2nd degree
221.30 – Criminal Possession of Marihuana 1st degree
221.45 – Criminal Sale of Marihuana 3rd degree*
221.50 – Criminal Sale of Marihuana 2nd degree
221.55 – Criminal Sale of Marihuana 1st degree

Public Health Law § 3304 - Unlawful possession, manufacture, sale, prescription, distribution, etc. of a controlled substance

* 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