

In the Matter of the Application of:

**Notice of Motion and Affidavit in Support
Sealing Pursuant to CPL 160.59**

① Name: _____

② AKA(s): _____

③ NYSID: _____

④ Motorist ID #: _____
(VTL Crimes)

⑤ DOB: _____

This is a Notice of Motion for sealing New York State convictions pursuant to Criminal Procedure Law (CPL) 160.59. The applicant moves to seal the following case(s):

⑥ Docket, Indictment, or SCI Number	⑦ Court Name	⑧ Conviction Charge	⑨ Law/Section/Subsection	⑩ Conviction Date	⑪ Sentence Date	⑫ Sentence Term	⑬ Release Date from any incarceration

ATTACHMENTS:

⑭ Applicant attaches the following documents in support of the request for sealing (applicant may attach documents related to reasons why the case(s) should be sealed, including evidence of rehabilitation, letters of recommendation, employment status, etc.):

1. Affidavit in Support of Sealing Pursuant to CPL 160.59 [see page 2].
2. Affidavit of Service on the District Attorney [see page 3].
3. Certificate of Disposition for each conviction for which I am requesting sealing.
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____

APPLICANT UNDERSTANDS THE FOLLOWING PROCEDURES AND REQUIREMENTS OF THIS MOTION :

If applicant is applying to seal two cases, this motion must be filed in the court where the most serious conviction was entered. If both cases involve convictions of the same class (e.g., two class A misdemeanors or two class B misdemeanors), the motion must be filed in the court where the more recent conviction was entered.

A copy of this Notice of Motion and all supporting documents must be served on the District Attorney of each county where a conviction listed above was entered.

The District Attorney has 45 days after being served with this Notice of Motion to consider whether to consent to the sealing or to oppose the sealing.

If the District Attorney opposes the sealing, the court will conduct a hearing and consider any evidence offered by either party that would aid the court in deciding whether to seal your convictions.

Before deciding this motion, the law requires the court to have a fingerprint-based criminal history report (rap sheet), which will include any sealed or suppressed cases and any criminal history information that occurred in jurisdictions outside of New York. By filing this Notice of Motion, you are agreeing to be fingerprinted if required. When the motion is filed, the clerk of the court will provide instructions if you must be fingerprinted.

Affidavit in Support of Sealing Pursuant to CPL 160.59

The applicant states the following facts upon information and belief that they are true:

15 I was convicted of a crime or crimes in no more than two criminal transactions in New York State or elsewhere, and no more than one of those criminal convictions includes a conviction for a felony offense. I do not have any open or pending criminal charges against me.

16 I am not applying to seal any of the following offenses:

- a. a sex offense defined in article one hundred thirty of the Penal Law;
- b. an offense defined in article two hundred sixty-three of the Penal Law;
- c. a felony offense defined in article one hundred twenty-five of the Penal Law;
- d. a violent felony offense defined in section 70.02 of the Penal Law;
- e. a class A felony offense defined in the Penal Law;
- f. a felony offense defined in article one hundred five of the Penal Law where the underlying offense is not an eligible offense;
- g. an attempt to commit an offense that is not an eligible offense if the attempt is a felony; or,
- h. an offense for which registration as a sex offender is required pursuant to article six-C of the correction law.

17 It has been over 10 years since I was sentenced for my most recent case. I did not count any jail or prison time I served after being sentenced in calculating the 10-year period.

Moreover, the applicant, having been sworn, says:

I have attached a copy of a certificate of disposition or other similar documentation for each conviction listed above, or an explanation of why such certificate or other documentation is not available.

18 I **have** **have not** filed any other application to seal a conviction pursuant to either CPL 160.58 or CPL 160.59. If I did file another application, I have attached it to this motion.

19 I **do** **do not** intend to file any other application to seal an eligible conviction pursuant to either CPL 160.58 or CPL 160.59. If I do intend to file another application, the following conviction is the one I will ask to have sealed:

Docket/Indictment/SCI Number(s)	Court Name	Conviction Charge	Law/Section/Subsection	Charge Weight	Conviction Date	Sentence Date	Sealing Section
							CPL 160.58 CPL 160.59

20 The court, in its discretion, should grant this application for sealing pursuant to CPL 160.59 for the following reasons (you must specify your reasons, which may include information about positive steps you've taken since your conviction – add additional pages if necessary):

Signature of Applicant

Sworn to before me this ____
day of _____, 20____.

Street Address: _____
City, State & Zip: _____
Phone (optional): _____
Email (optional): _____

Notary Public

Affidavit of Service

STATE OF NEW YORK
COUNTY OF _____

The undersigned, being sworn, says:

_____, is over 18 years of age and resides at:

[name of person serving/mailling]

_____.

[address of person serving/mailling]

That on _____, deponent served the within **Notice of Motion and Affidavit in Support of Sealing Pursuant to CPL 160.59** and the following supporting documents:

[date of service/mailling]

_____ upon the District Attorney(s) of the following county/counties: _____

[name(s) of county/counties]

at the following address(es): _____

[address(es) of District Attorney's office(s)]

Select one:

by mailing a complete copy in a properly stamped and addressed envelope at the post office or official depository of the United States Postal Service.

by personally delivering a complete copy to the District Attorney's Office.

Signature of person serving/mailling

Sworn to before me this _____ day of _____, 20____.

Notary Public

NOTE: If service was made upon more than one District Attorney's office, and service was made on different dates or by different people, attach separate Affidavits of Service.

INSTRUCTIONS

The instruction for each number below refers to the corresponding number in the **Notice of Motion and Affidavit in Support Sealing Pursuant to CPL 160.59** form. For additional help, and to find a fillable version of this form online, go to the Unified Court System's website at <http://www.nycourts.gov/forms/index.shtml>

- 1 Enter your full legal name.
- 2 Enter any names you are also known as (AKA) in addition to your legal name. If you used a different name than your legal name on a case you are applying to seal, make sure you also list that name.
- 3 Enter your New York State Identification Number (NYSID). This number can be found on the Certificate of Disposition you obtained from the court where your conviction occurred.
- 4 If you were convicted of a crime under the Vehicle and Traffic Law (VTL), enter your Motorist ID from your driver's license. (You will know that it is a Vehicle and Traffic Law charge if it says VTL in the conviction description on your Certificate of Disposition from the court.) If you do not have a VTL charge, you are not required to enter your Motorist ID.
- 5 Enter your date of birth.
- 6 Enter the court's docket number if you were convicted and sentenced in a city, town or village court, or enter the indictment/SCI number if you were convicted and sentenced in a supreme or county court. The case number will be in the Certificate of Disposition you get from the court.
NOTE: If you were convicted of a charge in another case that was part of the same incident, enter the information for #6 to #13 for the related case in the same row. (e.g., You were arrested for DWI and Unauthorized Use of a Vehicle, and both crimes occurred from the same incident. You were convicted for a misdemeanor DWI in the City Court, but you were convicted for a felony Unauthorized Use of a Vehicle in the County Court.)
- 7 Enter the name of the court where you were convicted and sentenced. The name of the court will be on the Certificate of Disposition you get from the court.
- 8 Enter the name of the charge for which you were convicted and sentenced (e.g., Petit Larceny, or Burglary 3°, or Criminal Possession of a Controlled Substance 7°, etc.). The name of the conviction will be in the Certificate of Disposition you get from the court. If the Certificate of Disposition lists more than one charge in the same case, list the most serious charge.
For example:
 - If you were sentenced for an A misdemeanor and a B misdemeanor, enter the A misdemeanor.
 - If you were sentenced for a felony and a misdemeanor, enter the felony.
 - If you were sentenced for a C felony and an E felony, enter the C felony.
 - If you were sentenced for two charges of the same weight (e.g., two A misdemeanors), enter the first charge listed in the Certificate of Disposition.
- 9 Enter the law, section and subsection, if any, of the charge for which you were convicted and sentenced. The law, section and subsection will be in the Certificate of Disposition you get from the court.
For example:
 - PL 155.30(1)
 - PL 220.03
 - VTL 1192 (2-a)
- 10 Enter the date you were convicted. This is the date that you entered a plea or were found guilty after a trial. The conviction date will be in the Certificate of Disposition you get from the court.
- 11 Enter the date you were sentenced. (Some people are convicted and sentenced on the same date. Others are convicted and come back to court at a later date for sentencing.) The sentence date will be in the Certificate of Disposition you get from the court.
- 12 Enter the sentence you received. The sentence will be in the Certificate of Disposition you get from the court.
For example:
 - Conditional discharge
 - 5 years probation
 - 60 days jail and 3 years probation
 - 6 months jail
 - 1-3 years state prison

13 If you served any time in jail or state prison after you were sentenced, enter the date you were released. If you did not serve any time in jail or state prison after you were sentenced, leave this blank.

14 Documents in support of sealing:

1. Affidavit in Support of Sealing Pursuant to CPL 160.59 [page 2 of this form]. The purpose of the affidavit is to provide additional information to support your motion for sealing. Make sure it is completed and attached.
2. Affidavit of Service [page 3 of this form]. The law requires you to provide a copy of your motion and supporting papers to the District Attorney in the county where you were convicted and sentenced before you file them with the court. If you are applying to seal two cases, and you were convicted and sentenced in different counties, you must send copies to the District Attorney in BOTH counties.
NOTE: If you served two different District Attorneys, and they were served on different dates and/or by different people, you must complete and attach a separate Affidavit of Service (page 3) for each.
3. Certificate of Disposition. You must attach a Certificate of Disposition for each conviction that you are asking the court to seal. To get a Certificate of Disposition, you must contact the court where you were convicted and sentenced. If you are applying to seal two cases, you must get a Certificate of Disposition for each case. If you cannot get a Certificate of Disposition, you must attach an explanation why a Certificate of Disposition is not available. Further information about getting a Certificate of Disposition is available on the court's website.
- 4.-10. If you have any additional documents evidencing your rehabilitation, you should attach them. These can include documents such as a certificate of relief from civil disabilities, verification of employment, community service, volunteer or charity work; educational transcripts; letters of recommendation or commendation from employers, teachers/professors, community leaders, charitable organizations; certificates of successful completion of a drug or alcohol treatment program, etc. You are not required to submit additional supporting documents.

15 You are telling the court that you have not been convicted in more than two criminal cases, and that no more than one of those cases was a conviction for a felony charge.

16 If you were convicted of any of the crimes listed below, you are not eligible for sealing the conviction pursuant to CPL 160.59. (check your Certificate of Disposition to verify that it does not include any of the following charges). You are telling the court that you are not moving to seal any of the following:

- a. PL 130.20 Sexual Misconduct; PL 130.25 Rape 3°; PL 130.30 Rape 2°; PL 130.35 Rape 1°; PL 130.40 Criminal Sexual Act 3°; PL 130.45 Criminal Sexual Act 2°; PL 130.50 Criminal Sexual Act 1°; PL 130.52 Forcible Touching; PL 130.53 Persistent Sexual Abuse; PL 130.55 Sexual Abuse 3°; PL 130.60 Sexual Abuse 2°; PL 130.65 Sexual Abuse 1°; PL 130.65-a Aggravated Sexual Abuse 4°; PL 130.66 Aggravated Sexual Abuse 3°; PL 130.67 Aggravated Sexual Abuse 2°; PL 130.70 Aggravated Sexual Abuse 1°; PL 130.75 Course of Sexual Conduct Against a Child 1°; PL 130.80 Course of Sexual Conduct Against a Child 2°; PL 130.85 Female Genital Mutilation; PL 130.90 Facilitating a Sex Offense with a Controlled Substance; PL 130.91 Sexually Motivated Felony; PL 130.95 Predatory Sexual Assault; PL 130.96 Predatory Sexual Assault Against a Child
- b. PL 263.05 Use of a Child in a Sexual Performance; PL 263.10 Promoting an Obscene Sexual Performance by a Child; PL 263.11 Possessing an Obscene Sexual Performance by a Child; PL 263.15 Promoting a Sexual Performance by a Child; PL 263.16 Possessing a Sexual Performance by a Child; PL 263.30 Facilitating a Sexual Performance by a Child with a Controlled Substance or Alcohol
- c. PL 125.10 Criminally Negligent Homicide; PL 125.11 Aggravated Criminally Negligent Homicide; PL 125.12 Vehicular Manslaughter 2°; PL 125.13 Vehicular Manslaughter 1°; PL 125.14 Aggravated Vehicular Homicide; PL 125.15 Manslaughter 2°; PL 125.20 Manslaughter 1°; PL 125.21 Aggravated Manslaughter 2°; PL 125.22 Aggravated Manslaughter 1°; PL 125.25 Murder 2°; PL 125.26 Aggravated Murder; PL 125.27 Murder 1°; PL 125.40 Abortion 2°; PL 125.45 Abortion 1°; PL 125.50 Self-Abortion 2°; PL 125.55 Self-Abortion 1°; PL 125.60 Issuing Abortion Articles
- d. Class B violent felony offenses:
PL 110/125.25 Attempted Murder 2°; PL 110/135.25 Attempted Kidnapping 1°; PL 110/150.20 Attempted Arson 1°; PL 125.20 Manslaughter 1°; PL 125.22 Aggravated Manslaughter 1°; PL 130.35 Rape 1°; PL 130.50 Criminal Sexual Act 1°; PL 130.70 Aggravated Sexual Abuse 1°; PL 130.75 Course of Sexual Conduct Against a Child 1°; PL 120.10 Assault 1°; PL 135.20 Kidnapping 2°; PL 140.30 Burglary 1°; PL 150.15 Arson 2°; PL 160.15 Robbery 1°; PL 230.34(5)(a)&(b) Sex Trafficking; PL 255.27 Incest 1°; PL 265.04 Criminal Possession of a Weapon 1°; PL 265.09 Criminal Use of a Firearm 1°; PL 265.13

Criminal Sale of a Firearm 1°; PL 120.11 Aggravated Assault upon a Police Officer or a Peace Officer; PL 120.07 Gang Assault 1°; PL 215.17 Intimidating a Victim or Witness 1°; PL 490.35 Hindering Prosecution of Terrorism 1°; PL 490.40 Criminal Possession of a Chemical Weapon or Biological Weapon 2°; PL 490.47 Criminal Use of a Chemical Weapon or Biological Weapon 3°;

Class C violent felony offenses:

An attempt to commit any of the Class B violent felony offenses listed above; PL 125.11 Aggravated Criminally Negligent Homicide; PL 125.21 Aggravated Manslaughter 2°; PL 130.67 Aggravated Sexual Abuse 2°; PL 120.08 Assault on a Peace Officer, Police Officer, Fireman or Emergency Medical Services Professional; PL 120.09 Assault on a Judge; PL 120.06 Gang Assault 2°; PL 121.13 Strangulation 1°; PL 140.25 Burglary 2°; PL 160.10 Robbery 2°; PL 265.03 Criminal Possession of a Weapon 2°; PL 265.08 Criminal Use of a Firearm 2°; PL 265.12 Criminal Sale of a Firearm 2°; PL 265.14 Criminal Sale of a Firearm with the Aid of a Minor; PL 265.19 Aggravated Criminal Possession of a Weapon; PL 490.15 Soliciting or Providing Support for an Act of Terrorism 1°; PL 490.30 Hindering Prosecution of Terrorism 2°; PL 490.37 Criminal Possession of a Chemical Weapon or Biological Weapon 3°;

Class D violent felony offenses:

An attempt to commit any of the Class C violent felony offenses listed above; PL 120.02 Reckless Assault of a Child; PL 120.05 Assault 2°; PL 120.18 Menacing a Police Officer or Peace Officer; PL 120.60 Stalking 1°; PL 121.12 Strangulation 2°; PL 130.30 Rape 2°; PL 130.45 Criminal Sexual Act 2°; PL 130.65 Sexual abuse 1°; PL 130.80 Course of Sexual Conduct Against a Child 2°; PL 130.66 Aggravated Sexual Abuse 3°; PL 130.90 Facilitating a Sex Offense with a Controlled Substance; PL 135.35 (3)(a)&(b) Labor Trafficking; PL 265.02 (5), (6), (7), (8), (9) or (10); PL 265.11 Criminal Sale of a Firearm 3°; PL 215.16 Intimidating a Victim or Witness 2°; PL 490.10 Soliciting or Providing Support for an Act of Terrorism 2°; PL 490.20 Making a Terroristic Threat; PL 240.60 Falsely Reporting an Incident 1°; PL 240.62 Placing a False Bomb or Hazardous Substance 1°; PL 240.63 Placing a False Bomb or Hazardous Substance in a Sports Stadium or Arena, Mass Transportation Facility or Enclosed Shopping Mall; PL 405.18 Aggravated Unpermitted Use of Indoor Pyrotechnics 1°;

Class E violent felony offenses:

PL 110/265.02 (5), (6), (7), or (8) Attempted Criminal Possession of a Weapon 3° as a lesser included offense of that section as defined in CPL 220.20; PL 130.53 Persistent Sexual Abuse; PL 130.65-a Aggravated Sexual Abuse 4°; PL 240.55 Falsely Reporting an Incident 2°; PL 240.61 Placing a False Bomb or Hazardous Substance 2°;

- e. A Class A felony offense (abbreviated on your Certificate of Disposition as “AF”).
- f. A conviction for PL 105.10 Conspiracy 4°; PL 105.13 Conspiracy 3°; PL 105.15 Conspiracy 2°; or PL 105.17 Conspiracy 1°; when the crime you conspired to commit is one of the charges listed in this section.
- g. An attempt to commit a crime is displayed on your Certificate of Disposition as “Attempted” and will have the number 110 displayed before the section and subsection (e.g., Attempted Robbery 2°; PL 110-160.10). If it is a felony level offense, the charge weight will be BF, CF, DF or EF.
- h. A conviction that requires you to register as a sex offender.

- 17 Your most recent conviction and sentence must be more than ten years ago. However, if you were in jail or prison after you were sentenced, that time does not count. For example, your last conviction was 11 years ago and you served 2 years in state prison (11 – 2 = 9), that is only 9 years and you will not qualify for sealing for another year.
- 18 If you have filed another application for conditional sealing pursuant to CPL 160.58 or sealing pursuant to CPL 160.59 with this court or any other court, attach a copy of that application regardless of whether it was granted, denied or is still pending.
- 19 If you are going to file another application for conditional sealing pursuant to CPL 160.58 or sealing pursuant to CPL 160.59 with this court or any other court, list the cases that you intend to include in the application and indicate the sealing section for which you intend to apply.
- 20 You must tell the court why you believe your prior convictions should be sealed. This is your opportunity to tell the court why sealing your convictions is in the interest of justice, such as participating in treatment programs, work or schooling, or participating in community service or other volunteer programs. If you need more space, continue your comments on a separate sheet of paper.