

Memorandum of Support of Bill to Limit the Amount of Time Criminal Conviction History Remains on the Department of Correction's Internet-Based Information Lookup

The Legal Action Center's National H.I.R.E. Network and the NuLeadership Policy Group collectively support legislation that would limit the length of time that conviction history can be posted on the Department of Correctional Services (DOCS) website to 10 years after a person is released from custody. Registered sex offenders would continue to be posted on the website for an indeterminate amount of time. Currently, the DOCS maintains all information on people currently or formerly incarcerated on its website indefinitely, even if the person is deceased or has been released from custody for decades. We urge the New York State Senate to introduce companion legislation, and the Senate and the Assembly to pass this legislation.

There is a legitimate need for the Department of Correctional Services to maintain a website of individuals incarcerated in state prisons. Victims of crimes may want to ascertain if people who committed crimes against them are still incarcerated, and family and friends of people in prison may need a means of determining where their loved ones are being held. Once a person is released from prison, however, those reasons disappear. Those individuals who need criminal record information can obtain it from New York State's Division of Criminal Justice Services, which provides comprehensive criminal conviction information for individuals and agencies who are authorized to conduct such requests, and from the Office of Court Administration, which also provides statewide criminal conviction information. Instead, the DOCS information database, available on the Internet as a free service, is being used as an inappropriate criminal background check resource for employers and others.

The DOCS lookup database is incomplete; it contains information about when a person is eligible for release from parole, but, because the database is maintained by DOCS and not the Division of Parole, omits information that the person has been discharged from parole, leaving the impression that they are still under state supervision. Moreover, the DOCS database can be accessed by name alone, making it likely that a person with a common name but no criminal history might be confused with another person, currently or formerly incarcerated, with the same name.

Old, incomplete, and misleading information about a person's incarceration is simply irrelevant once that individual is released from prison. Given the other options in New York for individuals to obtain complete criminal history information, the time that a conviction history can be posted on the DOCS website should be limited, at most, to 10 years after a person is released from custody. This is consistent, also, with the ten year period used by the courts to determine second and persistent felony offender status.