

DISQUALIFYING SERIOUS OFFENSES

You will be disqualified for a firearms permit if you have a NYS felony or “serious offense” conviction as defined below. It is advised you disclose your convictions from any jurisdiction as accurately as possible. Convictions from out-of-state may require additional evaluation.

Penal Law 265.00 (17) defines “serious offense” to mean:

(a) any of the following offenses defined in the current penal law and any offense in any jurisdiction or the former penal law that includes all of the essential elements of any of the following offenses:

- Illegally using, carrying or possessing a pistol or other dangerous weapon;
- Possession of burglar’s tools;
- Criminal possession of stolen property in the third degree;
- Escape in the third degree;
- Jostling;
- Fraudulent accosting;
- Endangering the welfare of a child;
- Obscenity in the third degree;
- Issuing abortifacient articles;
- Permitting prostitution;
- Promoting prostitution in the third degree;
- Stalking in the fourth degree;
- Stalking in the third degree;
- Sexual misconduct;
- Forcible touching;
- Sexual abuse in the third degree;
- Sexual abuse in the second degree;
- Criminal possession of a controlled substance in the seventh degree;
- Criminally possessing a hypodermic instrument;
- Criminally using drug paraphernalia in the second degree;
- Criminal possession of methamphetamine manufacturing material in the second degree;

and a hate crime defined in article four hundred eighty-five of this chapter.

(b) any of the following offenses defined in the current penal law and any offense in any jurisdiction or in the former penal law that includes the defendant and the person against who the offense was committed were members of the same family or household as defined in subdivision one of section 530.11 of the criminal procedure law and as established pursuant to section 370.15 of the criminal procedure law:

- Assault in the third degree;
- Menacing in the third degree;
- Menacing in the second degree;
- Criminal obstruction of breathing or blood circulation;
- Unlawful imprisonment in the second degree;
- Coercion in the third degree;
- Criminal tampering in the third degree;
- Criminal contempt in the second degree;
- Harassment in the first degree;
- Aggravated harassment in the second degree;
- Criminal trespass in the third degree;
- Criminal trespass in the second degree;
- Arson in the fifth degree;

or attempt to commit any of the above-listed offenses.

(c) any misdemeanor offense in any jurisdiction or in the former penal law that includes all of the essential elements of a felony offense as defined in the current penal law.

***Penal Law 400.00** states applicants for a firearms permit cannot be convicted of:

- Assault in the third degree;
- Misdemeanor DWI;
- Menacing in the third degree;

in the preceding FIVE years.

**as of September 1, 2022*

DISQUALIFIERS PURSUANT TO FEDERAL LAW

Being convicted of a misdemeanor crime of domestic violence.

Being a fugitive from justice.

Being an unlawful user of or addicted to any controlled substance.

Being an alien who is illegally or unlawfully in the United States.

Having been discharged from the Armed Forces under dishonorable conditions.

Being an individual who, having been a citizen of the United States, has renounced his citizenship.

Being subject to a court order that:

a) was issued after a hearing of which such person received actual notice, and at which such person has an opportunity to participate;

b) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

c –i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child, or

c-ii) by its terms explicitly prohibits the use, attempted, use or threatened use of physical force against such intimate partner, or child that would reasonably be expected to cause bodily injury.

Federal law prohibits anyone from possessing firearms or ammunition if they are, or have been convicted of a misdemeanor crime of domestic violence. The term “misdemeanor crime of domestic violence” means: any offense defined as a State or Federal misdemeanor, whether or not explicitly described in a statute as a crime of domestic violence, which has, as its factual basis, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by the victim’s current or former domestic partner, parent or guardian. The term “convicted” is generally defined in the statute as excluding anyone whose conviction has been expunged or been set aside, or anyone who has received a pardon.

CERTIFICATE OF RELIEF FROM DISABILITIES

On occasion, an applicant who was convicted for a felony or serious offense submits, pursuant to Correction Law Section 701, a certificate of relief from disabilities. This certificate neither requires nor prevents the issuance of a firearms permit. Penal Law section 400(1) provides a firearms permit may not be issued to a person who has been convicted of a felony or serious offense, but Correction Law section 701 states once a certificate is granted, the conviction to which it relates may no longer be considered a conviction for purposes of that Penal Law provision. Thus, the certificate removes the absolute disqualification established for convicted persons in Penal Law section 400(1). This does not mean, however, the permit must be issued. The applicant’s background, including the conviction, may still be evaluated and considered in determining the applicant’s qualification to possess a firearms permit. The certificate must be checked off in box (C), and the details for box (C) must indicate, “For the purpose of obtaining a pistol permit.” Correction Law section 701(3) states: A certificate of relief from disabilities shall not, however, in any way prevent any judicial, administrative, licensing or other body, board or authority from relying upon the conviction specified therein as the basis for the exercise of its discretionary power to suspend, revoke, refuse to issue or refuse to renew any license, permit or other authority or privilege.