

3. Know Your Legal Rights

updated 10/31/04

It is often advisable for the ex-offender to obtain some legal counseling soon after release. Many areas of employment or types of licenses, for example, are prohibited to ex-offenders unless they first secure a *Certificate of Relief From Disabilities*. Also, "cleaning up" or making accurate one's rap sheet should be a top priority. Often there are errors listed on it which can prove detrimental, such as a felony reduced to a misdemeanor still listed as a felony, or record of an arrest which did not lead to conviction.¹ Please see Chapter 9, "Finding a Job" for these two subjects. Information on legal restrictions to education can be found in Chapter 10, "Education." Information on legal restrictions to housing can be found in Chapter 5, "Housing."

Special Legal Services

Legal Aid Society of Westchester

1 North Broadway - 9th floor
White Plains, NY 10601

Phone: (914) 286-3400

Eligibility: Any person unable to pay for legal services.

Description: Provides free legal representation to individuals who cannot afford a private attorney for criminal felony cases. Social work assistance if attorney approves.

Hudson Valley Poverty Law Center

c/o John Jay Legal Services at Pace Law School
80 North Broadway
White Plains, NY 10603

Phone: 914 422-4329

www.gulpony.org

Eligibility: Primarily low income people.

Fees: Free

Description: The Hudson Valley Poverty Law Center is a branch office of the Greater Upstate Law Project, located in Pace University School of

Law's John Jay Legal Services Clinic. The Center provides civil legal services to low-income residents in the seven counties of the Hudson Valley. The provision of services is coordinated with local, federally funded legal services programs, with the Center representing those who cannot be represented by the local legal services programs. Referrals are accepted through local legal services programs and other, regional community-based organizations.

Legal Action Center

153 Waverly Place, 8th Floor,
Manhattan 10014.

Telephone: (212) 243-1313.

Legal Action Center provides free legal services to ex-offenders, recovering alcoholics and substance users. It will help you obtain your rap sheet (arrest and conviction record) and provide information on how to "clean up" your rap sheet (seal records, correct inaccuracies, and obtain *Certificates of Relief from Disabilities* and *Certificates of Good Conduct*). It will also counsel you on your rights when seeking employment. If you feel you have been unfairly discriminated against as an ex-offender, or if you want information on how to obtain bonding for a particular job, Legal Action Center can be of help. It also offers advice and representation on a range of legal problems for people with HIV infection and their families. Call Mon.-Fri. 9-6 for an appointment. No fee is required. Many valuable and free LAC publications can be downloaded from its website at www.lac.org.

Also see LAC's "New York State Roadblocks to Recovery" at <http://www.lac.org/lac/main.php?view=profile&subaction1=NY>

NYS Division of Human Rights

8 John Walsh Blvd. Suite 204
Peekskill, NY 10566

Phone: 914 788-8050

www.nysdhr.com

Local Human Rights Offices:

Westchester County 222 Mamaroneck Ave. Suite 205 White Plains, NY 10605 Phone: 914 995-7710	Mt. Vernon, NY 10550 City Hall 1 Roosevelt Square Phone: 914 665-2378	Rye, NY 10580 City Hall 1051 Boston Post Rd. Phone: 914 967-5400
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White Plains, 10601 65 Mitchell Place Phone: 914 422-172 914 422-1360	Yonkers, NY 10701 87 Nepperhan Ave (SP) Room 405 Phone: 914 377-6680	New Rochelle, 19801 City Hall 515 North Ave. Phone: 914 654-2161
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Eligibility: Must use the office in town where you live or work.

Fees: Free

Description: The Division of Human Rights ensures equal opportunity in employment, housing, public accommodation, education and credit. The Division enforces the Human Rights Law, seeking to: promote human rights awareness; prevent and eliminate discrimination (age, race, sex, disabilities, employment, housing, etc.); investigate and resolve complaints of illegal discrimination fairly.

Westchester/Putnam Legal Services

4 Cromwell Place White Plains, NY 10601 Phone: 914 949-1305	30 South Broadway 6 th floor Yonkers, NY 10701 Phone: 914 376-3757
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www.wpls.org

Eligibility: Low income persons in need of the following services.

Fees: Free

Description: Committed to providing support, advocacy and legal representation to low income individuals in Westchester, Putnam and Dutchess counties. Services for housing, elder law, disabilities, public benefits, special education law, domestic violence, etc.

Lawyer Referral Service

Westchester County Bar Association

300 Hamilton Avenue - Suite 301

White Plains, NY 10601

Phone: 761-5151

Eligibility: No eligibility requirements.

Fees: \$40.00 for initial half-hour consultation.

Description: Referral service listens to your problem and refers you to a lawyer. First half-hour interview may solve your problem. If more legal work is needed, you can arrange for it at a cost agreed upon.

Child Support, Veterans and Voting ¹

Modifying Child Support Payments

If you are or have been incarcerated, you may request to have your child support payments modified. However, there is no guarantee that your request will be granted.

A. The Law for Modifying Payments of an Incarcerated Person

Unfortunately, because of a 1988 New York State Court of Appeals case, an incarcerated person has little chance of being granted a modification of their child support payments. In Knights v. Knights (71 NY2d 865, 527 NYS2d 748) the Court of Appeals ruled that incarceration was not a justification to temporarily reduce or stop the petitioner's support payments despite the financial difficulties imposed by his being incarcerated, when his incarceration was the result of his own "intentional conduct."

Even if a support modification request were to be granted, a change in support does not usually apply to any arrearages (past amounts of child support already owed) which may have accumulated. Recent New York cases have held that New York Family Court Act 413(1)(g), which provides, in certain circumstances, for a maximum cap on the amount of child support arrears that may accrue, does not apply to incarcerated parents, based on the reasoning used in Knights v. Knights. Thus, child support arrears will continue to accumulate while the support-paying parent is incarcerated.

While modification orders will not erase arrearages, orders do affect payments from the date of the order. Further, the Court of Appeals in Knights v. Knights implied that when a person seeking a support modification is released from prison, the court could forgive a part of the arrearage accrued after the modification petition was filed.

¹ "On Your Own, Information and Resources for Persons formerly incarcerated, the Convicted and their Families in the [New York State] Capital District," produced by the Center for Law and Justice, Albany, NY.

B. How to Ask the Court to Modify a Child Support Order

Despite the above, If you are incarcerated and are unable to make your court-ordered child support payments, you should immediately write to the (Family) Court which originally ordered your child support order and ask for a copy of Family Court Form 4-11A: "Petition for Modification of Order Made by Family Court or Another Court."

You should complete the petition and Financial Disclosure Affidavit, sign both before a notary, and mail them back to the court. Make sure to attach a copy of your original Child Support Order. If you get a support modification hearing (while incarcerated or after release), you may present any evidence you feel will convince the judge you need to modify your order. If the modification is granted, the court can make it retroactive to the date your petition was filed. If your petition is denied while incarcerated, you can file a new petition after release.

Remember, the amount you owe for child support can change over time based on, for example, cost of living adjustments and alterations in the amount you earn. The Child Support Enforcement Agency automatically reviews each case every two years to assess whether an increase in support is warranted. If it is so determined, Child Support Enforcement can increase your support burden without first going to court. You are, however, given notice of the change and an opportunity to challenge the increase.

C. Resources for Child Support Issues

The Child Support Enforcement Unit has offices in every county in New York and in each borough of New York City. In Westchester, it is at 150 Grand Street, White Plains, (914) 995 5723 and 5724.

Veteran's Benefits

A. Veteran's Benefits

Individuals may be eligible for benefits appropriated by the Veteran's Administration if they were given an honorable discharge from military service. Depending on your circumstances, including length and character of service, you may be eligible for benefits such as medical and educational benefits. The benefits appropriated to Veteran's are *not usually* affected by a person's criminal history, however, each case is reviewed on an

individual basis. For the location of your nearest VA office (where you can get the advice of a VA counselor), call 1-888 838 7697. To find out more information about Veterans benefits (including vocational-educational counseling and employment resources) call 1-800-827-1000, or contact the

VA Regional Office

245 W Houston St.
New York, NY 100114

Phone: (212) 807 7229

or the VA websites at <http://www.westchestergov.com/veterans/> or <http://www.va.gov> and <http://www.vba.va.gov>

Voting Rights

1. Eligibility to Vote

According to New York State Election Law §5-1 06, individuals in jail, prison, or on parole for a felony conviction cannot vote. This means that some persons with criminal convictions are legally prohibited from voting, however the majority of individuals can and should vote.

The following list indicates individuals who are eligible to vote:

- Those convicted of a misdemeanor;
- Those currently in jail awaiting grand jury action, trial or disposition of a case but not convicted of a felony;
- Those convicted of a felony who do not receive a sentence of imprisonment;
- Those convicted of a felony who are no longer on parole.

If you meet the above criteria, you may register and vote in an upcoming election. Your right to vote is returned automatically when you complete your maximum sentence or are discharged from parole or probation.

2. How to Register to Vote

You may obtain a voter registration form by writing to any Board of Elections and requesting the form. When you receive the form, complete it, and mail or deliver it to the Board of Election in the county of your permanent address. If you are in jail or prison awaiting grand jury action or trial, or confined after conviction for an offense other than a felony, you may register to vote in the county of your permanent address. List the jail or

prison address as the place where you receive your mail temporarily. For Westchester voters, voter registration forms can be downloaded from http://www.westchestergov.com/boe/register_to_vote.htm

The web site of the Friends Committee on National Legislation www.fcni.org also offers an easy way to register regardless of where you live. Click on the bright red VOTE 2004 button and then on "Register to Vote." Once you find your home state and fill in the information fields, you will be able to print out and sign your official voter registration form. Your county's election board address also is provided.

3. Voter Registration Dates

You should contact your local Board of Election to find out the deadline for registration applications for eligibility to vote in a primary and general election.

4. How to Obtain an Absentee Ballot

Request an Absentee Ballot by sending a letter to the Board of Elections in the county where you are registered. The letter must be received by your county board no earlier than 30 days and no later than seven days before an election. The letter must contain the following information:

- the address where you are registered,
- an address where the ballot is to be sent,
- the reason for the request, and
- the signature of the voter.

An Absentee Ballot application and your Absentee Ballot will then be mailed to you. The application form must be completed and mailed with your ballot. Your ballot must be postmarked no later than the day before an election.

Or, Voters in Westchester can download an application for an absentee ballot from http://www.westchestergov.com/boe/Absentee_voting.htm

Alternatively, you may pick up an absentee ballot application from your county Board of Elections. Upon completion, the application must be mailed to your county board no later than the seventh day before the election or delivered in person no later than the day before the election. You will then receive your ballot. You must return your ballot to the board with a postmark no later than the day before the election.

If you cannot pick up your ballot, or will not be able to receive it through the mail on time, you have the right to designate someone to pick it up for you as late as the day before the election. Only the person designated on your application may pick up and deliver your ballot.

5. How to Fill Out the Absentee Ballot Application

Fill in your name and permanent address where you are registered to vote.

If you are detained in jail or prison awaiting grand jury action or trial, or confined after conviction for an offense that was not a felony, check the box entitled JAIL or PRISON in the section entitled "The Reason I am Requesting an Absentee Application." In addition, in the appropriate section write the jailor prison address as the location where the ballot should be mailed.

Other Sources of Legal Information ²

The New York Immigrant Hotline.

Telephone: (800) 232-0212

Offers information and referrals as well as counseling over the phone. They also offer information on how to obtain a green card, citizenship, grounds for deportation, labor rights and political asylum. Call Mon.-Fri. 9-6. Many languages spoken. All calls are confidential.

Legal References

The History and Social Science Department of The New York Public Library's Mid-Manhattan Library (455 Fifth Avenue at 40th Street, Fifth Floor, Manhattan 10016) has a collection of legal reference works, including federal, New York State, and New York City laws and regulations.

² "Connections," A guide for ex-inmates to information sources in New York City, by Correctional Library Services, The New York Public Library, New York City.

NYS Department of Economic Development

Phone: 800 782 8369

Gives information to people starting a business. Information includes how to incorporate, legislative issues affecting NYS business, retail tax information, consumer affairs issues and patent information. Referrals also made to government agencies.

Federal Systems Information Center

Phone: 800 688 9889

www.firstgov.gov

Answers questions on subjects such as immigration, medicare, and obtaining a social security card. They can direct you to the right agency.

Avoiding Employment Discrimination

Please see this topic in Chapter 9, "Finding a Job."

Legal Restrictions on Education

Restoring Your rights

Cleaning Up Your RAP Sheet

Please see these topics in Chapter 10, "Education."

Legal Restrictions on Housing

Please see this section in Chapter 5, "Housing."

Women's Legal Protection

Please see Chapter 15, "Women Especially."