

CHECKLIST

Make sure you are eligible (see next page).

Gather any supporting documents you think will help your application. These can include documents such as a Certificate of Relief from Disabilities or a Certificate of Good Conduct; verification of employment; community service, volunteer or charity work; educational transcripts; letters of recommendation or commendation from employers, teachers/professors, community leaders, faith leaders, or charitable organizations; certificates of successful completion of training programs, drug or alcohol treatment programs; etc. Attach copies (not originals!) to your application.

Complete the application, but do not sign it until you get it notarized.

Get your application notarized. If you use additional pages for your sworn statement of your reasons for sealing, then you must also sign, date and have this notarized on the last page of your statement.

Make two copies of your full application.

“Serve” the prosecutor: Before you file your application with the court, you or another person must mail or deliver a copy of your full application to the prosecutor(s). This is called “serving” them. If the application is served in person, make sure your copy and the copy you will file with the court are stamped “received.”

If you did not get your copy stamped “received” at the prosecutor’s office, or if you mailed the application to the prosecutor’s office, then you must complete the Affidavit of Service, get it notarized and attach it to the application. The Affidavit of Service must be completed by the person who delivered or mailed the application to the prosecutor’s office.

File your original application with attached copies of supporting documents with the court. Make sure that your original is stamped “received” by the prosecutor or that you have attached the Affidavit of Service if you submitted your application to the prosecutor by mail or did not get it stamped “received.”

Keep copies of all the papers you filed for your records.

C.P.L. §720.20(5) APPLICATION

PLEASE READ THESE INSTRUCTIONS COMPLETELY BEFORE STARTING AN APPLICATION

ARE YOU ELIGIBLE?

1. WERE YOU AN ELIGIBLE YOUTH [see footnote] EVEN THOUGH YOU WERE NOT ADJUDICATED A YOUTHFUL OFFENDER IN THIS CASE?

Yes No

If 'YES,' proceed to the next question. If 'NO,' stop here because you are ineligible.

2. WERE YOU CONVICTED OF ANOTHER CRIME (MISDEMEANOR OR FELONY) AFTER YOUR CONVICTION ON THIS CASE?

Yes No

If 'NO,' proceed to the next question. If 'YES,' stop here because you are ineligible.

3. HAVE MORE THAN FIVE YEARS PASSED SINCE YOU WERE SENTENCED, OR IF YOU WERE SENTENCED TO INCARCERATION, HAVE MORE THAN FIVE YEARS PASSED SINCE YOU WERE RELEASED FROM INCARCERATION?

Yes No

If 'YES,' you may complete an application. If 'NO,' stop here because you are ineligible.

If you are **ELIGIBLE**, complete an application, have it notarized, serve a copy on the prosecutor's office (see link to statewide list of prosecutor's addresses on next page), and file the original with the court.

NOTE: Before deciding this application, the court may request a criminal history report (rap sheet), which will include any sealed or suppressed criminal cases and any criminal history information that occurred in jurisdictions outside of New York.

Criminal Procedure Law section 720.10 (2) & (3):

2. "Eligible youth" means a youth who is eligible to be found a youthful offender. Every youth is so eligible unless:
 - (a) the conviction to be replaced by a youthful offender finding is for (i) a class A-I or class A-II felony, or (ii) an armed felony as defined in subdivision forty-one of section 1.20, except as provided in subdivision three, or (iii) rape in the first degree, criminal sexual act in the first degree, or aggravated sexual abuse, except as provided in subdivision three, or
 - (b) such youth has previously been convicted and sentenced for a felony, or
 - (c) such youth has previously been adjudicated a youthful offender following conviction of a felony or has been adjudicated on or after September first, nineteen hundred seventy-eight a juvenile delinquent who committed a designated felony act as defined in the family court act.
3. Notwithstanding the provisions of subdivision two, a youth who has been convicted of an armed felony offense or of rape in the first degree, criminal sexual act in the first degree, or aggravated sexual abuse is an eligible youth if the court determines that one or more of the following factors exist: (i) mitigating circumstances that bear directly upon the manner in which the crime was committed; or (ii) where the defendant was not the sole participant in the crime, the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution. Where the court determines that the eligible youth is a youthful offender, the court shall make a statement on the record of the reasons for its determination, a transcript of which shall be forwarded to the state division of criminal justice services, to be kept in accordance with the provisions of subdivision three of section eight hundred thirty-seven-a of the executive law.

WHAT DO I NEED TO DO?

- 1. COMPLETE and NOTARIZE your application.** If you used additional page(s) for your statement, you must sign, date and notarize the last page of your statement as well. You do NOT need to notarize documents you attach in support of your application, such as letters of reference or training certificates.
- 2. MAKE 2 FULL COPIES (for a total of three, the original plus two copies) of your application, including any attached documents.** You will need one copy for the prosecutor, one copy for yourself, and you will file the original application with the court.
- 3. SERVE THE PROSECUTOR.** Before you file your application with the court, you or another person must mail or deliver a copy of your full application to the prosecutor. This is called “serving” them. A list of prosecutor’s offices can be found online at: http://www.nycourts.gov/FORMS/cpl_160.59_sealing_application/pdfs/List_of_District_Attorneys_Offices.pdf
NOTE: The prosecutor is usually the District Attorney, but if your case was prosecuted by the Attorney General or a Special Narcotics Prosecutor, serve them instead.
 - **If you or another person are serving the application on the prosecutor in person:**
 1. Bring the original and both copies of your application to the appropriate prosecutor’s office.
 2. Ask the prosecutor’s office to stamp all three applications “received” and leave one copy with the clerk of that office.
 - **If you or another person are serving by mail:**

Mail one copy of your full application to the appropriate prosecutor’s office. Certified mail is recommended so you have proof of mailing. Save the return receipt.
- 4. GET PROOF OF SERVICE.** If your application was served in person and stamped “received” by the prosecutor’s office, this is proof of service. If your application was not stamped “received” by the prosecutor’s office, you must complete the Affidavit of Service (the last page of the application), sign it, and have it notarized. If a person other than you served the application and it was not stamped “received” by the prosecutor’s office, that person must complete the Affidavit of Service.
- 5. FILE YOUR APPLICATION.**
 - Attach the original Affidavit(s) of Service (if served on the prosecutor by mail or if served in person but not stamped “received”) to your original application and file it with the court.
 - You may send your application to the court by mail, or you may file your application in person at the court clerk’s office.
- 6. KEEP PROOF OF FILING.**
 1. Save one copy of the application for your records.
 2. If you file your application in person, ask the court clerk to stamp your copy “received.”
 3. If you file your application by mail, certified mail is recommended so you have proof of mailing. Save the return receipt.
- 7. HEARING OR DECISION.** After you serve your application, the prosecutor has 45 days to oppose your request for a youthful offender determination. An in-person hearing is not

required for the court to decide your application, but the court may order an in-person hearing. You or the prosecutor may also request an in-person hearing. If an in-person hearing is scheduled, the court will contact you with the date and time of the hearing. At the hearing, the court will consider any evidence offered by you or the prosecutor that would help the court decide whether to grant or deny your request for a youthful offender determination. If an in-person hearing is not scheduled, you will receive a decision from the court by mail.

- 8. CONFIRM YOUTHFUL OFFENDER ADJUDICATION AND SEALING.** If the court grants your application and you want to verify that the case has been properly sealed in your criminal history record, contact the New York State Division of Criminal Justice Services by email at: dcjsCriminalJusticeRecords@dcjs.ny.gov

ITEMIZED FORM INSTRUCTIONS

The instruction for each number below refers to the field number in the Notice of Motion and Affidavit in Support of Youthful Offender Determination [CPL 720.20(5)] forms.

You can download a fillable version of this application on the Unified Court System's website at: <https://www.nycourts.gov/forms/criminal/index.shtml>.

Notice of Motion for Youthful Offender Determination [CPL 720.20(5)]

- 1 Enter your full legal name.
- 2 If you used a different name than your legal name on a case you are applying to seal, list that name here.
- 3 Enter your New York State Identification Number (NYSID) if known.
(NOTE: This number may be found on your case paperwork, or a Criminal Certificate of Disposition, or your New York State criminal history report.)
- 4 Enter your date of birth.
- 5 Enter the court's docket number if you were convicted and sentenced in a city, town or village court, or enter the indictment or SCI number if you were convicted and sentenced in a supreme or county court. (NOTE: This number may be found on your case paperwork, or a Criminal Certificate of Disposition, or your New York State criminal history report.)
- 6 Enter the name of the court where you were convicted and sentenced. For example, Albany County Court, or Bronx Supreme Court, or Troy City Court, or Queens Criminal Court, etc.

Affidavit in Support of Youthful Offender Determination [CPL 720.20(5)]

- 7 You are telling the court that you were an eligible youth [see footnote] when you were convicted for this crime, but the sentencing court decided not to replace your conviction with a youthful offender adjudication.
- 8 You are telling the court that you have not been convicted for another crime (misdemeanor or felony) after you were sentenced for this case.
- 9 You are telling the court that it has been more than five (5) years since you were sentenced for this case, or if you were sentenced to a period of incarceration, that it has been more than five (5) years since you were released from incarceration.

Criminal Procedure Law section 720.10 (2) & (3):

2. "Eligible youth" means a youth who is eligible to be found a youthful offender. Every youth is so eligible unless:
 - (a) the conviction to be replaced by a youthful offender finding is for (i) a class A-I or class A-II felony, or (ii) an armed felony as defined in subdivision forty-one of section 1.20, except as provided in subdivision three, or (iii) rape in the first degree, criminal sexual act in the first degree, or aggravated sexual abuse, except as provided in subdivision three, or
 - (b) such youth has previously been convicted and sentenced for a felony, or
 - (c) such youth has previously been adjudicated a youthful offender following conviction of a felony or has been adjudicated on or after September first, nineteen hundred seventy-eight a juvenile delinquent who committed a designated felony act as defined in the family court act.
3. Notwithstanding the provisions of subdivision two, a youth who has been convicted of an armed felony offense or of rape in the first degree, criminal sexual act in the first degree, or aggravated sexual abuse is an eligible youth if the court determines that one or more of the following factors exist: (i) mitigating circumstances that bear directly upon the manner in which the crime was committed; or (ii) where the defendant was not the sole participant in the crime, the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution. Where the court determines that the eligible youth is a youthful offender, the court shall make a statement on the record of the reasons for its determination, a transcript of which shall be forwarded to the state division of criminal justice services, to be kept in accordance with the provisions of subdivision three of section eight hundred thirty-seven-a of the executive law.

⑩ An Affidavit of Service (item 1) is required if you do not have a “received” stamp from the prosecutor’s office on the application you filed with the court. You may also attach additional documents (items 2-8) that you think will help the court decide the application in your favor.

1. Affidavit of Service (last page of the application form). *BEFORE* you file your application with the court, you or another person must mail or hand-deliver a copy of your application and any supporting papers to the prosecutor in the county where you were convicted and sentenced (this is called “serving” them). If you serve them in person and have your copy stamped “received,” you have proof of service. If you do not obtain a “received” stamp, an Affidavit of Service must be completed by the person who served the application and attached to your application when you file it with the court.
- 2-8. You are not required to submit additional supporting documents, but if you have additional documents showing positive changes or accomplishments in your life since your conviction, you should attach copies of those documents. These can include documents such as a Certificate of Relief from Disabilities or a Certificate of Good Conduct; verification of employment; community service, volunteer or charity work; educational transcripts; letters of recommendation or commendation from employers, teachers/professors, community leaders, faith leaders, or charitable organizations; certificates of successful completion of training programs, drug or alcohol treatment programs; etc.

⑪ **You must tell the court why you believe a youthful offender determination should be granted.**

YOU MUST WRITE SOMETHING. If you don’t answer this question, your application will be denied. For example, you can tell the court about positive changes you have made in your life and things you have accomplished since the conviction took place, such as positive work history, participating in training programs, drug or alcohol treatment programs, work or schooling, performing community service, participating in faith-based programs, or volunteer work. If you need more space or wish to attach your statement separately, you can write your statement on a separate sheet of paper, but any additional page(s) you write must also be signed, dated and notarized.

STATE OF NEW YORK

_____ COURT, COUNTY OF _____
(name of the court where you are filing) (county where the court is located)

In the Matter of the Application of:

- ① Name: _____
- ② AKA(s): _____
- ③ NYSID: _____
- ④ Date of Birth: _____

**Notice of Motion for
Youthful Offender
Determination
[CPL §720.20(5)]**

This is a Notice of Motion to replace a previous criminal conviction with a Youthful Offender adjudication pursuant to subdivision 5 of section 720.20 of the Criminal Procedure Law (CPL).

This application is based upon the attached Affidavit in Support and, if applicable, the attached supporting documents. I am asking the court to grant a Youthful Offender determination for the following conviction:

⑤ Case Number (Docket, Indictment, or SCI Number)	⑥ Court Name

By: _____
Name of Applicant

Street Address

City, State, Zip

Phone

Email

Affidavit in Support of Youthful Offender Determination [CPL §720.20(5)]

I, **1** _____, state that, upon information and belief, the following facts are true:
Applicant Name

- 7** I was an eligible youth¹ as defined in subdivision 2 or 3 of section 720.10 of the Criminal Procedure Law when I was convicted, but the sentencing court in its discretion did not replace my criminal conviction with a youthful offender adjudication.
- 8** I have not been convicted of another crime (misdemeanor or felony) after I was sentenced for this conviction.
- 9** It has been more than five (5) years since I was sentenced, or if sentenced to a period of incarceration, it has been more than five (5) years since my release from incarceration.

10 REQUIRED AND ADDITIONAL DOCUMENTS:

I attach the following documents to support my request for a Youthful Offender determination:

(NOTE: In addition to an Affidavit of Service upon the Prosecutor (item 1), you may attach other documents showing positive change or accomplishments, including a Certificate of Relief from Disabilities or a Certificate of Good Conduct; verification of employment; community service, volunteer or charity work; educational transcripts; letters of recommendation from employers, teachers/professors, community leaders, faith leaders, or charitable organizations; certificates of successful completion of training or drug or alcohol treatment programs; etc.):

- 1. Affidavit of Service upon the Prosecutor. *(NOTE: This is only required if the application was not stamped "received" by the prosecutor's office or was served by mail.)*
- 2. _____
- 3. _____
- 4. _____
- 5. _____
- 6. _____
- 7. _____
- 8. _____
- 9. _____
- 10. _____

¹Criminal Procedure Law section 720.10 (2) & (3):

- 2. "Eligible youth" means a youth who is eligible to be found a youthful offender. Every youth is so eligible unless:
 - (a) the conviction to be replaced by a youthful offender finding is for (i) a class A-I or class A-II felony, or (ii) an armed felony as defined in subdivision forty-one of section 1.20, except as provided in subdivision three, or (iii) rape in the first degree, criminal sexual act in the first degree, or aggravated sexual abuse, except as provided in subdivision three, or
 - (b) such youth has previously been convicted and sentenced for a felony, or
 - (c) such youth has previously been adjudicated a youthful offender following conviction of a felony or has been adjudicated on or after September first, nineteen hundred seventy-eight a juvenile delinquent who committed a designated felony act as defined in the family court act.
- 3. Notwithstanding the provisions of subdivision two, a youth who has been convicted of an armed felony offense or of rape in the first degree, criminal sexual act in the first degree, or aggravated sexual abuse is an eligible youth if the court determines that one or more of the following factors exist: (i) mitigating circumstances that bear directly upon the manner in which the crime was committed; or (ii) where the defendant was not the sole participant in the crime, the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution. Where the court determines that the eligible youth is a youthful offender, the court shall make a statement on the record of the reasons for its determination, a transcript of which shall be forwarded to the state division of criminal justice services, to be kept in accordance with the provisions of subdivision three of section eight hundred thirty-seven-a of the executive law.

11 I am asking the court to grant my application for a Youthful Offender determination under CPL §720.20(5) for the following reasons:
*(NOTE: **This statement is required.** Explain the reasons why you believe your criminal conviction should be replaced with a Youthful Offender adjudication. You can include information about positive steps you have taken in your life or things you have accomplished since your conviction. You can attach documents that show these positive steps, but attaching additional documents is not required. Your statement must be signed, dated and notarized below. If you need more space or wish to attach your statement separately, you can write your statement on a separate sheet of paper, but any additional page(s) you write must also be signed, dated and notarized.)*

By: _____

Name of Applicant

Street Address

City, State, Zip

Phone

Email

**(If you provide your email address,
a copy of the court's decision will be emailed to you.)**

Signature of Applicant

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

Notary Public

Affidavit of Service for CPL §720.20(5) Application

STATE OF NEW YORK

_____ **COURT, COUNTY OF** _____
(name of the court where you are filing) (county where the court is located)

Name of Applicant: _____

Applicant is asking the court to grant a Youthful Offender determination for the following conviction:

5 Case Number (Docket, Indictment, or SCI Number)	6 Court Name

The undersigned (deponent), being sworn, says:

I, _____, am over 18 years of age and reside at:
(Name of Person Serving/Mailing)

(Address of Person Serving/Mailing)

That on _____, I served the attached Notice of Motion and Affidavit in
(Date of Service/Mailing)
Support of a Youthful Offender Determination pursuant to CPL §720.20(5), including any supporting documents, upon the prosecutor as listed below:

The District Attorney of _____ County, at the following address:
(Name of County)

(Address)

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 (i.e. a mailbox).

by personally delivering a complete copy to the above prosecutor's office.

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

Notary Public

Signature of Person Serving/Mailing

NOTE: THIS SWORN AFFIDAVIT IS PROOF THAT THE PROSECUTOR WAS SERVED. YOU MUST ATTACH THIS AFFIDAVIT WHEN YOU FILE YOUR APPLICATION WITH THE COURT IF YOU DID NOT GET THE COURT'S COPY STAMPED "RECEIVED" BY SERVING THE APPLICATION IN PERSON AT THE PROSECUTOR'S OFFICE.