

NYLJ: Critics Say New York's Inquiry Into Aspiring Attorneys' Criminal Histories Violates State Law

New York City Bar Association, the Legal Aid Society and a long list of legal service providers say the inquiry serves as a barrier to making the profession more diverse.

By. Andrew Denney – October 22, 2021 -

<https://www.law.com/newyorklawjournal/2021/10/21/critics-say-new-yorks-inquiry-into-aspiring-attorneys-criminal-histories-violates-state-law/>

Aspiring lawyers have myriad motivations for wanting to join the profession. For Sarah Zarba, who is enrolled in City University of New York School of Law's Pipeline to Justice program, she is driven by her own experience with the criminal justice system.

Zarba has come a long way from her troubled youth. She had a rebellious streak and struggled with substance abuse. To support her increasingly expensive drug habit, Zarba and her boyfriend at the time started holding up gas stations.

The crime spree came to an end in 2010 with a failed robbery at a Long Island Blockbuster Video. The then-19-year-old Zarba was sentenced to one year in prison and spent time in rehab.

Now the 31-year-old Long Island native has a master's degree in social work from Columbia University and she's turning her sights on her next goal—to practice law and fight to obtain clemency for incarcerated people.

"I know its shortcomings," Zarba said of the criminal justice system. "I know its flaws because I lived it."

But even if Zarba gets through the Pipeline to Justice pre-law program, gets her J.D. and passes the bar, she still has a tall hurdle ahead: the Application for Admission to Practice as an Attorney

and Counselor-at-law in the State of New York, in which she will be required to disclose not just her adult robbery conviction but also her juvenile cases.

“I had to overachieve and overcompensate with accomplishments just to feel that I can meet the challenge of this question,” she said. “I’ve been ready for many years; I’ve done the work; I’ve paid my dues. I definitely hold myself accountable.”

New York City Bar Association, [the Legal Aid Society](#) and a long list of legal service providers say the inquiry, which is question No. 26 on the application, serves as a barrier to making the profession more diverse.

They have called on the Administrative Board of the Courts—which consists of Chief Judge Janet DiFiore of the New York Court of Appeals and the presiding justices of each of the state’s four Appellate Division departments—to amend the question, arguing that the court system is not exempt from a state law prohibiting questions about applicants’ juvenile histories and certain aspects of their criminal histories.

“Bringing Question 26 into compliance with New York State law would signal that the Administrative Board is committed to racial equity and to increasing diversity in the profession,” Legal Aid CEO and Attorney-in-Chief Janet Sabel said [in a letter submitted](#) to the board last month, which was co-signed by legal service providers who represent indigent defendants and children.

Court system spokesman Lucian Chalfen said that the board is taking the City Bar and Legal Aid’s recommendations under consideration.

To be sure, a history of criminal convictions does not always preclude an applicant's admission to the bar, especially in an age of heightened awareness of potentially wrongful convictions and when an increasing number of companies and government agencies are ceasing to inquire about job applicants' criminal pasts.

In one recent example, Jeffrey Deskovic, who was 17 years old when convicted in 1991 of the rape and murder of a classmate, spent 16 years in prison before a court threw out the conviction in 2006 on actual innocence grounds.

Deskovic eventually graduated from the Elisabeth Haub School of Law at Pace University and in October 2020 was admitted to practice law in New York.