



DACA Renewal Alert: Post-Conviction Relief

Since receiving DACA, have you gotten in trouble with the police or other law enforcement agency? Any recent arrest, criminal charge or even ticket¹ may affect your DACA eligibility. Now is the time to consult an immigration attorney or Board of Immigration Appeals (BIA) accredited representative, as well as a criminal defense attorney.

An immigration attorney or BIA accredited representative will help you determine if you still qualify for DACA and what risks you face if you apply to renew DACA. Together with a **criminal defense attorney**, explore your post-conviction relief options to reduce any risks you may face as a result of your recent arrest or conviction.



What is post-conviction relief? Post-conviction relief involves changing the outcome of a criminal case. This can happen by vacating, reducing, expunging, or modifying in some way your plea, sentence, or record of conviction. Getting post-conviction relief is not guaranteed and not always easy to do.

Who can help you get post-conviction relief? An attorney experienced in criminal defense can help you get post-conviction relief (PCR). Some immigration attorneys can do that, but not many.



Get your records.² Get certified court dispositions and any other records you have regarding your recent criminal history to take to your meeting with a legal service provider.

Explore post-conviction relief options with a legal service provider.

Below are some examples.

- **Vacate a Guilty Plea.** If you were not aware of the immigration consequences of your criminal conviction, it may be possible to reopen your criminal case and withdraw your plea. For example, a person who pled guilty to distribution of marijuana without knowing the immigration consequences of his plea could try to reopen his case. He may then go to trial and could be found not guilty.
- **Clarify your Record.** For example, a person may be arrested for drunk driving, but actually convicted for negligent or reckless driving. References to alcohol in the final court decision could lead to a denial of DACA. An attorney could try to have the references to alcohol in the disposition removed to more accurately reflect the outcome of the case—negligent, not drunk driving.
- **Expunge your Record.** Some records may qualify for expungement. Expunged records are not automatic bars to DACA, but U.S. Citizenship and Immigration Services (USCIS) still takes them into account when deciding to grant DACA.³ Some dispositions (outcomes), such as diversion to rehab or treatment programs in some states, qualify for automatic expungements.⁴



WARNING: Consult an attorney or accredited representative BEFORE taking any action in your criminal case and BEFORE applying for a renewal of DACA.

Find legal help at <http://www.weownthedream.org/legalhelp/>.

¹ Minor traffic violations do not count for DACA purposes, but some tickets are not minor traffic violations (e.g. a ticket for violation of a law on federal property, tickets related to drugs or alcohol, a ticket for being a gang member).

² See the *How to Get Your Criminal Records* guide and recorded webinar at <http://www.weownthedream.org/resources/>.

³ Outside of DACA, expungements do not make any difference in your immigration case. Expungements are considered convictions for other immigration purposes (e.g. in removal proceedings or when you apply for a green card).

⁴ Note that in some cases, expungements may prevent you from getting other kinds of post-conviction relief. Consult with an attorney experienced in post-conviction relief.