Need Not Apply?
Improving Employment Outcomes for People with Criminal Records

The Council of State Governments 2015 National Conference
Nashville, TN
December 12, 2015
Policymakers across the political spectrum are talking about connecting people with criminal records to jobs.

What can elected officials do to engage businesses in conversations about hiring people with criminal records?

What policy strategies are states considering to improve access people with criminal records have to employment?
Overview

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The scope of the issue is too big to ignore

10 million people in the U.S. are returning from incarceration each year*

70 million people nationwide have an arrest or conviction record

* 600,000 people released from state and federal prisons, plus 9 million people released from jails

Policymakers across the political spectrum are prioritizing employment as a key issue

“One of the ways to prevent recidivism is to find people the opportunity for sustainable jobs.”
- U.S. Secretary of Labor Thomas E. Perez

“We must shut the revolving door!”
- Gov. Nathan Deal (R), GA

“Employment is an instrumental part of success after incarceration, and it’s also a monumental hurdle for many reentering society.”
- Lt. Gov. Rebecca Kleefisch (R), WI

“A job is critical to re-entry and preventing recidivism...”
- Gov. Deval Patrick (D), MA
But, getting a job is difficult for job applicants with a criminal record

7% (1 in 15) of all working-age adults have a felony conviction

40% (6 in 15) of African American working-age adults have a felony conviction

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What do we mean by “engage businesses”?

- Bring business leaders to the table
- Share information and respond to employer concerns
- Promote action
Business leaders and policymakers convene at the White House in June 2014

Sen. Mark Norris (R-TN); David Adkins, Executive Director, The Council of State Governments

Derek Bottoms, Vice President of Associate Relations, The Home Depot; Daniel Hardiman, CEO, True North Companies, Inc.
Call-to-action spurred local public/private dialogues across the country
“Leverage key champions and partner with local chambers to get businesses to the table”

“The right partnership is when you have private and public sectors working [together] with philanthropic communities.”

- Noel Massie, Immediate Past Chair

“Getting ahead of workforce issues like [reentry and employment] is part of what the Birmingham Business Alliance does to foster economic development.”

- Brian Hilson, President and CEO

Share information with businesses about the population of people with criminal records

- 15,000+ people released from TN prisons and jails (fiscal year 2014/15)
- About 1 in 40 adult Tennesseans are incarcerated or under supervision

<table>
<thead>
<tr>
<th>TN DOC Community Supervision Offenders</th>
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<tbody>
<tr>
<td>Community Corrections</td>
<td>7,969</td>
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<tr>
<td>Parole</td>
<td>13,143</td>
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<tr>
<td>Probation</td>
<td>58,381</td>
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</tbody>
</table>

Employment challenges of people returning from TN Dept. of Corrections

<table>
<thead>
<tr>
<th>Statutory Barriers</th>
<th>Access to Resources</th>
</tr>
</thead>
<tbody>
<tr>
<td>Soft Skills</td>
<td>Drug Abuse</td>
</tr>
<tr>
<td>Marketable Skills</td>
<td>Mental Illness</td>
</tr>
<tr>
<td>Transportation</td>
<td>Employer Perceptions</td>
</tr>
<tr>
<td>Childcare</td>
<td>Motivation</td>
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</tbody>
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Offender Workforce Development in Tennessee

- **Prison Programs**
  - Hi-SET Training
  - Vocational Training
  - Soft Skill Preparation

- **Community Supervision**
  - Job Readiness
  - Cognitive Behavioral Programming

- **Workforce Engagement**
  - Creating partnerships with local employers for hiring
Barnhart Crane and Rigging – local example of business engagement

- Benefits for job applicants:
  - classroom and on-the-job training and experience

- Benefits for employers:
  - access to skilled labor
  - training serves as trial period

"By EcOp giving me exposure to my current employer, it was my foot in the door. They wouldn't have even looked twice at me if it wasn't for EcOp. It's good to finally be judged by your merits and not by something you did 25 years ago."

- Kevin, 2009 EcOp graduate
Facilitate employer-to-employer discussion

“We have found that because it’s difficult to find employment, when someone finds a workplace with an equal chance of success, they become more committed employees.”

- Carrie Link, Butterball Farms
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States are employing myriad approaches to increase employment opportunities

State policies passed between 2009-2014

Policies focused on hiring practices of employers

19 states, D.C., and more than 100 cities and counties have adopted fair-chance hiring policies.

"Ban the box" policies provide guidance on the consideration of a criminal record in hiring decisions, including:

- Prohibiting certain criminal record information from consideration;
- Considering only specific job-related; and
- Providing job applicants an opportunity to explain their criminal record.

Highlights of policy in Oregon

- Applies to public and private employment, with exceptions

- Employers may inquire into an applicant’s criminal history at initial interview, but not on application

- “Nothing in this section prevents an employer from considering an applicant’s conviction history when making a hiring decision”
Promising results, but limited formal tracking to date

- **Durham, North Carolina:** Number of applicants with criminal records recommended for hire nearly tripled in two years since policy was adopted.

- **Minneapolis, Minnesota:** Policy decreased the amount of transactional work for staff, did not slow down hiring process, and resulted in more than half of applicants with convictions being hired.

Tracking compliance and outcomes are key considerations during implementation

- For public employers
  - Confidential tracking system that documents how many people with records are denied job opportunities based on their records

- For private employers
  - Low-cost opportunities to document number of people with records rejected or accepted for job opportunities
  - System to track complaints and make information readily available
Policies focused on statutory barriers to employment

- Employment and Professional Licensing (automatic bans)
  - 12,751 (28%)
- Employment and Professional Licensing (discretionary restrictions)
  - 15,799 (34%)
- Other
  - 17,329 (38%)

Research shows that risk of rearrest dissipates with time, but over 31,000 collateral consequences are permanent.

SOURCE: American Bar Association (2011) A catalogue of state law collateral consequences can be found at abacollateralconsequences.org
Highlights from Oklahoma

- Joining growing list of states that have nondiscrimination language

- Amended 10 statutes to remove automatic prohibition; now permits denial of occupational license for felony conviction that substantially relates to the occupation or poses a reasonable threat
Impact of policy changes to minimize restrictions on professional licensing

- Lessening barriers could help eliminate worker shortages faced by high-growth industries

- Legislation passed in **New Hampshire** expected to have fiscal impact of less than $10,000 per year
  - Similar bills in **Florida** and **Ohio** estimated net gains in state revenue due to increases in application and training fees

Considerations for successful implementation

- Laws must promote clarity and consistency across decision-making bodies
  - **Louisiana** House Bill 295 (2012) prohibited licensing boards from denial based solely on applicant’s criminal record

- Data collection is important for monitoring compliance and measuring outcomes
  - **Florida** requires licensing boards to file report every four years detailing the criminal records-based restrictions on occupational licenses

Policies focused on criminal record clearance

- Technology has made it increasingly easy to access criminal history information online
- Criminal records are often inaccurate
- Between 2009-2014, 31 states broadened the scope and impact of sealing and expungement policies

Highlights from Indiana

- Law shepherded in by a former prosecutor

- Applies to all criminal records (with exceptions)

- Unlawful to refuse employment or a license because of an expunged record

- Expunged records are not admissible as evidence of negligence

Indiana Gov. Mike Pence signs sentencing, expungement bills into law

By Lesley Weidenbener

Posted: May 06, 2013
Highlights from Massachusetts

- **Access**
  - Self-audit every 90 days to get list of who requested CORI
  - Records eligible to be sealed and non-convictions not provided
  - Employers and landlords must provide a copy of CORI when used for adverse decision

- **Sealing timelines**
  - 5 years for misdemeanors
  - 10 years for felonies

- **Safe harbor for employers**
Key takeaways and discussion

- Engage businesses as a strategy for promoting hiring
- Identify policy reforms that will increase access to employment
Questions?

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