Model State Legislation to Reduce Employment Barriers for People with Criminal Records

Hosted by: NELP, Sentencing Project, National H.I.R.E. Network
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Webinar Presentation
November 22, 2011

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www.justice.gov/atj/
Reentry Council Activities

3 categories of activities:

✓ Actions the federal government can take to **better coordinate/leverage resources** for reentry

✓ Actions the federal government can take to **remove barriers** to reentry

✓ **Bully pulpit opportunities** to advance the reentry agenda, dispel myths/clarify policies, and signal to the field the importance of the issue
Reentry Council Activities: Coordinate and Leverage Resources

National Reentry Resource Center mapped major federal reentry resources going to states and localities

www.nationalreentryresourcecenter.org
Reentry Council Activities:
Address Federal Barriers to Reentry

- Reduce Barriers to Employment for Returning Population
- Improve Access to Benefits
- Address Child Support Relief
Reentry Council Activities:

MYTHBUSTER SERIES

Fact sheets designed to clarify existing federal policies affecting formerly incarcerated individuals in the areas of public housing, access to benefits, parental rights, and employment.

Examples:

• **MYTH:** People with criminal records are automatically barred from employment.

• **MYTH:** The Federal Government’s hiring policies prohibit employment of people with criminal records.

• **MYTH:** Employers have no federal income tax advantage by hiring an ex-felon.

www.nationalreentryresourcecenter.org/documents/0000/1090/REENTRY_MYTHBUSTERS.pdf
The Attorney General sent a letter to every state Attorney General, encouraging them to review the collateral consequences in their states to determine whether those that impose burdens on individuals convicted of crimes without increasing public safety should be eliminated.

Key Resources

- **Reentry Council Website**
  [http://www.nationalreentryresourcecenter.org/reentry-council-meeting](http://www.nationalreentryresourcecenter.org/reentry-council-meeting)

- **National Reentry Resource Center**
  [www.nationalreentryresourcecenter.org](http://www.nationalreentryresourcecenter.org)

- **Transition from Prison and Jail to the Community Initiative (NIC)**
  [http://nicic.gov/TPJC](http://nicic.gov/TPJC)

- **Reintegration of Ex-Offenders (DOL)**
  [www.doleta.gov/RExO/](http://www.doleta.gov/RExO/)

- **Incarceration and Reentry (HHS)**

- **Court Services and Offender Supervision Agency**
  [http://media.csosa.gov](http://media.csosa.gov)

- **National Hire Network** (state specific listing of governmental agencies and community-based organizations providing reentry services)
Key Resources (cont.)

EEOC RESOURCES


• Policy Statement on the Use of Statistics in Charges Involving the Exclusion of Individuals with Conviction Records from Employment (1987). This policy statement sets forth the Commission’s position on the use of statistics in charges involving the exclusion of individuals with conviction records in employment. Available at http://www.eeoc.gov/policy/docs/convict2.html.


• Office of Legal Council informal discussion letter regarding Title VII and arrest and conviction records. The EEOC Office of Legal Council wrote an informal discussion letter in response to an inquiry from a member of the public. This letter is intended to provide an informal discussion of the noted issue and does not constitute an official opinion of the Commission. Available at http://www.eeoc.gov/eeoc/foia/letters/2005/titlevii_arrest_conviction_records.html.
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National Employment Law Project
November 22, 2011

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Legislative Roundup 2010-2011: Criminal Record and Employment Categories

1. Inventories of Collateral Consequences
2. Fairer Hiring and Occupational Licensing Standards
3. Restoration of Eligibility for Employment and Occupational Licensing
4. Expungement and Sealing of Records
5. Anti-discrimination Laws
6. Securing Identification Documents
7. Reducing Child Support Arrearages
8. Training and Job Placement for The Affected Populations
9. Employer Negligent Hiring Protections
Raising Awareness of Collateral Consequences through Inventories

- Florida inventory (SB 146)
- **Ohio CIVICC**
- North Carolina C-CAT (2012)
Fairer Hiring and Occupational Licensing Standards

- Ban the Box: CT, MA, NM (2010)
  - Screening after conditional offer (CT); finalist (NM)
  - Private employers (MA)
  - Prohibits use of arrests, misdemeanor convictions (NM)

More components: limit background checks; copy of record and reason for denial, waiver process (rehabilitation)
Fairer Hiring and Occupational Licensing Standards

- Waiver and appeals: California, Delaware
  - Appeal: dispute inaccurate record
  - Waiver: demonstrate rehabilitation and waive disqualifying offense (factors defined)
  - Procedural safeguards: applicant receives copy of record and statement of reason for denial
- Uniformity
Restoration of Eligibility for Employment and Occupational Licensing

- Certificate of Relief (North Carolina, low level offense)
- Certificate of Achievement and Employability (Ohio, no automatic license bar)
Expungement and Sealing of Criminal Records

- AR, CA, CO, DE, IN, LA, NC, OR, MS, RI, SD, TX, UT
- First offender: NC, MS
- Expanding: AR, IN, LA, OR, RI, TX
- Reduced waiting period: CO, DE, UT
- May state “no”: CO (sealed conviction) SD (arrests)
- Technical fix: CA
Transition from Incarceration to Employment: IDs, Reducing Fees, and Job Training

Securing Identification
- Permits issuance: Kentucky, Virginia (special ID)
- Removing prohibitive cost of documents: Colorado, New York, Nevada

Job Training
- Training for high-demand jobs: Arkansas, Colorado
- Funds appropriated: Iowa
- Permits services: Idaho
Employer Negligent Hiring Protections

- Paired with fair hiring initiatives: MA (ban the box), NC (certificate)
- Paired with job training: AR
- Restricting information at trial: CO
For more information:

www.nelp.org

Resources:

65 Million Need Not Apply
Ban the Box State Guide

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Leveraging Opportunity for Reform

• Creating the Conditions for Reform
  – Organizing
  – Legislative Opportunity

• Taking Advantage
  – Fiscal Austerity
  – Addressing State Corrections Policy
  – Justice Reinvestment
Connecticut: Creating the Environment

• A Better Way Foundation – statewide organization

• Grassroots Advocacy – door knocking, engaging the community, media advocacy

• Laid foundation for reform
Connecticut: “Ban the Box”

- H 5207 in 2010 –
  - Mandates state employers (includes contractors/vendors) to make conditional offers of employment to individuals prior to inquiring about past criminal convictions;
- Passed Senate and House – bipartisan support
- Overrode Governor’s veto
North Carolina: Parallel Efforts to Reform CJ Policies

– NC Second Chance Coalition laid groundwork in 2009
– Justice Reinvestment in 2010
– Coalition Reform Priority: Certificate for Rehabilitation
  • Leverage mood for reform
  • Republican Champion
  • Lobby Day of over 200
NC: Certificate of Restoration of Rights

- **Relief for Certain Persons with Prior Convictions**
  - HB 641/SB 516
  - Est. process for persons with no more than 2 low level felonies or misdemeanors to petition court for relief from collateral sanctions
  - Courts may issue certificate if petitioner meets certain conditions including 12 month waiting period

- **Bipartisan Support** – Republican Champion also sponsored Justice Reinvestment Initiative

- Passed *overwhelmingly* in House and Senate
Ohio: Building on Momentum

- **Parallel efforts** – statewide coalition of advocates – including – Ohio Justice & Policy Center -- with reform agenda and Justice Reinvestment

- **Working Safe Ohio/First Step to a Second Chance**: a large coalition of advocates, faith leaders, service providers, and others

- **CJ Reform Initiative**: **HB 86** bill reduces penalties for many low-level, non-violent offenses; eliminated crack/powder cocaine disparity, and allows certain inmates to be released early
OH: Certificate of Achievement and Employability

- Includes provision of Certificate of Achievement and Employability
- Ensures individualized consideration from a state licensing agency when applying for an employment-related license
- Certificate supersedes any statute/regulation that creates automatic bar to the license
- Eligible applicants must have completed accredited in-prison programs (e.g. vocational/behavior) and community-service hours.
Resources on Leveraging and Building Momentum

• Connecticut: A Better Way Foundation
  ➢ Grassroots advocacy to override Gubernatorial veto
  ➢ More information online [here](#)

• North Carolina: Lobby Day Overview
  ➢ Coalition organized a lobby day for over 200
  ➢ More information online [here](#)

➢ Ohio: Coalition leveraged Momentum
  ➢ Coalition including correctional officials and faith leaders supported
    improving employment policies for persons with prior convictions
  ➢ More information online [here](#)
For more information:
www.sentencingproject.org

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LEGISLATIVE TRENDS IN 2012

Ban the Box

Expungement

Uniform Collateral Consequences

Prohibiting Inquiry Into Arrests That Do Not Lead to Conviction
2012 LEGISLATION

Ban the Box

Wisconsin SB 612
Minnesota
Virginia
Pittsburgh
LEGISLATION 2012

Record Expungement
Sealing and Shielding

Pennsylvania SB 1220
Maryland
LEGISLATION 2012

Uniform Collateral Consequences

Wisconsin
Michigan
Minnesota
Rhode Island
Vermont
Maine*
LEGISLATION 2012

Prohibiting Inquiry Into Arrests That Do Not Lead to Convictions

Illinois SB 1284
2012
Regressive Legislation

Bills that Allow Employers to Discriminate Against People with Felony Convictions

Wisconsin SB 207
POLICY TOOLKITS

• Prohibiting Inquires About Arrests That Do Not Lead to Convictions
  http://www.lac.org/toolkits/arrests/arrest_inquiries.htm
• Standards for Hiring People with Criminal Records
  http://www.lac.org/toolkits/standards/standards.htm
• Certificates of Rehabilitation
  http://www.lac.org/toolkits/certificates/certificates.htm
• Sealing/Expunging Arrest Records
  http://www.lac.org/toolkits/sealing/sealing.htm
• Securing Official Identification for Individuals Leaving Prisons and Jails
  http://www.lac.org/toolkits/ID/ID.htm
• Enforcing Anti-Discrimination Laws
  http://www.lac.org/toolkits/titlevii/title_vii.htm
For more information:
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