Support California Assembly Bill 218!
Statewide “ban the box”

We need your support for the movement to “ban the box” in California so that persons with arrest or conviction records are treated fairly when they apply for a job. Please write your support letter and email to taryn.kinney@asm.ca.gov and mrodriguez@nelp.org. Word template found here.

Background

In late May, by a margin of 48 to 29, the California State Assembly passed AB 218—a bill that would remove questions about convictions from public job applications, postponing inquiries until later in the hiring process. The bill, authored by Assemblymember Roger Dickinson, applies to state agencies and city and county employers, and would mitigate the stigma and blanket exclusion that qualified applicants with criminal records often face when seeking work. After passing through Assembly Judiciary and Appropriations committee and the floor, the bill now heads to the State Senate.

Colorado, Connecticut, Hawaii, Illinois, Maryland, Massachusetts, Minnesota, and New Mexico have all embraced similar reforms, and last year, the U.S. Equal Employment Opportunity Commission endorsed ban-the-box as a best practice. Check out NELP’s ban-the-box resource guide as well as editorial endorsements in The New York Times and the Sacramento Bee. The prior version of the bill, AB 1831, was held in Senate Governance and Finance last year.

Attachments:

Letter of Support template link
Multi-organization Assembly Floor Alert Factsheet 1
AB 218 Factsheet 3
AB 218 Judiciary Committee Analysis 5
Example of Labor Support Letter for AB 218: California Labor Federation 14
Example of Law Enforcement Support Letter for AB 218: District Attorney George Gascón 15
Example of Human Resources Support Letter for AB 218: City of Richmond 19
What does the bill do? This bill would provide that state or local agencies delay the consideration of an applicant’s criminal history until after the agency has determined the applicant meets the minimum job qualifications.

Why is it needed? Nearly seven million Californians have criminal records that might cause them to be denied jobs, even for arrests or old, minor convictions. Studies have shown that stable employment lowers recidivism. In order to support California’s economic recovery, the commonsense approach is to remove barriers to success for people who are qualified to work.

Do other states have this policy? Nine states, including California’s state personnel board, have adopted similar policies—several with bipartisan support. The states are Colorado, Connecticut, Hawaii (since 1998), Illinois, Maryland, Massachusetts, Minnesota, and New Mexico. There are fifty U.S. cities and counties, including nine in California, and New York City that have implemented this policy.

AB 218 allows people with a conviction history to get a foot in the door without compromising safety and security on the job. Key facts about AB 218:

- State and local agencies may still conduct criminal background checks and screen out disqualified workers.
- Any positions that require background checks or in law enforcement agencies are exempted.
- Human resources departments in California with policies like AB 218 have attested to ease of implementation, the streamlining of resources, and the benefit of expanding their pool of workers.

Co-Sponsors:
Michelle Natividad Rodriguez, National Employment Law Project, mrodriguez@nelp.org, 510/663-5705
Rev. Damita Davis-Howard, PICO California, ddavis-howard@oaklandcommunity.org, (510) 915-2651
Linda Evans, Legal Services for Prisoners with Children, linda@prisonerswithchildren.org, 415/255-7036 x311

SUPPORT FOR AB 218

National Employment Law Project (co-sponsor)
Legal Services for Prisoners With Children (co-sponsor)
PICO California (co-sponsor)
All of Us or None (co-sponsor)
National Council of La Raza
PolicyLink
Justice Not Jails
A New Way of Life Reentry Project
AFSCME
Amalgamated Transit Union, California
California Correctional Peace Officers Association (CCPOA)
The California Labor Federation
California Teamsters Public Affairs Council
Prof. and Tech. Engineers, Local 21
SEIU Local 1000
UNITE HERE
United Food and Commercial Workers Union, Western States
Utility Workers Union of America, Local 132
Alameda County Board of Supervisors
City of Carson Mayor, Jim Dear
City of Richmond
Richmond Chief of Police, Chris Magnus
Santa Clara County
San Francisco Board of Supervisors
San Francisco District Attorney George Gascón
San Francisco Public Defender Jeff Adachi
Wendy Still, San Francisco Chief Adult Probation Officer
9to5 California, National Association of Working Women
ACLU of California
All of Us or None -Sacramento Chapter
All of Us or None, Los Angeles/Long Beach
APIsCAN
Bayview Baptist Church
California Attorneys for Criminal Justice
California Catholic Conference of Bishops
California Coalition for Women Prisoners
California Communities United Institute
California Drug Counseling, Inc.
California Employment Lawyers Association
California Partnership
California Prison Focus
The California Public Defenders Association
California State Conference of the National Association for the Advancement of Colored People
Californians for Safety and Justice
The Center for Young Women's Development
The Center on Juvenile and Criminal Justice
Chrysalis
The Coalition on Homelessness
Community Coalition
Contra Costa Interfaith Supporting Community Organization
Crossroad Bible Institute
CURB (Californians United for a Responsible Budget)
The Drug Policy Alliance
The East Bay Alliance for a Sustainable Economy
East Bay Community Law Center
Ella Baker Center for Human Rights
Engineers and Scientists of CA
Equal Justice Society
Equal Rights Advocates
The Friends Committee on Legislation of California
The Greenlining Institute
Homies Unidos
InnerCity Struggle
Justice First, LLP
Justice Now
LA Voice

Lawyers’ Committee for Civil Rights of the San Francisco Bay Area
Legal Aid Society-Employment Law Center
Los Angeles Alliance for a New Economy
Los Angeles Regional Reentry Partnership
The Mexican American Legal Defense and Educational Fund (MALDEF)
Much More Bounce Inc./Ministries
The National H.I.R.E. Network
National Association of Social Workers - California Chapter
NMT/The Ripple Effects
Oakland Rising
Pacific Institute
Public Counsel
Sacramento Area Congregations Together (A.C.T.)
Saffron Strand, Inc.
Sanmina Corporation
Shields for Families
Starting Over Inc.
The Sentencing Project
The Training Center
The Women’s Council of the California Chapter of The National Association of Social Workers
The Women's Foundation of California
The Youth Justice Coalition
Western Center on Law & Poverty
AB 218 (Dickinson)
Fairness in Government Hiring Practices

**SUMMARY**

This bill would provide that state and local agencies may not inquire into an applicant’s criminal conviction history or include such an inquiry in their application for employment until after the agency has determined the applicant’s qualifications meet the requirements for the position.

**PROBLEM**

An estimated one in four adult Californians has an arrest or conviction record on file with the state, creating major, unnecessary employment barriers. The Department of Justice generates over 1.7 million criminal background checks every year for employment and licensing purposes.

Because criminal background checks disproportionately deny employment to large numbers of people of color, the U.S. Equal Employment Opportunity Commission (EEOC) requires employers to establish a strong nexus between an individual's conviction history and the specific responsibilities of the job.

“Realignment” (AB 109) of California’s criminal justice system seeks to produce budgetary savings by reducing recidivism and promoting rehabilitation. Employment of eligible people with a conviction history is key to the success of realignment at the local level, as studies have shown that stable employment significantly lowers recidivism and promotes public safety.

Otherwise qualified individuals are often discouraged from applying for work in the public and private sectors because of a conviction history inquiry on the application.

**THIS BILL**

AB 218 will remove any inquiry into a conviction history on a job application and delay any background check until the employer has determined that the applicant’s qualifications meet the job requirements. Consistent with “realignment” of the state’s criminal justice system, AB 218 strives to reduce unnecessary barriers to employment for the nearly seven million adult Californians with a conviction history struggling to find work. Not only will this increase public safety, but also help fuel a strong economic recovery.

AB 218 will also make government hiring practices more consistent with the EEOC’s guidelines on hiring people with arrest and conviction records.

The provisions of the bill do not apply to positions for which the agency is required by law to conduct a criminal background check, such as positions in law enforcement, positions working with children, the elderly or disabled, and other sensitive positions. Also, the provisions would not apply to any position within a criminal justice agency. In order to allow employers time for implementation, the bill is effective July 1, 2014.

Nine states and over 50 U.S. cities and counties responded to this growing societal challenge by removing the conviction history inquiry from initial job applications in public employment. Under Governor Schwarzenegger, the State Personnel Board removed the question from job applications for state positions in 2010 and added a criminal history supplemental questionnaire for exempted positions.

With this bill, California state and local government will take an important step toward becoming model employers, leading the way for the private sector to allow people with a conviction history to compete fairly for employment without compromising safety and security on the job.

**SUPPORT**

National Employment Law Project (co-sponsor)
Legal Services for Prisoners With Children (co-sponsor)
PICO California (co-sponsor)
All of Us or None (co-sponsor)
National Council of La Raza
PolicyLink
Justice Not Jails
A New Way of Life Reentry Project
AFSCME
FOR MORE INFORMATION

Taryn Kinney
Assemblymember Roger Dickinson
(916) 319-2007 or Taryn.Kinney@asm.ca.gov
Date of Hearing: April 2, 2013

ASSEMBLY COMMITTEE ON JUDICIARY
Bob Wieckowski, Chair
AB 218 (Dickinson) – As Introduced: February 4, 2013

As Proposed to be Amended

SUBJECT: PUBLIC EMPLOYMENT: CRIMINAL CONVICTION HISTORY

KEY ISSUES:

1) SHOULD STATE AND LOCAL AGENCIES GENERALLY BE REQUIRED TO POSTPONE ASKING ABOUT AN APPLICANT'S PRIOR CRIMINAL CONVICTIONS UNTIL AFTER THEY HAVE DETERMINED THAT THE APPLICANT MEETS THE MINIMUM QUALIFICATIONS FOR THE JOB IN ORDER TO AVOID INAPPROPRIATELY EXCLUDING QUALIFIED JOB SEEKERS?

2) SHOULD LAW ENFORCEMENT AGENCIES BE EXEMPTED FROM THIS RULE, ALONG WITH ALL POSITIONS WITH ANY EMPLOYER FOR WHICH CRIMINAL BACKGROUND CHECKS ARE REQUIRED?

FISCAL EFFECT: As currently in print this bill is keyed fiscal.

SYNOPSIS

This bill concerns when – not whether – state and local governments may obtain criminal conviction information from applicants for employment. Under the bill, this information may be sought and considered after the agency has determined that the applicant meets the minimum qualifications for the job. The bill exempts all criminal justice agencies, as well as all positions with any agency for which a criminal background investigation is required. Supporters note that the recently enacted “realignment” of California’s criminal justice system under AB 109 seeks to produce budgetary savings by reducing recidivism and promoting rehabilitation, and that employment of eligible people with a conviction history is key to the success of realignment because stable employment significantly lowers recidivism. Supporters argue that the stigma of a past criminal record discourages otherwise qualified individuals from applying for work when job applications inquire about conviction history. They note that six states and over 40 U.S. cities and counties have removed the conviction history inquiry from initial job applications in public employment, and that the State Personnel Board under Governor Schwarzenegger similarly removed the question from job applications for state positions.

Opponents argue that because the bill does not affect whether criminal convictions can be considered, the bill simply requires agencies to waste public time and resources screening initial applications for minimum eligibility that will almost certainly be rejected once an applicant’s criminal history is made known, which they argue will cause unnecessary delays and increased costs in hiring procedures without a discernible public benefit. Other opponents argue that each agency should be able to decide for itself which positions are exempted.
SUMMARY: Provides that state and local agencies must determine a job applicant's minimum qualifications before obtaining and considering information regarding the applicant's criminal conviction history. Specifically, this bill:

1) Provides that a state or local agency shall not ask an applicant for employment to disclose, orally or in writing, information concerning the conviction history of the applicant, including any inquiry about conviction history on any employment application until the agency has determined the applicant meets the minimum employment qualifications, as stated in any notice issued for the position.

2) Exempts from this provision all positions for which a state or local agency is otherwise required by law to conduct a conviction history background check, any position within a criminal justice agency, as that term is defined in Section 13101 of the Penal Code, and any individual working on a temporary or permanent basis for a criminal justice agency on a contract basis or on loan from another governmental entity.

3) Specifies that this section shall not be construed to prevent a state or local agency from conducting a conviction history background check after complying with the provisions above.

EXISTING LAW:

1) Prohibits any employer from inquiring into or requiring disclosure of arrests or detentions of applicants that did not result in conviction. (Labor Code Section 432.7.)

2) Provides pursuant to federal anti-discrimination law that a facially neutral hiring policy excluding all applicants with conviction records will disproportionately impact persons of color, and, therefore, may violate Title VII of the Civil Rights Act of 1964. Such a policy will pass muster if it is job-related and consistent with business necessity. (See EEOC Enforcement Guidance, "Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964" (2012)(available at http://eeoc.gov/laws/guidance/arrest_conviction.cfm).)

3) State law likewise prohibits race discrimination in employment and provides that a violation may be found where an employment policy or practice has a disproportionate impact on a racial group unless the policy or practice is job related and consistent with business necessity. (See Government Code section 12926 et seq.)

COMMENTS: According to the author, "AB 218 will help to level the playing field for qualified Californians seeking employment and will promote public safety by reducing unnecessary job barriers for the nearly seven million adult Californians with a criminal record. Thousands of qualified job applicants in our state are plagued by old or minor records and discouraged from applying to employment because a 'box' on job applications requires criminal history information that leads many employers to unfairly reject job applications. AB 218 removes unnecessary obstacles to employment for skilled, qualified workers who have turned their lives around. All of California will benefit when people with criminal records are no longer shut out of jobs and can financially support their families and contribute to a strong economic recovery."
This Bill Seeks To Promote Rehabilitation and Reduce Recidivism Consistent With The Goals Of Realignment. The author explains the reason for the bill as follows:

“Realignment” (AB 109) of California’s criminal justice system seeks to produce budgetary savings by reducing recidivism and promoting rehabilitation. Employment of eligible people with a conviction history is key to the success of realignment at the local level, as studies have shown that stable employment significantly lowers recidivism and promotes public safety.

Research has shown that people who are employed after release from prison are less likely to return. One study found that only 8% of those who were employed for a year committed another crime compared to that state’s 54% average recidivism rate. Increased employment and increased wages are also associated with lower crime rates in states. Based on U.S. Bureau of Justice Statistics and the U.S. Census, the National Employment Law Project estimates that there are almost 7 million adults in California with criminal records on file with the state. One prominent researcher has found that a criminal record reduces the likelihood of a job callback or offer by nearly 50 percent, an effect even more pronounced for African American men than for white men (see answer to question 10 under “People of color are disproportionately impacted by criminal record screening in employment”). The stigma of a past criminal record also discourages otherwise qualified individuals from applying for work because of a conviction history inquiry on the job application.

No healthy economy can sustain a large and growing population of unemployed workers, especially in those communities already hard hit by joblessness. Indeed, the impact on the economy is staggering. The cost of corrections at each level of government in the United States consumed $74 billion a year in 2007, and the reduced output of goods and services of people with felonies and prison records is estimated at between $57 and $65 billion in losses nationally. When hard-working Californians are able to support themselves and their families, our communities will reap the economic benefits.

Six states and over 40 U.S. cities and counties responded to this growing societal challenge by removing the conviction history inquiry from initial job applications in public employment. Under Governor Schwarzenegger, California State Personnel Board removed the question from job applications for state positions effective June 25, 2010 (they then added a criminal history supplemental questionnaire for exempted positions).

Mayor Bloomberg adopted this policy in New York City. Currently, the following California cities and counties do not inquire into an applicant’s criminal history on the initial application: Alameda County, Berkeley, City of East Palo Alto, Compton, Oakland, Richmond, Santa Clara County, City of San Diego, and San Francisco City and County.

AB 218 removes any inquiry into a conviction history on an initial job application and delays any background check until the employer has determined that the applicant’s qualifications meet the job requirements. The provision does not apply to positions for which the agency is required by law to conduct a criminal background check, such as positions working with children, the elderly or disabled, and other sensitive positions, and any positions within criminal justice agencies. The bill will not alter or impact any job
qualifications or the agency’s legal discretion to hire the most qualified applicant for the job position. The agency will also retain its discretion, in compliance with existing law, to determine whether a job position requires a criminal background check.

In summary, consistent with “realignment” of the state’s criminal justice system, AB 218 strives to reduce unnecessary barriers to employment for the estimated one in four adult Californians with a conviction history, many of whom are struggling to find work. Not only will this practice increase public safety, but it will also help fuel a strong economic recovery.

In 2011, U.S. Attorney General Eric Holder wrote to every state Attorney General, with a copy to every Governor, asking them to assess their state’s collateral consequences and determine if any should be eliminated “so that people who have paid their debt to society are able to live and work productively.” Following the direction of the Attorney General Holder, California can take an important step toward becoming a model employer, leading the way for the private sector to allow people with a conviction history to compete fairly for employment without compromising safety and security on the job.

This Bill Seeks To Affect Only When – Not Whether – Employers May Consider Criminal Conviction History. This bill does not prohibit or otherwise limit a state or local agency from conducting a criminal background check or making employment decisions on the basis of an applicant’s prior convictions. It simply restricts when that inquiry may be conducted. Under the bill, a covered employer may ask an applicant for employment to disclose information concerning his or her conviction history, and may conduct a criminal background investigation, so long as they do so after they have determined the applicant meets the minimum employment qualifications.

Employers should of course continue to approach these decisions with care to avoid violating employment discrimination laws, which require that job requirements be justified when they fall more heavily on some groups. The bill does not affect existing law requiring that employment standards be related to the job.

Supporters note that people of color are more likely than whites to possess a criminal record and are especially hard hit by criminal record screening in employment. Supporters cite two prominent studies which found that a criminal record reduces the likelihood of a job callback or offer by about 50 percent (28 percent vs. 15 percent). This criminal record “penalty” was substantially greater for African Americans and Latinos in the test pool. (Devah Pager, "The Mark of a Criminal Record," American Journal of Sociology 108.5 (2003) at 957-60; Devah Pager, Bruce Western, & Bart Bonikowski, "Discrimination in a Low Wage Labor Market: A Field Experiment," American Sociological Review 74 (October, 2009) at 777-779.)

The U.S. Equal Employment Opportunity Commission (EEOC) has recognized in policy guidance issued in April 2012 that there are observable racial disparities in the criminal justice system. Because criminal background checks may have a disparate impact on people of color, federal employment discrimination law prohibits no-hire policies against people with criminal records. An employer’s consideration of a conviction history may pass muster if an individualized assessment is made, taking into account whether the conviction is job-related and
the time passed since the conviction. An employer therefore risks violating federal civil rights laws when it cannot articulate an objective and well-supported reason why the use of a criminal record to disqualify an applicant is related to the functions of the job. Thus, removing the inquiry about conviction history from the initial job application promotes a case-by-case assessment of the applicant, which is more consistent with the law. In keeping with the policy embodied by AB 218, the EEOC guidance states: “As a best practice, and consistent with applicable laws, the Commission recommends that employers not ask about convictions on job applications and that, if and when they make such inquiries, the inquiries be limited to convictions for which exclusion would be job related for the position in question and consistent with business necessity.”

Exemption For All Criminal Justice Agencies and Any Positions Where Background Check Required. Moreover, the bill contains a broad exemption for any position for which a state or local agency is otherwise required by law to conduct a conviction history background check, as well as any position within a criminal justice agency or to any individual working on a temporary or permanent basis for a criminal justice agency on a contract basis or on loan from another governmental entity. This bill uses the existing definition of “criminal justice agencies,” those agencies at all levels of government that perform as their principal functions, activities which either relate to the apprehension, prosecution, adjudication, incarceration, or correction of criminal offenders or relate to the collection, storage, dissemination or usage of criminal offender record information. (Penal Code Section 13101.)

Other opponents recognize that the bill provides exemptions, but argue that these are too limiting.

No Express Private Right of Action And No Apparent Administrative Enforcement Mechanism. This bill does not contain a private right of action, nor does it provide for administrative enforcement through the Division of Labor Standards Enforcement.

There Is A Substantial Population Of People With Criminal Records In The United States And In California Who May Be Affected By This Bill. According to the bill's co-sponsor, the National Employment Law Project (NELP), an estimated 1 in 4 U.S. adults has a criminal record that would appear on a routine background check. (See “65 Million Need Not Apply: The Case for Reforming Criminal Background Checks,” at footnote 2( available at http://www.nelp.org/page/-/SCLP/2011/65_Million_Need_Not_Apply.pdf?nocdn=1).) Using the same methodology outlined in this report, NELP estimates there are approximately 7 million Californian adults with criminal records. According to supporters, research has demonstrated that employment is a key factor in reducing recidivism and ensuring positive public safety outcomes. Among other examples, supporters cite a recent study of former prisoners in Ohio, Texas, and Illinois where researchers found that inmates who held a job while in prison and those who participated in job-training programs while incarcerated had better employment outcomes after release. In addition, inmates who were employed and earning higher wages after release were less likely to return to prison the first year out. (Christy Visher, Sara Debus & Jennifer Yahner, Employment after Prison: A Longitudinal Study of Releasees in Three States, Justice Policy Center Research Brief (Oct. 2008)(available at http://www.urban.org/UploadedPDF/411778_employment_after_prison.pdf).) Supporters argue that the economy is negatively impacted by the inability of people with criminal records to find gainful employment, supporting themselves and their families.
Similar Laws In California Local Governments And Other States. The author states that human resources departments in various cities and counties have comparable policies and have found them beneficial. The author particularly notes that among these are the East Palo Alto Police Department, Alameda County, the City of Oakland and the City of Richmond.

The author reports that there are existing laws in other states that remove the conviction history inquiry from the initial job application and delay the conviction history inquiry until later in the hiring process. According to the author, each of these laws goes much further than AB 218. Among the states with similar laws are Colorado, Connecticut, Hawaii, Massachusetts, Minnesota, and New Mexico.

ARGUMENTS IN OPPOSITION: The California District Attorneys Association states:

We understand that this bill allows a local agency to consider an applicant’s criminal history after the applicant’s qualifications have been screened and the agency has determined the applicant meets the minimum employment requirements. Unfortunately, all this bill will do is ensure that local agencies waste public time and resources screening initial applications for minimum eligibility that will almost certainly be rejected once an applicant’s criminal history is made known. Certainly, there are positions in state and local government for which a criminal background check is not required but into which it is inappropriate to hire a person with specific criminal histories. Additionally, there may be employees who work in a criminal justice agency who are not employed by the agency itself. Such employees would not be excluded by the bill’s provisions.

We understand your desire to increase employment opportunities for persons with criminal convictions, but it seems unlikely that this bill will accomplish that objective. The only sure outcome is unnecessary delays and increased costs in hiring procedures. At a time when local governments are just as, if not more than, cash-strapped as the state, it seems unwise to guarantee the pointless expenditure of public time and resources toward no discernible public benefit.

The California Special Districts Association states in relevant part:

AB 218 provides exemptions to delayed criminal history screening of potential hires for two types of positions: those who are required to have a criminal background check pursuant to state law and those with criminal justice related duties. However, we find this far too limiting. Special districts have employees that handle sensitive personnel information, access financial records and public funds, or enter ratepayers’ property as part of their job duties. Hiring an individual with a relevant criminal history could compromise public trust. Furthermore, it simply doesn’t make sense to delay criminal record verification when a prior conviction, based on local hiring protocols, would make a candidate ineligible. Therefore, we propose allowing local government agencies to adopt formal policies that would allow criminal record information requests at the initial phase of employment for positions specified by the agency.

Author's Proposed Technical Amendments. In order to better clarify the intent of the measure, the author proposes the following technical amendments:
(a) A state or local agency shall not ask an applicant for employment to disclose, orally or in writing, information concerning the criminal conviction history of the applicant, including any inquiry about conviction history on any initial employment application. A state or local agency may inquire into or consider an applicant’s criminal history after until the applicant’s qualifications have been screened and the agency has determined the applicant meets the minimum employment requirements—qualifications, as stated in any notice issued for the position.

(b) This section shall not apply to a position for which a state or local agency is otherwise required by law to conduct a criminal conviction history background check, to any position within a criminal justice agency, as that term is defined in Section 13101 of the Penal Code, or to any individual working on a temporary or permanent basis for a criminal justice agency on a contract basis or on loan from another governmental entity.

(c) This section shall not be construed to prevent a state or local agency from conducting a criminal conviction history background check after complying with all of the provisions of subdivision (a).

Prior and Pending Related Legislation. A related measure, AB 870 (Jones-Sawyer), would enact a similar policy for state contractors. That bill has been referred to the Committee. A prior measure by the author last year, AB 1831, was held in the Senate Governance and Finance Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

National Employment Law Project (co-sponsor)
Legal Services for Prisoners With Children (co-sponsor)
PICO California (co-sponsor)
All of Us or None, Los Angeles/Long Beach (co-sponsor)
AFSCME (co-sponsor)
ACLU of California
All of Us or None -Sacramento Chapter
Amalgamated Transit Union, California
A New Way of Life Reentry Project
Bayview Baptist Church
City of Berkeley
California Attorneys for Criminal Justice
California Conf. of Machinists
California Communities United Institute
California Coalition for Women Prisoners
California Drug Counseling, Inc.
California Employment Lawyers Association
California Labor Federation
California Partnership
California Prison Focus
California Public Defenders Association
California Teamsters Public Affairs Council
Californians United for a Responsible Budget
Californians for Safety and Justice
Chrysalis
City of Carson Mayor, Jim Dear
Contra Costa Interfaith Supporting Community Organization
Coalition on Homelessness
Crossroad Bible Institute
Drug Policy Alliance
East Bay Community Law Center
East Bay Alliance for a Sustainable Economy
Engineers and Scientists of CA
Equal Justice Society
Equal Rights Advocates
Friends Committee on Legislation of California
Homies Unidos
Justice First, LLP
Justice Not Jails
Justice Now
Lawyers’ Committee for Civil Rights of the San Francisco Bay Area
Legal Aid Society-Employment Law Center
Los Angeles Alliance for a New Economy
Los Angeles Regional Reentry Partnership
LA Voice
Mexican American Legal Defense and Educational Fund (MALDEF)
Much More Bounce Inc./Ministries
National Association of Social Workers - Women’s Council of the California Chapter
National Council of La Raza
National H.I.R.E. Network
NMT/The Ripple Effects
Oakland Rising
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Prof. and Tech. Engineers, Local 21
City of Richmond
Richmond Chief of Police, Chris Magnus
Saffron Strand, Inc.
Sanmina Corporation
San Francisco Public Defender Jeff Adachi
SEIU Local 1000
Sentencing Project
Starting Over Inc.
San Francisco District Attorney George Gascón
The Training Center
Utility Workers Union of America, Local 132
United Food and Commercial Workers Union, Western States
UNITE HERE
Western Center on Law & Poverty
Wendy Still, San Francisco Chief Adult Probation Officer
Women’s Foundation of California
Youth Justice Coalition
Opposition

Association of California Cities – Orange County  
California District Attorneys Association  
California Special Districts Association  
Desert Water Agency  
Rural County Representatives of California  
Southwest California Legislative Council

Analysis Prepared by: Kevin G. Baker / JUD. / (916) 319-2334
March 28, 2013

Assemblyman Bob Wieckowski
Chair, Assembly Judiciary Committee
1020 N Street, Room 104
Sacramento, CA 95814

RE:  AB 218 (Dickinson) – SUPPORT

Dear Assemblyman Wieckowski:

The California Labor Federation strongly supports AB 218 (Dickinson), which helps promote rehabilitation and decrease crime by easing barriers to employment for those with a criminal conviction.

Everyone knows that the best way to stop recidivism is to create job opportunities. Yet, instead of connecting the nearly seven million adult Californians with a criminal record to employment, they are routinely screened out from jobs they may be qualified for, without even an interview. This creates a permanent underclass of unemployable people, many of whom come from the same impoverished communities, and contributes to intergenerational poverty and despair.

AB 218 simply removes the question about an individual’s criminal history from state, city and county job applications while still preserving the right to conduct a criminal background check later in the process. This gives workers a shot to compete for a job and to demonstrate that they have been rehabilitated and changed their lives around. The employer is still free to conduct a background check and to use that information in any subsequent hiring decision. The bill also exempts both law enforcement positions and those for which the public entity is required by law to conduct a criminal background check.

AB 218 follows the lead of six states and over 40 U.S. cities and counties that have removed the conviction history inquiry from initial job applications in public employment and delayed a criminal background check until the later stages of the hiring process.

As California moves toward realignment, and there is a shift from incarceration to community release and supervision, it is essential that we get real about rehabilitation. The public sector should be a model of opportunity for the rest of California’s employers.

We urge you to vote “YES” on AB 218 (Dickinson) when it comes before you in the Assembly Judiciary Committee on Tuesday, April 2, 2013.

Sincerely,

Mitch Seaman
Legislative Advocate
ms/tng39521cwa/afl-cio
MS: sm
OPEIU 3 AFL CIO (31)

Cc: Committee Members
Assemblyman Roger Dickinson
March 22, 2013

Chair Bob Wieckowski and committee members
Assemblymember Roger Dickinson
Assembly Judiciary Committee
1020 N Street, Room 104
Sacramento, CA 95814

RE: SUPPORT FOR AB 218

Dear Chair Wieckowski, committee members, and Assemblymember Dickinson:

As District Attorney of San Francisco, I am writing to express my support of AB 218, which promotes public safety by reducing barriers to employment for the nearly seven million adult Californians with a criminal record. I have over three decades in law enforcement experience and I have seen that initiatives that support reentry are essential to public safety. AB 218 removes the question about an individual’s criminal history from state, city, and county job applications while permitting a background check later in the hiring process. All of California will benefit when people with criminal records are no longer shut out of jobs and can financially support their families and contribute to a strong economic recovery.

In California and around the country, qualified job applicants are plagued by old or minor records and discouraged from applying because a “box” on job applications requires criminal history information that leads many employers to unfairly reject their applications. Because people of color are especially hard hit, the U.S. Equal Employment Opportunity Commission (EEOC) recently endorsed as a best practice removing the question about conviction histories from job applications to maximize compliance with federal civil rights law.

AB 218 follows the lead of six states and over 40 U.S. cities and counties that have removed the conviction history inquiry from initial job applications in public employment and instead delayed a criminal background check until the later stages of hiring. AB 218 allows people with a conviction history to compete fairly for employment without compromising safety and security at the workplace. The bill exempts jobs for which a criminal background check is legally required and law enforcement related positions.

Public sector employers in California have a special obligation to pave the way for the private sector to reduce barriers to employment of people with criminal records. For these reasons, I support AB 218.

Sincerely,

George Gascón
District Attorney
April 11, 2013

Assemblymember Roger Dickinson
State Capitol
P.O. Box 942849
Sacramento, California 94249-0007
*Via electronic mail Taryn.Kinney@asm.ca.gov or facsimile (916) 319-2107*

RE: SUPPORT FOR AB 218

Dear Assemblymember Dickinson:

I am the City of Richmond’s Assistant City Manager/Human Resources Management Director. I am writing to share with you information regarding the City’s criminal background screening practice and the City’s support of AB 218.

The City of Richmond’s Human Resources Management Department has had a long practice of delaying criminal background checks until after the applicant has been determined to be qualified for the job. This practice was instituted long before the question regarding conviction histories was removed from job applications in early 2012. Consistent with AB 218, the City has only conducted background checks on qualified applicants and has found that conducting background checks on a smaller pool of job applicants actually preserves the City’s resources.

Removing the question about conviction histories from the City’s initial job application was a simple process. The City had paper applications with the conviction history question on them, but was able to simply block out the question regarding conviction histories with a white label. The costs incurred to make this change were negligible.

Even before the City removed the question about conviction histories from the job application, the City has not had any problems delaying the criminal background check until after the conditional offer. The City’s hiring process is in no way compromised by this change and the City has maintained the hiring discretion it needs to find the most qualified candidates.

Ultimately, it is not minimizing resource expenditures or streamlining the hiring process that motivated the City to adopt a policy similar to AB 218. Rather, the City has benefited from hiring dedicated and hardworking City employees because of this policy change.

On November 22, 2011, Richmond’s City Council voted to remove questions about conviction histories from the initial job application and delay criminal background checks on applicants until after the applicant was determined to be qualified for the job position. Please find Resolution No. 110-11 attached for your review.
To demonstrate Richmond’s support for AB 218, Richmond’s City Council passed Resolution No. 26-13 on April 2, 2013. A copy of Resolution No. 26-13 is attached for your review. As stated in Resolution No. 26-13, a survey of Richmond residents conducted by the Safe Return Project revealed that 78% of local parolees were unemployed and over 70% were homeless.

The City is committed to reducing recidivism and finding job opportunities for people with conviction histories. As well, the City is demonstrating that it is a model employer and will hopefully lead the way for the private sector by hiring people with convictions who are making a positive contribution to our workforce.

Sincerely,

[Signature]

Leslie T. Knight
Assistant City Manager/Human Resources Management Director

cc: Mayor and City Councilmembers
    Assembly Local Government Committee Chair Kathcho Achadjian,
    Vice-Chair Marc Levine and committee members
    via facsimile: (916) 319-3959
    Assemblymember Nancy Skinner, 14th Assembly District
    via facsimile: (916) 319-2114

Attachments: Resolution No. 110-11
             Resolution No. 26-13

LTK:dbm
RESOLUTION NO: 110-11

RESOLUTION OF THE COUNCIL OF THE CITY OF RICHMOND, CALIFORNIA IN SUPPORT OF THE "BAN THE BOX" INITIATIVE AND REQUIRING THAT ANY QUESTIONS REGARDING PRIOR CRIMINAL CONVICTIONS BE REMOVED FROM PRINTED AND ONLINE CITY OF RICHMOND EMPLOYMENT APPLICATION FORMS

WHEREAS, the City of Richmond is committed to ensuring that all qualified individuals seeking employment within the City should be given an equal opportunity to apply for available positions; and

WHEREAS, the City of Richmond believes that providing an equal opportunity includes extending employment opportunities to qualified individuals who have been released from incarceration and are rebuilding their lives; and

WHEREAS, the U.S. Equal Employment Opportunity Commission has stated that “excluding individuals from employment on the basis of their conviction records has an adverse impact on Blacks and Hispanics in light of statistics showing that they are convicted at a rate disproportionately greater than their representation in the population” and that “such a policy or practice is unlawful under Title VII in the absence of a justifying business necessity”; and

WHEREAS, hiring practices that consider the past criminal history of applicants without a justifying business necessity can prevent willing and qualified job applicants from obtaining gainful employment; and

WHEREAS, the inability to obtain gainful employment after release from incarceration can contribute to a host of problems including high rates of unemployment, increased recidivism rates, and increased crime; and

WHEREAS, the community at large benefits when recidivism rates are reduced and gainful employment is critical for individuals to avoid re-offending, and

WHEREAS, there has been a nationwide initiative, referred to as "Ban the Box", in which employers are encouraged to remove questions regarding prior criminal convictions from employment applications; and

WHEREAS, various cities and countries throughout the United States, including Boston, Chicago, Minneapolis, St Paul, San Francisco, and Alameda County, have adopted new employment application practices aligned with the 'Ban the Box' initiative; and

WHEREAS, as one of the three largest employers in Richmond, the City’s hiring practices can influence the practices utilized by other employers, and

WHEREAS, the City of Richmond has an opportunity to lead the way toward greater economic opportunity for individuals by providing equal opportunities for employment to members of the community, including those members who were formerly incarcerated and are attempting to rebuild their lives; and

WHEREAS, the City of Richmond recognizes that positions that State and/or federal laws may require criminal background investigations for certain positions, including positions that involve work with children, positions in law enforcement, and other sensitive positions; and

WHEREAS, the City of Richmond will continue to comply with State and/or federal laws in conducting required and necessary background investigations, while also balancing the interest in providing opportunities for employment to those who have prior convictions in positions in which there are no statutory prohibitions against employment.
NOW THEREFORE BE IT RESOLVED, that the City Council of the City of Richmond, California, hereby request the removal of any questions regarding prior criminal convictions from printed and online City of Richmond employment application forms; and

BE IT FURTHER RESOLVED, the City of Richmond will inquire about criminal backgrounds in a supplemental questionnaire that will be applicable to those positions for which criminal background investigations are required by State and/or federal law and/or which are justified by business necessity; and

BE IT FURTHER RESOLVED, the Assistant City Manager/ Human Resources Management Director will meet with representatives from the Safe Return Project to assure that the city’s hiring policies and procedures provide opportunities to individuals who were formerly incarcerated to seek gainful employment and reintegegrate successfully into the workforce, while ensuring compliance with legal requirements and protecting the interest of the City and community at large.

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I certify that the foregoing resolution was passed and adopted by the Council of the City of Richmond at a special meeting thereof held on November 22, 2011, by the following vote:

AYES: Councilmembers Beckles, Booze, Ritterman, Rogers, Vice Mayor Butt, and Mayor McLaughlin.

NOES: None.

ABSTENTIONS: Councilmember Bates.

ABSENT: None.

DIANE HOLMES
CLERK OF THE CITY OF RICHMOND
(SEAL)

Approved:

GAYLE MCLAUGHLIN
Mayor

Approved as to form:

RANDY RIDDLE
City Attorney

State of California
County of Contra Costa ss.
City of Richmond

I certify that the foregoing is a true copy of Resolution No. 110-11, finally passed and adopted by the City Council of the City of Richmond at a special meeting held on November 22, 2011.
RESOLUTION NO. 26-13

A RESOLUTION IN SUPPORT OF AB 218, WHICH HELPS LEVEL THE PLAYING
FIELD FOR QUALIFIED CALIFORNIANS TO COMPETE FOR JOBS AND
PROMOTES PUBLIC SAFETY BY REDUCING UNNECESSARY JOB BARRIERS
FOR MILLIONS OF CALIFORNIANS WITH A CRIMINAL RECORD

WHEREAS, current law requires the hiring and promotional practices of local agencies
to confirm to the Federal Civil Rights Act of 1964; and,

WHEREAS, it is the intent of AB 218 to make California state agency and city and
county hiring practices more consistent with the mandates of the Equal Opportunity
Commission; and,

WHEREAS, AB 218 would prohibit any state or local agency in California from
inquiring into or considering the criminal history of an applicant and including any inquiry about
criminal history on any initial employment application; and

WHEREAS, AB 218 would authorize state or local agencies to consider an applicant’s
criminal history after the applicant’s qualifications are screened and the agency determines the
applicant’s qualifications for the job as stated in any notice issued for the position; and,

WHEREAS, AB 218 does not apply to positions for which a state or local agency is
otherwise required by law to conduct a criminal history background check; and

WHEREAS, recognizing that reducing barriers to employment for people who have
previously offended and decreasing unemployment in communities with concentrated numbers
of people who have previously offended is a statewide concern; and,

WHEREAS, recognizing that qualified job applicants in California are often plagued by
old or minor records and discouraged from applying because a “box” on the job application
requires criminal history information; and,

WHEREAS, recognizing that indicating one’s criminal history on a job application often
leads employers to dismiss applicants at the outset; and,

WHEREAS, recognizing that criminal background checks for job applications affect
people of color — especially young men of color — and minorities disproportionately greater than
many other social groups; and,

WHEREAS, recognizing that the employment of eligible people with a conviction
history is one key strategy to reducing recidivism rates and promoting rehabilitation; and,

WHEREAS, recognizing that the City of Richmond is one of over forty-five cities,
counties and six states across the nation that have banned the box on employment applications.

NOW THEREFORE BE IT RESOLVED, that the City Council of the City of
Richmond hereby adopts this resolution in support of AB 218; and

BE IT FURTHER RESOLVED that the City Council direct the City Clerk to
communicate to the California State Legislature our support of AB 218 by sending copies of this
resolution to the following:

California Assemblymember Roger Dickinson
California Assemblymember Bob Wieckowski
California Assembly Committee on Judiciary
The National Employment Law Project
Legal Services for Prisoners with Children

26-13
I certify that the foregoing resolution was passed and adopted by the Council of the City of Richmond at a regular meeting thereof held on April 2, 2013, by the following vote:

**AYES:** Councilmembers Bates, Beckles, Butt, Myrick, Rogers, Vice Mayor Booze, and Mayor McLaughlin.

**NOES:** None.

**ABSTENTIONS:** None.

**ABSENT:** None.

DIANE HOLMES  
CLERK OF THE CITY OF RICHMOND  
(SEAL)

Approved:

GAYLE MCLAUGHLIN  
Mayor

Approved as to form:

BRUCE GOODMILLER  
City Attorney

State of California  
County of Contra Costa  
City of Richmond

I certify that the foregoing is a true copy of Resolution No. 26-13, finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on April 2, 2013.