
FAIR CHANCE LICENSING REFORM:

OPENING PATHWAYS FOR
PEOPLE WITH RECORDS
TO JOIN LICENSED
PROFESSIONS



NATIONAL
EMPLOYMENT
LAW
PROJECT

OCTOBER 2017



ABOUT NELP

For more than 45 years, the National Employment Law Project has worked to restore the promise of economic opportunity for working families across America. In partnership with grassroots and national allies, NELP promotes policies to create good jobs, enforce hard-won workplace rights, and help unemployed workers regain their economic footing. For more information, visit us at www.nelp.org.

ACKNOWLEDGEMENTS

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I. Introduction

Two trends, decades in the making, are colliding.

The first trend, stemming from “tough on crime” policies and mass incarceration, is that more Americans have an arrest or conviction record than ever before. The second trend is the dramatic expansion of occupational licensing, which requires people to obtain permission from a government agency—and, commonly, pass a background check—before they can work.

The result? More than 70 million people with a record in the United States either face significant barriers when seeking a license to work, which is now required for one in four jobs, including many good-paying jobs that are in high demand in healthcare and other industries, or—even worse—they are automatically disqualified, sometimes for life.

Laws that function in this way to permanently stigmatize and keep opportunity out of reach for so many people serve none of us well.

This debate isn’t merely philosophical. The best evidence, highlighted throughout this toolkit, makes a few things clear: policies that make it easier for people with records to work strengthen the economy, improve public safety, help employers find good workers, and advance racial and social justice. Fair chance licensing reforms are critical to realizing these benefits, and policy makers of all political stripes have spoken out in favor of these commonsense policies.

But it’s also important to keep sight of a more basic point: these issues are fundamentally about people. When a person with a record is not permitted—as a matter of public policy—to reach their full potential, real and lasting consequences follow for individuals, families, and entire communities. All of us.

We all have a stake in this work, and it’s time to act. This toolkit is intended to provide lawmakers and advocates in states across the country with the resources necessary to set about the work of fair chance licensing reform.

II. By the Numbers

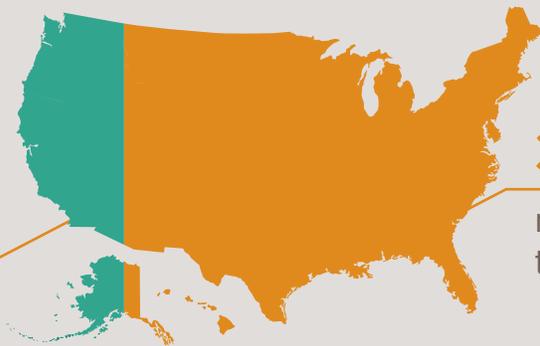
TREND 1:

MASS INCARCERATION HAS LEFT MORE PEOPLE WITH RECORDS THAN EVER BEFORE

Over **70 MILLION** PEOPLE in the U.S. **HAVE a RECORD.** That's nearly **1 in 3 ADULTS.**



70 million in 1900



323 million today

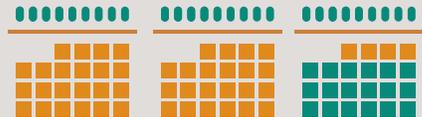
That number is **LARGER** than the entire **U.S. POPULATION** in 1900.

A record takes a wrecking ball to employment prospects and economic stability.



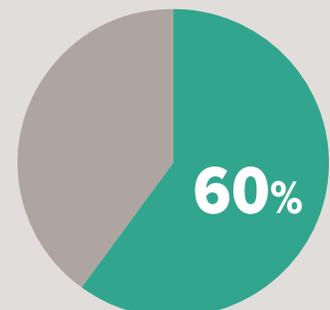
EARN 40% LESS

\$179,000 OVERALL LOSS by age 50



Formerly incarcerated men can expect to **WORK NINE FEWER WEEKS** per year and **EARN 40% LESS.**

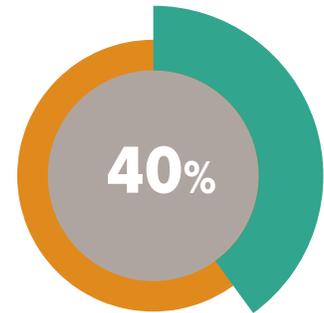
60% of people who have been incarcerated **REMAIN UNEMPLOYED** one year after release.



Today, nearly **HALF** of all **CHILDREN** in America **HAVE A PARENT WITH A RECORD**, causing these **ECONOMIC IMPACTS** to spill **OVER GENERATIONS**.



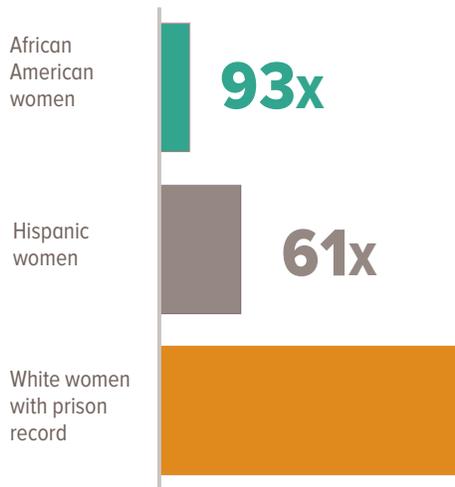
The impact of a record is more severe for people of color.



Studies have shown that **WHITE MEN** with a **RECORD** are **MORE LIKELY** to **RECEIVE** a **POSITIVE RESPONSE** FROM an **EMPLOYER** THAN **BLACK MEN** WITHOUT ONE.

One study found that the **EFFECT** of a criminal **RECORD** on **EMPLOYMENT** was **40% MORE DAMAGING** for **BLACK MEN** than **WHITE MEN**.

The stigma of a conviction is more significant for women.



One study found that **AFRICAN AMERICAN AND HISPANIC WOMEN** ARE **93% AND 61%**, respectively, **LESS LIKELY TO BE CONTACTED BY EMPLOYERS** for an interview or offered a job **THAN WHITE WOMEN** WITH a **prison RECORD**.

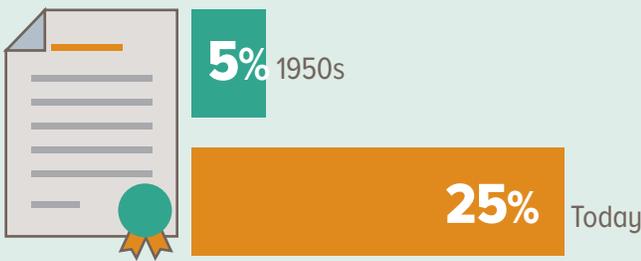


In one study, nearly **60% of MEN** with a **prison RECORD** would have been **CALLED BACK** for a **JOB INTERVIEW**, but **only 30% of WOMEN** WOULD have, **WITH the SAME RECORD**.

TREND 2:

MORE JOBS IN THE ECONOMY REQUIRE PERMISSION TO WORK THAN EVER BEFORE – OFTEN TO THE EXCLUSION OF PEOPLE WITH ARREST AND CONVICTION RECORDS.

Today, more than **25%** of U.S. workers require a **LICENSE OR CERTIFICATION** before they can work in their occupation. **That's up** dramatically **FROM ABOUT 5%** in the **1950s**.



Some of the fastest growing occupations in America require a license.



2/3 of the **GROWTH** in **LICENSING** comes from an **INCREASE** in the **NUMBER** of **LICENSED PROFESSIONS**, suggesting that **LICENSING HAS** significantly **EXPANDED** into new sectors.

6 of the **10 FASTEST GROWING PROFESSIONS** are in **HEALTHCARE SUPPORT** or **PERSONAL CARE**.

- occupational therapy assistants
- physical therapist assistants
- physical therapist aides
- home health aides
- nurse practitioners
- physical therapists



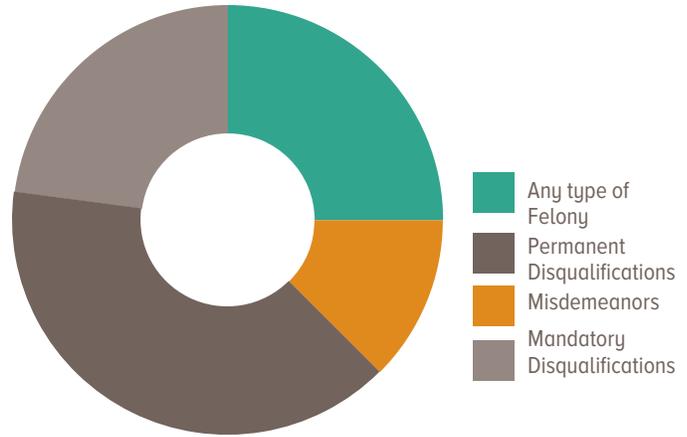
But **STATE LICENSING LAWS** set up **MAJOR BARRIERS TO EMPLOYMENT** for people with records. **There are over 27,000 state occupational LICENSING RESTRICTIONS.**



There are **over 27,000** state occupational **LICENSING RESTRICTIONS**.

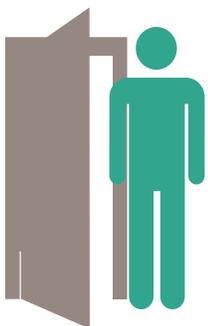
Of those,

- **over 12,000** are for individuals with **ANY TYPE of FELONY**,
- **over 6,000** are based on **MISDEMEANORS**,
- **over 19,000** are **PERMANENT DISQUALIFICATIONS**, and
- **over 11,000** are **MANDATORY DISQUALIFICATIONS**.



It takes **1/4** of the **ECONOMY OFF THE TABLE**.

x 600,000 every year



These **barriers** put many **GOOD-PAYING JOBS OUT OF REACH** for the more than **600,000 PEOPLE** who are released from incarceration every year.

Each state has an **AVERAGE of 56 OCCUPATIONAL LICENSING and 43 BUSINESS LICENSING LAWS** with **MANDATORY RESTRICTIONS** for people with felony convictions.



56 average
43 average



Topping the chart were **FLORIDA, INDIANA, NEW HAMPSHIRE, OHIO, AND TEXAS**—each with **over 100 OCCUPATIONAL LICENSE LAWS** containing such restrictions.

Fair Chance Licensing Laws Would Help Workers, Employers, and the Economy

III. Leading Voices of Reform

Elected Officials



“[M]any individuals have criminal histories that should not automatically disqualify them from employment or licensing, but should instead be examined as part of a review of the person as a whole.”¹

President Obama,
Presidential Memorandum—Promoting Rehabilitation and Reintegration of Formerly Incarcerated Individuals (April 29, 2016).

“[W]e are releasing thousands of people from jail or prison each year who cannot find a job.” “People who have paid their debt and proven their commitment to rehabilitation deserve a second chance to be productive citizens.”²

Kentucky Governor Matt Bevin (R),
Op-Ed: Time Has Come for Kentucky to Reform Its Justice System (focused on SB 120 and licensing reforms) (March 2, 2017).

“We always want to talk about forgiveness, but if you get some of these offenses, there’s no forgiveness. The offense ends up being a lifetime sentence.”⁵

Kentucky State Representative Darryl Owens (D),
discussing the need for occupational licensing reform, the Pew Charitable Trusts, *To Reduce Recidivism, States Scrap Barriers for Ex-Offenders* (July 27, 2017).

“I am not proud of our title as the most incarcerated state. But that’s going to be part of our history rather than our future.”³

Louisiana Governor Bel Edwards (D),
Signing Legislation, HB 519, *Allowing People with Records to Apply for Occupational Licenses* (June 15, 2017).

“[G]ainful employment after release from prison is one of the critical elements necessary to achieve successful reentry after prison” and “has been shown to reduce recidivism and, thus, to make our communities safer.”⁴

Former Florida Governor Jeb Bush (R),
Executive Order Number 06-89 (ordering agencies to identify and reform policies that disqualify people with records from employment) (April 25, 2006).

“With the exception of people that get sentenced to life, everybody that goes to prison is going to get out eventually. When they go to reintegrate, we see how incredibly difficult it is for people to meet these standards that we are setting.”⁶

Utah State Senator Daniel Thatcher (R),
The Pew Charitable Trusts, *To Reduce Recidivism, States Scrap Barriers for Ex-Offenders* (July 27, 2017).

Criminal Justice Reform Organizations

Licensing reform is “a win-win situation, both for the economy, but also for the families that they have to support, as well as for public safety outcomes. If [people with records] have jobs, they have hope.”⁸

Ana Yáñez-Correa,
Executive Director of Texas Criminal Justice
Coalition (February 9, 2015).

Think Tanks

“Far too often, a criminal record is a permanent obstacle to economic security. This is especially true for communities of color, who have disproportionately felt the effects of mass incarceration and overcriminalization. But it doesn’t have to be that way. Thoughtful, well-executed reforms can ease access to the labor market for people with criminal records.”⁹

Angela Hanks,
Center for American Progress, *Ban the Box and Beyond: Ensuring Individuals with a Criminal Record Have Access to the Labor Market*. (July 27, 2017).

“[E]xpanding job opportunities for returning citizens is the best way to ensure they remain crime-free. In that regard, our Coalition supports eliminating occupational licensing limitations that discriminate solely by prior criminal history and don’t take into account job qualification[s].”¹³

The Coalition for Public Safety,
Key Issue: Fair Chances.



“[C]ountless occupational and professional license applications continue to require criminal history disclosure on the initial application.” “[I]t is imperative that action be taken to ensure all [people with records] who are otherwise capable of becoming licensed professionals are given a fair chance to do so.”⁷

American Civil Liberties Union,
Second Chances: How Professional Licensing In Nebraska Hurts the Workforce and Our Economy
(September 6, 2016).

“Perhaps the most ubiquitous and pernicious collateral consequences” people with records face “are restrictions on their ability to earn a livelihood.” “A multitude of . . . occupational licensing laws compounds the effect of collateral consequences insofar as they may either explicitly exclude individuals convicted of certain criminal convictions or implicitly exclude them through a requirement that applicants be of ‘good moral character’.”¹²

John Malcolm and John Michael Siebler,
The Heritage Foundation, *Collateral Consequences: Protecting Public Safety or Encouraging Recidivism?* (March 7, 2017).

Commissions

“An important cause and consequence of this newfound focus on licensing reform has been the recognition that excessive licensing imposes costs on a wide variety of distinct groups, including people with criminal records . . . [R]egardless of ideology, it is hard not to be moved by the difficulties that many of these groups encounter in the face of such licensing requirements.”¹¹

Ryan Nunn,
Op-Ed for the Brookings Institution, *The Future of Occupational Licensing Reform* (January 30, 2017).

“One of the glaring flaws in the legal system of most states is the absence of an effective mechanism whereby people who have committed a crime may avoid or mitigate statutory disqualifications based on a conviction, and demonstrate their record of fitness for purposes of employment and licensing.”¹⁴

American Bar Association,
Recommendations, Adopted by the House of Delegates, 103C (February 12, 2007).

“One particularly egregious legal barrier to escaping the ‘second prison’ is the pervasiveness of occupational licensing regulations, which all but guarantee an uphill battle for those looking for work.”¹⁰

Editorial Team,
Charles Koch Institute, *Second Chance Month: Affording Former Offenders the Redemption They Deserve* (April 28, 2017).

The opportunity for people with records “to hold stable jobs is enormously important to society.” “[A] thorough review of all of California’s occupational licensing regulations is needed and part of the review must include whether there are unnecessary barriers”¹⁵

Little Hoover Commission,
Jobs for Californians: Strategies to Ease Occupational Licensing Barriers, Report #234 (October 2016).



“[M]any persons with criminal records fail to apply for jobs because they believe their criminal background precludes them from being hired. This is why it is so critical for Maryland to provide accurate, uniform, consistent information to the public regarding eligibility after incarceration. The more returning citizens know, the more they are able to succeed.”¹⁶

The Honorable Alexander Williams, Jr.,
Maryland Governor’s Office of Crime and Control Prevention and the University of Maryland, *Final Report of the Collateral Consequences Workgroup* (December 1, 2016).

Courts



The Supreme Court has long held that “[i]t is undoubtedly the right of every citizen of the United States to follow any lawful calling, business, or profession” he or she may choose.

Dent v. State of W.Va., 129 U.S. 114, 121 (1889).

A state law banning all people with records from certain types of employment was deemed to be “totally irrational” and created a scheme “which violate[d] the Equal Protection Clause” of the Constitution.

Lewis v. Alabama Dept. of Pub. Safety, 831 F. Supp. 824, 827 (M.D. Ala. 1993).

“Even those of us who have specific professional responsibilities for the criminal justice system can be neglectful when it comes to the subject of corrections. The focus of the legal profession, perhaps even the obsessive focus, has been on the process for determining guilt or innocence. When someone has been judged guilty and the appellate and collateral review process has ended, the legal profession seems to lose all interest. When the prisoner is taken away, our attention turns to the next case. When the door is locked against the prisoner, we do not think about what is behind it. We have a greater responsibility.”¹⁷

Supreme Court Justice Anthony M. Kennedy,
Speech at the American Bar Association Annual Meeting, (August 9, 2003).

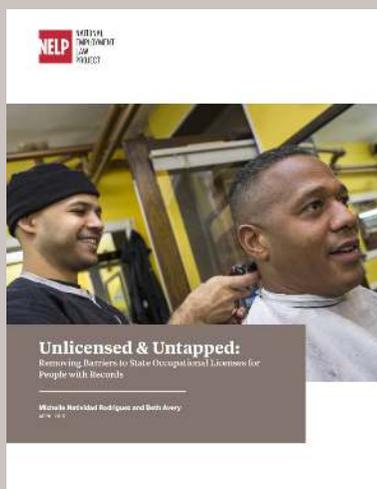
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4. Available at <http://bit.ly/2gvftuj>
5. Available at <http://bit.ly/2xaaceG>
6. *Id.*
7. Available at <http://bit.ly/2gw4tN9>
8. Available at <http://bit.ly/2gSwfAl>
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17. Available at <http://bit.ly/2zBshUF>

IV. Growing Momentum for Fair Chance Licensing Laws

Recent Efforts To Reform Occupational Licensing Background Check Standards

Across the nation, people with arrest and conviction records face overly restrictive barriers to entering licensed professions. But there's increasing interest among policymakers to remove unnecessary disqualifications and require fair consideration of people with records. In just the past two years, numerous bills addressing this issue have been introduced in state legislatures, and at least five states have had bills signed into law (Arizona, Georgia, Kentucky, Illinois, and Louisiana).

Of special note, **Georgia** enacted a law requiring licensing boards to establish that disqualifying felony convictions be “directly related” to the occupation, while also requiring the boards to take into account various mitigating factors. **Kentucky** removed its “moral turpitude” standard and instead required that disqualifying offenses be “directly related” to the occupation, while also establishing that preliminary and final notices be issued to the applicant. And **Illinois** adopted a range of positive reforms, including a data collection requirement to help track the number of people granted and denied a license due to the state’s occupational licensing laws.



*The following is a sample of the bills, representing a variety of approaches to increasing access to licensed occupations by people with records. Not all of these approaches are endorsed by NELP, but many of the bills embrace at least some of the components suggested in NELP’s *Unlicensed & Untapped* report.*

STATE	BILL	SUMMARY OF NOTABLE COMPONENTS	OUTCOME
Alabama	SB 327 (2016)	Broad ban-the-box bill applicable to public- and private-sector employment and occupational licensing (i.e., delay conviction record inquiries until after licensing authority deems the applicant otherwise qualified). Prohibits agencies from considering arrests not followed by conviction, sealed/dismissed/expunged convictions, and very minor records . Licensing authority may not deny a license on the basis of a record unless conviction is directly related to occupation. Licensing board must consider list of factors when determining whether directly related (e.g., duties of occupation, whether occupation allows for similar offense to occur, and time elapsed). Requires state agency to provide applicant with notice of intent to deny license (including copy of record).	Failed 
Arizona	HB 2290 / SB 1071 (2017)	Allows licensing agencies to grant temporary provisional licenses to applicants with a conviction record. Includes data collection component (annual reporting of provisional license applications granted/denied/revoked). However, the law includes broad exceptions for a variety of occupations and offenses, and it lacks any requirement that the applicant be granted a full license after successfully completing the probationary period. And the provisional license may be revoked if even <i>charged</i> with a new felony.	Signed into law 
Illinois	SB 1688 (2017)	Provides that, except where blanket bans exist, mitigating factors and evidence of rehabilitation (including specified factors) must be considered when reviewing a licensing application. Upon denial, requires a written explanation . Specifies that certain types of records need not be reported, including juvenile, sealed, and expunged records as well as arrests not followed by conviction . Includes data collection component (e.g., annual reporting on number of applicants with and without a record who were granted or denied a license or granted a probationary license).	Signed into law 
	SB 2053 / HB 3822 (2017)	Limits consideration of juvenile, sealed, and expunged records as well as arrests not followed by conviction in conjunction with licensing application. Requires consideration of specified rehabilitative factors . Requires written explanation of denial . Includes data collection requirements (e.g., number of applicants with and without a record who were granted or denied a license).	Failed 
	HB 5973 (2016)	Limited to three licensing authorities: funeral, roofing, barbering/cosmetology (five when bill introduced). License may be denied based on a conviction only if the offense is a felony directly related to the occupation. Must also consider age of offense and age of person at time of offense. Includes data collection component (e.g., number of applicants with and without a record who were granted or denied a license).	Signed into law 
	SB 42 (2016)	Limited to health care occupations. Allows applicant to petition the department if license automatically denied/revoked due to a forcible felony conviction. At least 5 years must have passed since conviction (and at least 3 years since release). When reviewing petition for license, department must consider 15 specific factors , including time elapsed since conviction and any evidence of rehabilitation .	Signed into law 
Georgia	SB 367 (2016)	Part of a broad criminal justice reform bill; Section 10-1 applies to licensing. Prohibits licensing boards from denying/revoking license based on any felony unless directly related to the occupation. Licensing board must consider list of factors when determining whether directly related (e.g., nature of offense, age when offense occurred, time elapsed, mitigating circumstances, evidence of rehabilitation).	Signed into law 

STATE	BILL	SUMMARY OF NOTABLE COMPONENTS	OUTCOME
Kansas	HB 2677 (2016)	Limits licensing boards to considering felony convictions that directly relate to the occupation. Licensing board must consider list of factors when determining whether directly related (e.g., duties of occupation , whether occupation allows for similar offense to occur, and time elapsed). Delays record inquiries until after found otherwise qualified. Prohibits consideration of very minor records, arrests not followed by conviction, and sealed/dismissed/expunged convictions .	Failed 
Kentucky	S.B. 120 (2017)	Part of a broad criminal justice reform bill; Section 29 applies to licensing. Amends prior law to remove “absence of moral character ” as a basis for denial and remove certain exceptions to requirement that a conviction must directly relate to the occupation (after considering specified factors). However, a rebuttable presumption of relatedness exists for broad categories of felonies. A licensing authority may not deny a license without first providing preliminary written notice to the applicant, demonstrating the connection between the conviction and license sought, and affording the applicant an opportunity to appear. A final notice of denial must follow. On appeal, the licensing authority bears the burden of proving a conviction directly relates to the occupation.	Signed into law 
Louisiana	HB 519 (2017)	Amends existing law to require licensing boards to grant a license (not merely a provisional license) to a person with a conviction history if other requirements for the license are satisfied. However, the law includes numerous, broad exceptions for a variety of offenses and many licensing boards. Moreover, licensing agencies retain discretion to deny a license if the conviction relates to the profession for which the license is sought	Signed into law 
Texas	HB 1426 (2017)	Relates to issuance of “ certificates of relief from collateral consequences.” Such certificates available in limited circumstances: only when offense resulted in deferred adjudication or the conviction is set aside following community supervision. When a person has obtained a certificate for a particular offense, that offense may not be used as grounds for denying, suspending, or revoking an occupational license; however, the agency may choose to issue only a provisional license. Certain broad exceptions apply, including when the offense relates to the occupation for which a license is sought.	Vetoed 
	HB 1981 (2017)	Broad ban-the-box bill applicable to public-sector employment, government contractors, and occupational licensing (i.e., removes conviction record inquiry from license applications). Prohibits state agency from denying license on basis of conviction unless directly related to occupation as well as considering arrests, convictions punishable only by fine, and expunged/sealed records . Requires state agency to provide applicant with notice of intent to deny license (including copy of record) and time to respond with evidence of rehabilitation, etc.	Failed 
Vermont	H.728 (2016)	Mandates data collection as to which occupational licenses may be denied because of conviction history and which offenses can lead to such disqualification.	Failed 
Wisconsin	AJR 116 (2016)	Creates committee to study the impact of conviction records on a person’s ability to obtain occupational licenses, particularly when the conviction does not substantially relate to the occupation. The committee would consider whether restrictions are narrowly tailored and/or unduly burden people with records.	Failed 

*Appendix A***FACTSHEET: Fair Chance Licensing Reform***Creating Pathways for People with Records to Enter Licensed Professions***I. The Problem: A Story of Two Colliding Trends**

The first trend—after decades of “tough on crime” policies and mass incarceration—is that more people in America have an arrest or conviction record than ever before.

- Conservative estimates indicate that approximately 70 million people—or nearly one in three adults—have a record.¹ For perspective, the number of people with records today is roughly equal to the entire U.S. population in 1900.²
- In addition, more than 600,000 people re-enter their communities following a term of incarceration every year.³ A majority of these individuals will never return to prison, underscoring the importance of reconnecting them with the workforce.⁴
- But a record creates a significant barrier to future employment. Nearly 9 in 10 employers conduct background checks on some or all job candidates.⁵ Even minor involvement with the criminal justice system—such as a single arrest—dims employment prospects more than any other factor,⁶ and upwards of 60 percent of people who have been incarcerated are unemployed one year after release.⁷

Today, millions of Americans are excluded from the workforce due to an arrest or a conviction record. This problem has grown with the rise of occupational licensing, which commonly requires applicants to pass a criminal background check. These exclusionary barriers are counterproductive. Commonsense policy reforms in this area could spur economic growth, promote public safety, help employers, and address racial and gender biases in our society.

- Today, more than one in four workers in the United States require a license or certification before they can work in their occupation, which represents a fivefold increase from the 1950s.⁹ Notably, two-thirds of the growth in licensing comes from an increase in the number of licensed professions, suggesting that licensing has expanded significantly into new sectors.¹⁰
- The second trend is that more jobs require “permission to work” than ever before.**
- According to one estimate, more than 1,100 occupations are licensed, certified, or registered in at least one state,¹¹ but fewer than 60 are regulated in all 50 states.¹² The percentage of people who hold licenses varies, state by state, ranging from a low of 12 percent of workers in South Carolina to 33 percent in Iowa.¹³
 - Overall, because women tend to work in more heavily regulated industries, such as health care, child care, and elder care, they are more likely to hold a certification or a license than employed men, at 28 percent and 23 percent, respectively.¹⁴ Nearly 26 percent of white workers hold a license or a certificate, compared to 22 percent of Black and 15 percent of Hispanic workers.¹⁵
 - Holding a license or certificate will be even more essential in the future: 6 of the 10 fastest-growing occupations are in healthcare support or personal care, which are heavily licensed.¹⁶
-
- According to the American Bar Association, there are more than 27,000 state occupational licensing restrictions for people with records. Of those, around 12,000 are for individuals with any type of felony, 6,000 are based on misdemeanors, 19,000 are permanent disqualifications, and 11,000 are mandatory disqualifications.¹⁷
- These trends, decades in the making, collide because passing a background check is a common requirement to obtain a state license.**
- Each state has an average of 56 occupational licensing and 43 business licensing laws with mandatory restrictions against hiring people with felony convictions. Topping the chart were Florida, Indiana, New Hampshire, Ohio, and Texas each with more than 100 occupational license laws containing such restrictions.¹⁸
 - More than 20 states have no standards in place governing the relevance of conviction records of applicants for occupational licenses. In these states, a licensing board may deny a license to an applicant who has a conviction, regardless of whether the conviction is relevant to the license sought, how recent it was, or whether there were any extenuating circumstances.¹⁹
 - Other common and counterproductive features of state licensing laws include blanket bans that exclude qualified candidates with records, overly broad criminal record inquiries, and a lack of transparency and predictability in the licensure decision-making process.

II. Fair Chance Licensing Laws Benefit Workers, Employers, and the Economy

- **Advancing Racial Justice:** People of color suffer from racial discrimination in the criminal justice system and are disproportionately excluded from jobs that require a license. African Americans are more than twice as likely to be arrested as whites.²⁰ And more than 60 percent of people in prison today are people of color.²¹
- **Creating Opportunities for Women:** Reforming licensing laws is particularly important for women with records, because the stigma of a conviction is more significant for women. In one study, nearly 6 in 10 men with a prison record would have been called back for a job interview, but only 3 in 10 women with the same record would have gotten a callback.²² Moreover, some of the fastest-growing occupations in America are dominated by women. For example, 80 percent of all healthcare workers in the United States are women.²³ But because of licensing barriers, women with records are often excluded from these good-paying positions.²⁴
- **Addressing Income Inequality:** Studies accounting for differences in education, training, and experience find that licensing results in approximately 10 percent to 15 percent higher wages for licensed workers relative to unlicensed workers.²⁵
- **Expanding Talent Pools for Employers:** Employees with records are less likely to leave voluntarily, likely to have a longer tenure, and are no more likely than people without records to be terminated involuntarily.²⁶ A study of people with a felony record serving in the U.S. military found that they were promoted more quickly and to higher ranks than others, and were no more likely than people without records to be discharged for negative reasons.²⁷
- **Growing the Economy and Lowering Unemployment:** The stigmatization of people involved in the criminal justice system slams the brakes on our economy, and reduced the nation's gross domestic product by as much as \$87 billion in 2014 alone.²⁸ When it comes to unemployment, among people 25 years and over with less than a high school diploma, those who held a certification or license were nearly twice as likely to be employed than were those who did not hold such credentials.²⁹
- **Promoting Public Safety:** Employment is critical in reducing recidivism.³⁰ One study focused on people with records in New York found that receiving permission to work reduced the likelihood of a future arrest by more than 4 percentage points over a three-year timeframe.³¹ Higher wages, which are more common among licensed professions, also reduce recidivism: one study found that the likelihood of re-incarceration was 8 percent for those earning more than \$10 per hour, compared to 16 percent for those earning less than \$7 per hour.³²

The time has come to overhaul the background check restrictions imposed by state licensing laws. Promoting commonsense reforms in this policy arena would benefit not only people with records, but all of us.

Appendix B

Sample Op-Ed

Barred from Your Chosen Profession

An Arrest or Conviction in [STATE] Can Cast a Long Shadow

[FIGURE, Column 2, in Appendix] adults in [STATE] has an arrest or conviction record. The unshakeable stigma and lifelong consequences that accompany a record often prove devastating.

[SUBSTITUTE WORKER STORY FROM THE STATE] In 2010 Sonja Blake, a grandmother, lost her livelihood because of a 30-year-old mistake. As a child-care provider, Ms. Blake is among the [INSERT FIGURE, Column 3] [STATE] workers whose occupations require a state license. But, after caring for children for almost a decade, a change in Wisconsin law required that her day-care-owner certification, along with her license to work in caregiving facilities, be permanently revoked. Decades earlier, Ms. Blake had received a \$294 overpayment of public assistance after mistakenly failing to report gifts from her boyfriend. That overpayment was merely docked from her benefits, but her minor error resulted in a misdemeanor conviction with decades-long consequences.

This story is not unique. Passing a criminal background check is a common state licensing requirement across the nation. The American Bar Association’s inventory of penalties resulting from a record includes [INSERT NUMBER] occupational licensing restrictions in [STATE]. And because the criminal justice system disproportionately impacts people of color, these “collateral consequences”—penalties that accompany a conviction but weren’t imposed by the court—perpetuate significant race disparities in employment.

State licensing schemes that mandate criminal background checks theoretically aim to protect health and safety. Inquiries into convictions that are directly related to the occupation can be reasonable. But far too often, restrictions are unnecessarily expanded without any benefit to public safety and health. For instance, in [STATE], [SHARE EXAMPLE FROM STATE LAW] a land surveyor is stripped of his license if convicted of any felony, anywhere in the country, even if completely unrelated to the profession.

Policymakers across the political spectrum increasingly support “**fair chance**” and “**ban the box**” laws—policies that prohibit employers from asking on job applications whether applicants have a record. Fair chance licensing is another area ripe for reform. Irrational licensing restrictions for those with records, and their impact on individual families and the economy, have spurred calls for change from diverse voices, ranging from the **Center for American Progress** to **Koch Industries**. **[INCLUDE REFERENCES TO SPECIFIC STATE LAWMAKERS OR ORGANIZATIONS, IF POSSIBLE]**. Amid the general partisan rancor, reducing barriers to licensure for people with records represents a singular opportunity for bipartisan cooperation.

Because most occupational licensing is controlled by the states, **[STATE]** lawmakers are ideally positioned to reduce barriers for people with records by adopting a robust state law, such as **[NAME STATE BILL, IF ONE EXISTS]**. A strong law will go long way to help **[NAME OF WORKER]** and the **[INSERT NUMBER, Column 1]** adults in our state who have paid their debt to society and are seeking a fair chance to work, support their families, and give back to their communities.

The Pillars of Reform

NELP suggests 10 state policy reforms to promote greater transparency and accountability and help achieve fairer, more consistently applied licensing laws.

1. **Eliminate blanket bans** that automatically disqualify workers with certain records. The ABA’s inventory, noted above, documents thousands of “mandatory” or “permanent” licensing disqualifications across the country.
2. Limit the **types of record information** requested in a background check. The inclusion of less relevant information on a background report—such as offenses that are old, minor, or unrelated to the occupation—can color a reviewer’s opinion of the applicant. Even if licensing boards intend to consider only recent, occupation-related offenses, their opinions may be clouded by *any* negative, albeit less significant, information.
3. Require licensing boards to assess candidates **case-by-case**, examining both whether a conviction is occupation-related and how much time has passed since the offense.
4. Mandate consideration of applicants’ **rehabilitation** and any **mitigating circumstances**. Allowing an applicant to explain the circumstances of an offense may provide context that reveals the insignificance of a serious-sounding record.
5. Provide applicants with **notice** of potential disqualification and an **opportunity to respond** before the application is rejected. Background reports are regularly inaccurate. The applicant should be allowed to point out errors.

6. “**Ban the box**” by removing questions about conviction records from the application. And then go one step further: don’t ask applicants to self-report their records at any time during the application process. Records are confusing—even to lawyers—and applicants frequently make inadvertent errors that reviewers misinterpret as dishonesty.
7. Remove “good moral character” requirements, restrictions against “moral turpitude” offenses, and other **vague legal standards**. The use of confusing jargon leaves applicants in the dark as to whether a past conviction will mean disqualification. When the law lacks clear limits on licensing board discretion, opaque statutory language affords cover to automatically reject applicants with virtually any record.
8. Evaluate existing state occupational licensing restrictions and mandate ongoing **data collection** by licensing boards so that lawmakers can better understand current barriers and ensure that any attempted reforms make headway toward addressing them.
9. Promote transparency by providing **clear guidance** to applicants regarding potential disqualifications for the occupation. Requirements and standards vary widely among states and occupations. Statutory language and procedures governing individual, or classes of, professions frequently differ from more general state licensing statutes.
10. Create more uniform standards by incorporating these recommendations into a **broadly applicable state licensing law** that *expressly* supersedes any conviction record restrictions contained in other laws governing specific professions. Adopting these reforms won’t achieve consistency or accountability if the law is riddled with exceptions.

Appendix D Model Law

The model state legislation below provides a comprehensive example, incorporating the recommendations in NELP’s report, *Unlicensed & Untapped*, in one overarching licensing law that would apply to all occupational licenses in the state. A more limited approach could be taken by omitting sections or adapting these provisions for specific occupations. A piecemeal approach may be the best way to proceed when introducing the concept, although the benefit of uniformity would be reduced. Note that state-specific terms, such as criminal justice–related terms, must be adjusted for each state. For an example of an existing, comprehensive state law, see Minnesota Statute, Chapter 364 “Criminal Offenders; Rehabilitation.”

Sec. 1. Policy.

The Legislature finds and declares that reducing barriers to employment for people with arrest and conviction records, and decreasing unemployment in communities with concentrated numbers of people with records, are matters of statewide concern. The Legislature further finds and declares that increasing employment opportunities for people with records will reduce recidivism and improve economic stability in our communities.

Sec. 2. Availability and use of criminal record information.

- (a) The information listed in subsections (1)-(6) shall not be used, distributed, or disseminated by the State, its agents, or political subdivisions in connection with an application for a license or certification. Offenses committed outside the State shall be classified as offenses committed within the State based on the maximum penalty that could have been imposed for such act under the laws of such foreign jurisdiction.
 - (1) Non-conviction information, including information related to a deferred adjudication, participation in a diversion program, an arrest not followed by a valid conviction, or infraction; [or other state-specific non-criminal offense]
 - (2) Conviction which has been sealed, dismissed, expunged, or pardoned; [or other state-specific record-clearing terminology]
 - (3) Juvenile adjudication;

- (4) Misdemeanor conviction for which no jail sentence can be imposed; [or other state-specific low-level conviction]
- (5) Misdemeanor conviction older than three years, excluding any period of incarceration or custody; and
- (6) Felony conviction older than five years, excluding any period of incarceration or custody.

Sec. 3. No disqualification from licensed occupations.

- (a) No person shall be disqualified from pursuing, practicing, or engaging in any occupation for which a license or certification is required, solely or in part because of a prior conviction, unless the conviction is directly related to the occupation for which the license is sought.
- (b) The applicant who has been convicted of an offense which directly relates to the occupation for which a license is sought shall not be disqualified from the occupation if the applicant can show sufficient mitigation or rehabilitation and present fitness to perform the duties of the occupation for which the license is sought, as determined per Section (6).

Sec. 4. Consideration of only directly related conviction history.

- (a) Licensing applications shall not include an inquiry about an applicant's conviction history.
- (b) A licensing authority shall not inquire into or consider the conviction history of an applicant for licensing until after an applicant is found to be otherwise qualified for the license.
- (c) After an applicant is found to be otherwise qualified for the license, a licensing authority may inquire into and consider only the directly related conviction history of an applicant as determined pursuant to Section (5).

Sec. 5. Determination of directly related convictions.

- (a) A licensing authority shall limit inquiries into an applicant's conviction history to only those convictions determined to be directly related to the occupation for which the license is sought and shall make this enumerated list available to the public and provide a copy to each licensing applicant. A licensing authority shall not inquire into or consider any conviction history beyond the scope of directly related convictions.

- (b) Within six months after this statute takes effect, each licensing authority shall establish a narrowly tailored list of directly related convictions by considering each of the following:
- (1) The public policy of this State, as expressed in this act, to encourage the licensure of people with arrest and conviction records;
 - (2) Whether the elements of the offense are directly related to the specific duties and responsibilities of that occupation;
 - (3) Whether the occupation offers the opportunity for the same or a similar offense to occur; and
 - (4) The relationship of the offense to the purposes of regulating the occupation for which the license is sought; and
 - (5) The length of time since the offense occurred.

Sec. 6. Sufficient mitigation or rehabilitation and fitness for occupation.

- (a) An applicant with a directly related conviction shall not be disqualified from the occupation for which a license is sought if the applicant can establish sufficient mitigation or rehabilitation and fitness to perform the duties of the occupation by providing either of the following:
- (1) Evidence showing that at least one year has elapsed since release from any correctional institution without subsequent conviction of a crime; and evidence showing compliance with all terms and conditions of probation or parole; or
 - (2) Any other evidence of mitigation or rehabilitation and present fitness provided, including, but not limited to:
 - (i) Circumstances relative to the offense, including mitigating circumstances or social conditions surrounding the commission of the offense;
 - (ii) Age of the person at the time the offense was committed;
 - (iii) The length of time since the offense occurred;
 - (iv) Evidence of work history, particularly any training or work experience related to the occupation in question; or
 - (v) Letters of reference by persons who have been in contact with the applicant since the applicant's release from any local, state, or federal correctional institution.

Sec. 7. Notice of potential disqualification and opportunity to appeal.

- (a) If a licensing authority intends to disqualify an applicant from pursuing, practicing, or engaging in any occupation for which a license is required, solely or in part because of the applicant’s directly related conviction, the licensing authority shall notify the applicant in writing of the following, prior to a final decision:
 - (1) Identify the directly related conviction item(s) that form the basis for the potential disqualification and the rationale for occupation relatedness;
 - (2) Provide a copy of the conviction history report, if any, on which the licensing authority relies; and
 - (3) Provide examples of mitigation or rehabilitation evidence that the applicant may voluntarily provide, which are described in Section (6).
- (b) After receiving the notice of potential disqualification, the applicant shall have 30 (thirty) business days to respond by challenging the accuracy of the conviction history report and/or submitting evidence of mitigation or rehabilitation. The licensing authority shall make the final decision based on an individualized assessment of the information described in Section (6).
- (c) If a licensing authority disqualifies the applicant from pursuing, practicing, or engaging in any occupation for which a license is required, solely or in part because of the applicant’s directly related conviction, the licensing authority shall notify the applicant in writing of the following:
 - (1) The final disqualification, including a list of the directly related conviction item(s) that form the basis for the disqualification and the rationale for occupation relatedness;
 - (2) The appeal process; and
 - (3) The earliest date the applicant may reapply for the license or certification, which shall be no longer than two years from the date of the initial application.

Sec. 8. Compliance.

- (a) For a minimum of three years, licensing authorities shall retain application forms and other documents submitted by applicants, notices provided to applicants as required by Section (7), all other communications received from and provided to applicants, and conviction history reports of applicants.

- (b) Each licensing authority shall retain the number of applications for each license and the number of applications requiring conviction history inquiries. In addition, each licensing authority shall retain the following information:
 - (1) The number of applicants with a record who received notice of potential disqualification;
 - (2) The number of applicants with a record who provided evidence of mitigation or rehabilitation;
 - (3) The number of applicants with a record who appealed the final disqualification; and
 - (4) The final disposition and demographic information of the applicants described in subsections (1)-(3).
- (c) At least annually, each licensing authority shall make available to the public the information collected pursuant to subsection (b), while ensuring confidentiality of the individual applicants.

Sec. 9. Application.

The provisions of these sections shall prevail over any other laws and rules, including but not limited to any specific laws and rules, which purport to govern the granting, denial, renewal, suspension, or revocation of a license. In deciding to grant, deny, revoke, suspend, or renew a license, for a lack of good moral character or the like, the licensing authority may consider evidence of conviction of an offense but only in the same manner and to the same effect as provided for in these sections. Nothing in these sections shall be construed to otherwise affect relevant proceedings involving the granting, denial, renewal, suspension, or revocation of a license.

Appendix E

Appendix: 50 State Data

States	Estimated Number of People with Arrest or Conviction Records (2014) ³³	Percent of Adult Population with Records (2014) ³⁴	Percent of Workforce Licensed by State (2015) ³⁵	Percent of Occupations with Lower Incomes Requiring a License (2012) ³⁶	Number of People Released from Prison (2015) ³⁷	Percent Change of People Released from 2000 to 2015 ³⁸	Number of Disqualifications for a Record in State Occupational Licensing Laws ³⁹
Alabama	1,515,430	40%	20.9%	46%	11,446	60.4%	508
Alaska	189,280	34%	25.5%	43%	4,085**	57.2%	400
Arizona	1,157,380	23%	22.3%	63%	14,092	54.9%	573
Arkansas	498,400	22%	20.2%	51%	9,702	53.8%	557
California	7,955,500	27%	20.7%	61%	41,257	-68.2%	1,200
Colorado	1,149,260	28%	17.2%	27%	9,958	69.3%	406
Connecticut	808,780	29%	24.7%	53%	5,937**	0.3%	322
Delaware	N/A*	N/A*	15.3%	48%	4,261**	88.5%	525
District of Columbia	N/A*	N/A*	19.7%	40%	N/A	N/A	337
Florida	4,442,830	28%	28.7%	44%	32,690	-3.8%	800
Georgia	2,775,640	37%	15.7%	32%	15,599	5.4%	546
Hawaii	380,660	34%	26.6%	42%	1,293**	-6.2%	245
Idaho	275,870	23%	22.8%	46%	5,315	97.1%	380
Illinois	4,652,340	47%	24.7%	39%	29,650	2.7%	796
Indiana	1,190,000	24%	14.9%	27%	16,075	45.4%	432
Iowa	504,770	21%	33.3%	53%	5,134	17.2%	381
Kansas	1,018,640	47%	14.9%	33%	5,924	13.2%	329
Kentucky	949,130	28%	27.8%	26%	18,476	138.9%	504
Louisiana	1,966,790	56%	22.3%	70%	17,971	23.6%	797
Maine	381,220	36%	20.7%	38%	682	0.7%	377
Maryland	1,105,160	24%	17.2%	41%	10,258	N/A	621
Massachusetts	1,200,710	22%	21.3%	36%	2,708	-6.3%	436
Michigan	2,077,530	27%	20.6%	41%	13,713	26.1%	435
Minnesota	756,490	18%	15.0%	35%	7,669	80.7%	321
Mississippi	606,620	27%	23.1%	54%	6,104	23.6%	533
Missouri	1,148,210	25%	21.3%	30%	17,930	34.3%	484
Montana	162,540	20%	21.3%	43%	2,413	134.0%	302
Nebraska	288,330	20%	24.6%	44%	2,317	54.2%	466
Nevada	576,450	26%	30.7%	54%	N/A	N/A	423
New Hampshire	346,640	33%	14.7%	33%	1,660	59.0%	782
New Jersey	1,578,780	23%	20.7%	47%	10,248	-33.3%	652
New Mexico	440,300	28%	25.9%	51%	3,737	10.5%	451
New York	6,502,300	42%	20.7%	32%	21,775	-24.5%	787

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North Carolina	1,126,230	15%	22.0%	47%	16,353	68.8%	641
North Dakota	125,860	22%	26.6%	39%	1,484	148.2%	359
Ohio	1,652,560	18%	18.1%	30%	21,759	-12.2%	1,008
Oklahoma	682,920	23%	25.0%	28%	8,898	34.2%	659
Oregon	858,130	28%	26.1%	58%	5,084	50.8%	606
Pennsylvania	1,899,100	19%	20.2%	43%	20,847	77.3%	489
Rhode Island	N/A [†]	N/A [†]	14.5%	48%	781 ^{**}	-75.8%	401
South Carolina	1,170,540	31%	12.4%	50%	6,595	-24.0%	452
South Dakota	199,570	31%	21.8%	27%	2,746	106.9%	265
Tennessee	1,336,860	26%	23.1%	52%	14,488	4.3%	563
Texas	9,135,560	46%	24.1%	33%	76,189	27.5%	1,033
Utah	518,910	25%	23.8%	45%	3,346	15.5%	445
Vermont	171,290	34%	16.8%	26%	1,886 ^{**}	99.4%	209
Virginia	1,561,350	24%	17.2%	45%	12,483	36.5%	526
Washington	1,194,830	22%	30.5%	53%	21,939	224.3%	586
West Virginia	457,870	31%	25.8%	48%	3,644	189.0%	532
Wisconsin	N/A	N/A	18.4%	46%	5,532	-32.2%	475
Wyoming	135,380	30%	21.2%	24%	900	29.1%	273
Total	73,657,430	31%			575,033	1.7%	26,630

Appendix F References

1. Anastasia Christman & Michelle Natividad Rodriguez, Nat'l Emp't Law Project, *Research Supports Fair Chance Policies* 1 & n.1 (Aug. 1, 2016), <http://bit.ly/1sk48Nn>
2. U.S. Census Bureau, *Statistical Abstract of the United States: 1900*, <http://bit.ly/2x4RWHO>
3. U.S. Department of Justice, Bureau of Justice Statistics, *Prisoners in 2015*, at 11 (December 29, 2016), <http://bit.ly/2xON9su>
4. William Rhodes, *Following Incarceration, Most Released Offenders Never Return to Prison* (2014)
5. Soc'y for Human Res. Mgmt., *Background Checking—The Use of Criminal Background Checks in Hiring Decisions* 3 (Jul. 19, 2012), <http://bit.ly/2mhlrzh>.
6. Scott H. Decker, "Criminal Stigma, Race, Gender, and Employment: An Expanded Assessment of the Consequences of Imprisonment for Employment" (National Institute of Corrections, 2014); <http://bit.ly/2w3mVTI>
7. Joan Petersilia, Nat'l Inst. of Justice, *When Prisoners Return to the Community: Political, Economic, and Social Consequences* 3 (2000), <http://bit.ly/2sr7gao>.
8. Bruce Western and Becky Pettit, *Collateral Costs: Incarceration's Effect on Economic Mobility*, Washington, D.C.: The Pew Charitable Trusts, 2010; <http://bit.ly/1YjcAau>
9. Morris M. Kleiner, The Hamilton Project and Brookings, *Reforming Occupational Licensing Policies* 5 (March 2015), <http://brook.gs/2x5YlNM>; Michelle Natividad Rodriguez & Beth Avery, Nat'l Emp't Law Project, *Unlicensed & Untapped: Removing Barriers to State Occupational Licenses for People with Records* 5, n. 3 (April 2016), <http://bit.ly/2ka69wZ>
10. Jason Furman, Council of Economic Advisers, *New Data Show that Roughly One-Quarter of U.S. Workers Hold an Occupational License*, (June 17, 2016), <http://bit.ly/2kcaqjw>
11. Kleiner, *supra*, at 8.
12. The White House, *Occupational Licensing: A Framework for Policymakers*, 4 (July 2015), <http://bit.ly/2fzDQmj>
13. *Id.* at 23.
14. United States Department of Labor, Bureau of Labor Statistics, *2016 Data on Certifications and Licenses*, (April 27, 2017), <http://bit.ly/2xGRiQk>
15. *Id.*
16. United States Department of Labor, Bureau of Labor Statistics, *Fastest Growing Occupations*, (April 14, 2017), <http://bit.ly/2x3DFex> (occupational therapy assistants, physical therapist assistants, physical therapist aides, home health aides, nurse practitioners, physical therapists); *see generally* Safer Foundation & Nat'l Emp't Law Project, *A Healthcare Employer Guide to Hiring People with Arrest and Conviction Records: Seizing the Opportunity to Tap A Large, Diverse Workforce*, (September 2016), <http://bit.ly/2FGFOQC>
17. Rodriguez & Avery, *supra*, at 2.
18. *Id.* at 11.
19. *Id.* at 18; *Occupational Licensing: A Framework for Policymakers, supra*, at 36.
20. U.S. Department of Justice, Bureau of Justice Statistics, *Arrest Data Analysis Tool*, <http://bit.ly/2fB9vnC> (2014 Data: Arrest rate for whites = 3,101 per 100,000; African Americans = 7,031 per 100,000)
21. The Sentencing Project, *Trends in U.S. Corrections*, (June 2017), <http://bit.ly/2x51Zwz>
22. Decker, *supra*, at 57.
23. United States Department of Labor, Bureau of Labor Statistics, *Labor Force Statistics from the Current Population Survey*, (February 8, 2017), <http://bit.ly/2xRQyr4>
24. Allyson Fredericksen & Desiree Omli, Alliance for a Just Society, *Jobs After Jail: Ending the Prison to Poverty Pipeline*, 16 (February 2016), <http://bit.ly/2hDTRMs>
25. *Occupational Licensing: A Framework for Policymakers, supra*, at 62–63.
26. Dylan Minor, Nicola Persico, and Deborah M. Weiss, "Criminal Background and Job Performance," (2017), <http://bit.ly/2vJT5JR>
27. Jennifer Lundquist, Devah Pager, and Eiko Strader, "Does a Criminal Past Predict Worker Performance? Evidence from American's Largest Employer," Working Paper (2016)
28. Cherrie Bucknor & Alan Barber, Ctr. for Econ. & Policy Research, *The Price We Pay: Economic Costs of Barriers to Employment for Former Prisoners and People Convicted of Felonies* 1 (2016), <http://bit.ly/2atNJBu>.
29. BLS, *2016 Data on Certifications and Licenses, supra*.
30. Mark T. Berg and Beth M. Huebner, "Reentry and the Ties that Bind: An Examination of Social Ties, Employment, and Recidivism," *Justice Quarterly* (28), 2011; <http://bit.ly/2w3dttis>
31. Megan Denver, Garima Siwach, and Shawn Bushway, *Criminology, A New Look At The Employment And Recidivism Relationship Through The Lens of A Criminal Background Check*, (January 30, 2017), <http://bit.ly/2yfSvP9>
32. Christy Visser, Sara Debus, Jennifer Yahner, Urban Institute, *Employment after Prison: A Longitudinal Study of Releasees in Three States*, 8 (October 2008), <http://urban.is/2yPIXHN>
33. The original numbers of people with arrest or conviction records are from a Bureau of Justice Statistics annual survey of state criminal history information systems. U.S. Dep't of Justice, Bureau of Justice Statistics, *Survey of State Criminal History Information Systems, 2014*, Table 1 (Dec. 2015), <https://www.ncjrs.gov/pdffiles1/bjs/grants/249799.pdf>. To account for duplication in the survey for individuals who may have records in more than one state or deceased individuals who have not been removed from the state record systems, NELP conservatively reduced the numbers cited in the state survey by a uniform 30 percent. We caution that this 30 percent deduction may not adequately take into account state specific variations. Thus, in those states where the proportion of people with records is significantly above the national average of 31 percent, we urge advocates and policymakers to corroborate the estimate with other state criminal justice data sources (such as state arrest, conviction and incarceration rates).
34. The numbers of state adult population are from the U.S. Census Bureau, a spreadsheet of which is available at <https://www2.census.gov/programs-surveys/popest/datasets/2010-2014/state/asrh/scprc-est2014-18+pop-res.csv>.
35. The White House, *Occupational Licensing: A Framework for Policymakers*, Table 1 (July 2015), https://obamawhitehouse.archives.gov/sites/default/files/docs/licensing_report_final_nonembargo.pdf.
36. Little Hoover Commission, *Jobs for Californians: Strategies to Ease Occupational Licensing Barriers* 16 (Oct. 2016), <http://www.lhc.ca.gov/sites/lhc.ca.gov/files/Reports/234/Report234.pdf>.
37. U.S. Dep't of Justice, Bureau of Justice Statistics, *Prisoners in 2015*, Table 7 (Dec. 2016), <https://www.bjs.gov/content/pub/pdf/p15.pdf>.
38. The numbers of people released in 2000 are from U.S. Dep't of Justice, Bureau of Justice Statistics, *Prisoners in 2007*, Appendix Table 4 (Dec. 2008), <https://www.bjs.gov/content/pub/pdf/p07.pdf>.
39. Council of State Government, Justice Center, *National Inventory of the*

Collateral Consequences of Conviction, <https://niccc.csgjusticecenter.org/> (accessed on Oct. 3, 2017) (hereinafter “ABA Inventory”). The ABA Inventory includes information for all 50 states, the District of Columbia, and all U.S. territories. Note that the ABA Inventory codes disclosures of backgrounds or background check requirements as freestanding entries in some cases, which may or may not include a specific restriction. See ABA Inventory, User Guide (hereinafter “User Guide”), Question and Answer 10, <https://www.nij.gov/topics/courts/documents/abacollateralconsequences-userguide.pdf>. The “occupational and professional licenses and certification” includes most professional licensure requirements, among other licenses. The category “business licenses and other property rights” licenses to operate certain facilities and to engage in specific industries. The User Guide cautions that the “difference between professional and business licensure will not be clear, and a comprehensive search should select both categories.” See User Guide, Question and Answer 13. We followed this recommendation for the purposes of the estimate and included both the professional and business licensure categories for the 50 states and the District of Columbia.

* The estimates were not generated for these three jurisdictions because they are relatively small, which may reduce their reliability, and the jurisdictions closely border other states and cities, which likely inflates the number of people counted as having a record.

** Data include people released from both prison and jail.



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