Fair Chance Licensing Reform Takes Hold in the States

Across the nation, millions of people with arrest and conviction records face overly restrictive barriers to licensed professions. However, with support from NELP, bipartisan momentum is building in support of "fair chance licensing" reforms that open up growing occupations with good pay to qualified people with records.

In **2017**, legislation was enacted in at least five states (**Arizona**, **Georgia**, **Kentucky**, **Illinois**, and **Louisiana**), advancing a range of fair chance licensing protections. In **2018**, the momentum has continued to build. As summarized below, new bills have been signed into law in **Delaware**, **Indiana**, **Kansas**, **Maryland, Massachusetts** and **Tennessee**. Additional bills worth noting have been introduced in the **District of Columbia, California**, and **Rhode Island**).

📄 New Laws Signed in 2018

■ On March 8, Governor John Carney (D) of **Delaware** signed HB 97, which establishes a barbering apprenticeship program in the state's prisons, precludes consideration of convictions dating back more than 10 years when applying for a barbering or cosmetology license, and authorizes the boards to "waive" a disqualifying felony if the individual has not been convicted of a crime in the previous two years. The bill passed the legislature with unanimous support.

■ On March 21, Governor Eric Holcomb (R) of **Indiana** signed HB 1245, which requires that any disqualifying offenses be "directly related" to the occupation and that licensing boards take into account evidence of rehabilitation but not many offenses dating back more than five years. The applicant is entitled to written findings explaining a board's decision, and individuals may petition the board for a background check decision before satisfying all the other licensing requirements. The bill easily passed 48-1 in the state senate and 95-1 in the state house of representatives.

■ On April 13, **Massachusetts** Governor Charlie Baker (R) signed major criminal justice reform legislation (S. 2371), which included a provision allowing people with sealed records to deny that they have a record for licensing and housing purposes (a right that previously only extended to people applying for employment). In addition, the law precludes employers from accessing misdemeanor records that are more than 3 years old and felonies that are more than 7 years old (reduced from 5 years for misdemeanors and 10 years for felonies under current law).

■ In **Tennessee**, on April 20, Tennessee Governor Bill Haslam (R) signed HB 2248/SB 2465, which unanimously passed. The bills require the boards to demonstrate that an applicant's conviction is "directly related" to the licensed occupation, and they must take into account a number of factors, including the age and nature of the offense and evidence of rehabilitation

or treatment. In addition, the boards must provide the applicant with a written notice explaining the justification for the denial and an opportunity to present mitigating evidence before the board issues a final determination.

■ On May 10th, **Kansas** Governor Sam Brownback (R) signed HB 2386, which regulates a range of occupational licenses. Like the Indiana law passed earlier this year, it requires that any disqualifying offenses be "directly related" to each occupation, and it precludes the boards from adopting broad "moral turpitude" disqualifications. In addition, the boards may not take into account arrests or many offenses dating back more than five years since the sentence was served (not including felonies and Class A misdemeanors). The law also adopts new standards and procedures regulating the licensing and certification of workers employed in adult care, home health, and certain hospital and health facilities.

■ On May 15, **Maryland** Governor Larry Hogan (R) signed HB 1597, which requires licensing boards to collect and report data documenting the number of licensing applications denied due to specific records and how much time had passed since the reported convictions.

✔ Selected Bills Introduced in 2018

■ In **California**, several bills (AB 2138, SB 1298, AB 3039, AB 2293) were recently introduced to improve access to a range of occupations by requiring fairer consideration of records and removing most blanket bans.
■ In the **District of Columbia,** a bill (B22-0523) was introduced to implement a comprehensive scheme of fair chance licensing reforms.
■ In **Rhode Island**, S. 2337 strikes the phrase "crime involving moral turpitude" from the list of disqualifying offenses that apply to a range of occupational licenses.

✖ NELP Resources

For more background on the issue, see NELP's toolkit, "Fair Chance Licensing Reform: Opening Pathways for People With Records to Join Licensed Professions" (October 2017) and report "Unlicensed & Untapped: Removing Barriers To State Occupational Licenses For People With Records" (April 2016).

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