



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

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

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FEDERAL INTERAGENCY

REENTRY COUNCIL

Working together for safer, healthier communities

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

Webinar Presentation
November 22, 2011



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www.justice.gov/atj/

Reentry Council Inaugural Meeting - January 5, 2011



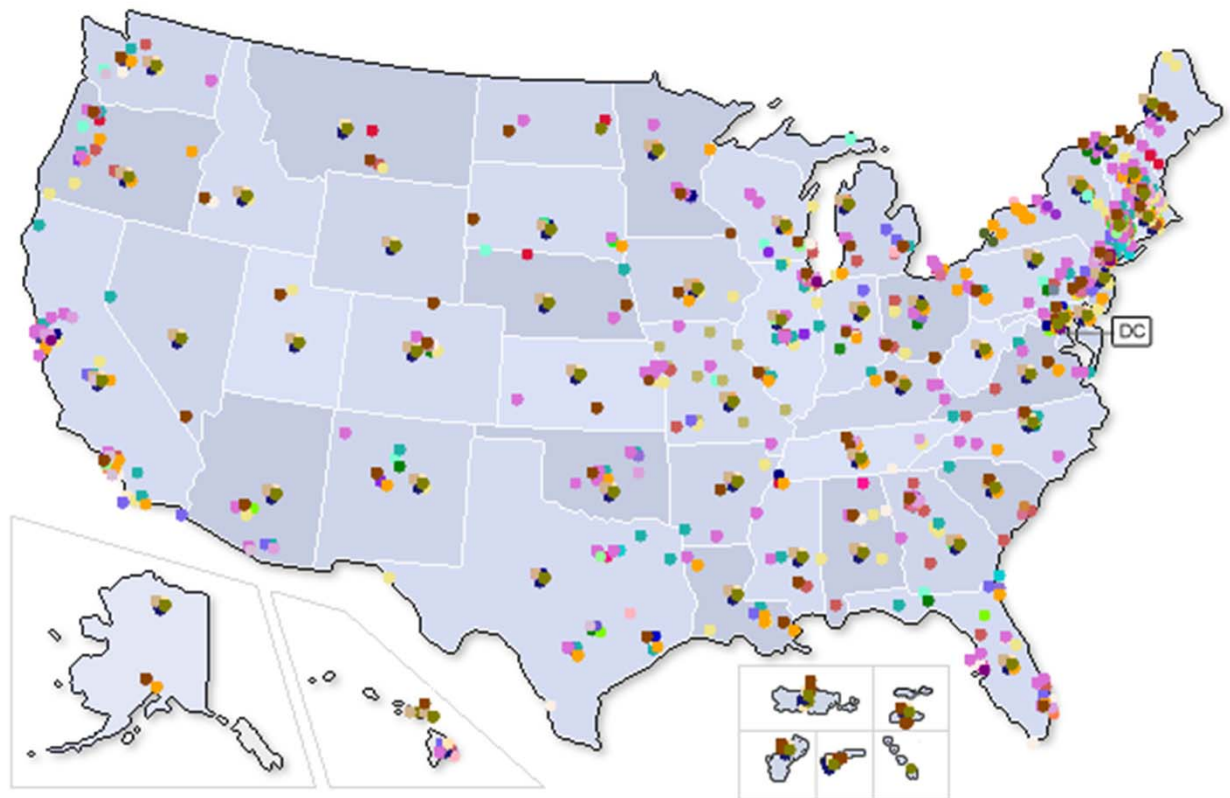
Reentry Council Activities

3 categories of activities:

- ✓ Actions the federal government can take to better coordinate/leverage resources for reentry
- ✓ Actions the federal government can take to remove barriers to reentry
- ✓ Bully pulpit opportunities to advance the reentry agenda, dispel myths/clarify policies, and signal to the field the importance of the issue

Reentry Council Activities: Coordinate and Leverage Resources

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



www.nationalreentryresourcecenter.org

Reentry Council Activities:
Address Federal Barriers to Reentry

Reduce Barriers to Employment for Returning Population

Improve Access to Benefits

Address Child Support Relief

Reentry Council Activities:
MYTHBUSTER SERIES

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

Examples:

- MYTH: People with criminal records are automatically barred from employment.**
- MYTH: The Federal Government's hiring policies prohibit employment of people with criminal records.**
- MYTH: Employers have no federal income tax advantage by hiring an ex-felon.**

Key Resources

- **Reentry Council Website**
<http://www.nationalreentryresourcecenter.org/reentry-council-meeting>
- **National Reentry Resource Center**
www.nationalreentryresourcecenter.org
- **Transition from Prison and Jail to the Community Initiative (NIC)**
<http://nicic.gov/TPJC>
- **Reintegration of Ex-Offenders (DOL)**
www.doleta.gov/RExO/
- **Incarceration and Reentry (HHS)**
<http://aspe.hhs.gov/hsp/11/Incarceration&Reentry/>
- **Court Services and Offender Supervision Agency**
<http://media.csosa.gov>
- **National Hire Network** (state specific listing of governmental agencies and community-based organizations providing reentry services)
<http://www.hirenetwork.org/resource.html>

Key Resources (cont.)

EEOC RESOURCES

- Policy Statement on the Issue of Conviction Records Under Title VII of the Civil Rights Act of 1964 (1987). This policy statement sets forth the Commission's position on the use of conviction records under the Title VII of the Civil Rights Act of 1964. Available at <http://www.eeoc.gov/policy/docs/convict1.html>.
- Policy Guidance on the Consideration of Arrest Records in Employment Decisions Under Title VII (1990). This policy guidance sets forth the Commission's procedure for determining whether arrest records may be considered in employment decisions. Available at http://www.eeoc.gov/policy/docs/arrest_records.html.
- Policy Statement on the Use of Statistics in Charges Involving the Exclusion of Individuals with Conviction Records from Employment (1987). This policy statement sets forth the Commission's position on the use of statistics in charges involving the exclusion of individuals with conviction records in employment. Available at <http://www.eeoc.gov/policy/docs/convict2.html>.
- EEOC Compliance Manual, Race & Color Discrimination Section, Discussion on Conviction and Arrest Records (2006). The Manual Section provides guidance on analyzing charges of race and color discrimination under Title VII of the Civil Rights Act of 1964. Available at <http://www.eeoc.gov/policy/docs/race-color.html#VIB2conviction> .
- Office of Legal Council informal discussion letter regarding Title VII and arrest and conviction records. The EEOC Office of Legal Council wrote an informal discussion letter in response to an inquiry from a member of the public. This letter is intended to provide an informal discussion of the noted issue and does not constitute an official opinion of the Commission. Available at http://www.eeoc.gov/eeoc/foia/letters/2005/titlevii_arrest_conviction_records.html.



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National Employment Law Project

November 22, 2011

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Legislative Roundup 2010-2011: Criminal Record and Employment Categories

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



Raising Awareness of Collateral Consequences through Inventories

- Florida inventory (SB 146)
- [Ohio CIVICC](#)
- North Carolina C-CAT (2012)



Fairer Hiring and Occupational Licensing Standards

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

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



Fairer Hiring and Occupational Licensing Standards

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



Restoration of Eligibility for Employment and Occupational Licensing

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



Expungement and Sealing of Criminal Records

- AR, CA, CO, DE, IN, LA, NC, OR, MS, RI, SD, TX, UT
- First offender: NC, MS
- Expanding: AR, IN, LA, OR, RI, TX
- Reduced waiting period: CO, DE, UT
- May state “no”: CO (sealed conviction) SD (arrests)
- Technical fix: CA



Transition from Incarceration to Employment: IDs, Reducing Fees, and Job Training

Securing Identification

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

Job Training

- Training for high-demand jobs: Arkansas, Colorado
- Funds appropriated: Iowa
- Permits services: Idaho



Employer Negligent Hiring Protections

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



For more information:

www.nelp.org

Resources:

[65 Million Need Not Apply](#)

[Ban the Box State Guide](#)

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Leveraging Opportunity for Reform

- **Creating the Conditions for Reform**
 - Organizing
 - Legislative Opportunity
- **Taking Advantage**
 - Fiscal Austerity
 - Addressing State Corrections Policy
 - Justice Reinvestment

Connecticut: Creating the Environment

- A Better Way Foundation – statewide organization
- Grassroots Advocacy – door knocking, engaging the community, media advocacy
- Laid foundation for reform

Connecticut: “Ban the Box”

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

North Carolina: Parallel Efforts to Reform CJ Policies

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

NC: Certificate of Restoration of Rights

- **Relief for Certain Persons with Prior Convictions**
 - HB 641/SB 516
 - Est. process for persons with no more than 2 low level felonies or misdemeanors to petition court for relief from collateral sanctions
 - Courts may issue certificate if petitioner meets certain conditions including 12 month waiting period
- **Bipartisan Support** – Republican Champion also sponsored Justice Reinvestment Initiative
- Passed **overwhelmingly** in House and Senate

Ohio: Building on Momentum

- **Parallel efforts** – statewide coalition of advocates – including – Ohio Justice & Policy Center -- with reform agenda and Justice Reinvestment
- **Working Safe Ohio/First Step to a Second Chance:** a large coalition of advocates, faith leaders, service providers, and others
- CJ Reform Initiative: **HB 86** bill reduces penalties for many low-level, non-violent offenses; eliminated crack/powder cocaine disparity, and allows certain inmates to be released early

OH: Certificate of Achievement and Employability

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

Resources on Leveraging and Building Momentum

- **Connecticut: A Better Way Foundation**
 - Grassroots advocacy to override Gubernatorial veto
 - More information online [here](#)
- **North Carolina: Lobby Day Overview**
 - Coalition organized a lobby day for over 200
 - More information online [here](#)
- **Ohio: Coalition leveraged Momentum**
 - Coalition including correctional officials and faith leaders supported improving employment policies for persons with prior convictions
 - More information online [here](#)



Working for a fair and effective criminal justice system by promoting reforms in sentencing law and practice, and alternatives to incarceration.

For more information:

www.sentencingproject.org

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**Model State Legislation to Reduce
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LEGISLATIVE TRENDS IN 2012

Ban the Box

Expungement

Uniform Collateral Consequences

**Prohibiting Inquiry Into Arrests That Do Not
Lead to Conviction**

2012 LEGISLATION

Ban the Box

Wisconsin SB 612

Minnesota

Virginia

Pittsburgh

LEGISLATION 2012

**Record Expungement
Sealing and Shielding**

**Pennsylvania SB 1220
Maryland**

LEGISLATION 2012

Uniform Collateral Consequences

Wisconsin

Michigan

Minnesota

Rhode Island

Vermont

Maine*

LEGISLATION 2012

Prohibiting Inquiry Into Arrests That Do Not Lead to Convictions

Illinois SB 1284

2012

Regressive Legislation

**Bills that Allow Employers to Discriminate
Against People with Felony Convictions**

Wisconsin SB 207

POLICY TOOLKITS

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

For more information:

www.hirenetwork.org

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