IMPLEMENT SECOND-CHANCE HIRING POLICIES

People with criminal records need stable jobs for the same reasons that everyone else does: to support themselves and their families, lead fulfilling lives, and contribute to our collective economy. However, for the one-third of Americans with these records, getting a job or an occupational license to work can often be out of reach, even years after a person has finished their sentence and returned to their community.

When applying to jobs, many Floridians have to check a box if they have any convictions, and in some cases even arrests. Often, checking that box denies them the chance to move forward in the application process and earn a living doing work they're well qualified to do. Meanwhile, Floridians seeking licenses required for a range of jobs can be denied if they have ever been convicted of certain offenses. As a result, employers miss out on skilled workers, returning citizens face joblessness and higher chances of recidivism, and families and communities experience lower economic opportunity and stability.

THE PROBLEMS

- **Unemployment affects the vast majority of returning citizens, even years after reentry.** Over 60% of returning citizens remain unemployed—actively looking for work but without a job—one year after release. In a study of returning citizens from Florida and 13 other states, two-thirds of individuals remained unemployed or underemployed after 5 years. Among people who have been incarcerated at any point in their lives, over 27% are unemployed. This rate is higher than the country's unemployment rate during the Great Depression and almost twice as high as the rate in April 2020, when U.S. unemployment peaked due to COVID-19.

- **Having a record is a primary cause of unemployment.** Research has shown that being required to check the "box" when applying for jobs is one of the main reasons returning citizens struggle to find work. The existence of a criminal record has been found to reduce job callbacks by 50% on average. Florida also imposes 379 restrictions on people with convictions seeking occupational licenses or certifications. As a result, even people who worked in certain roles while in prison often can't access similar jobs upon reentry. Unsurprisingly, 76% of returning citizens from Florida and elsewhere describe finding work as very difficult or nearly impossible.

- **Barriers to work for returning citizens have consequences for their families and children.** Families face significant financial setbacks during and after the incarceration of a loved one. Due to the loss of income from the relative and the challenge of covering the costs of their conviction and incarceration, about 2 in 3 families in this situation struggle to meet basic needs. When their loved one can't get a job after release, that instability can continue for generations. As just one example, parental incarceration and its collateral effects increase the risk of poverty and household instability for youth, independent of any other factors in the child's life.

- **Some (but not all) Floridians are protected from these consequences.** As of July 2019, 13 cities and counties in Florida have adopted fair-chance policies. In addition, employers from Koch Industries to Target and Walmart have banned the box on their job applications. Yet for most returning citizens in Florida, barriers to work still exist. State-level protections apply only to government employment and exclude people with drug offenses and jobs related to public health or safety. But as leaders in other states have recognized, all Floridians—regardless of where we live, work, or come from—"deserve the chance to make a living and a better life" for our families.

- **Reentry services and family support are not enough to close this gap.** With shrinking budgets, reentry programs are not supporting the vast majority of returning citizens who live and work in places without fair-chance policies. In one study, families provided employment support to more returning citizens in Florida and elsewhere than reentry programs, nonprofits, and faith-based organizations combined. Despite being this primary resource and facing economic instability themselves, these families receive little support from institutions involved in reentry. Thus, in our current system, reentry services do not serve most returning citizens, and families lack the tools they need to help their loved ones get back on their feet.
• **Limiting job opportunities for returning citizens hurts public safety.** Just under half of U.S. employers check applicants' records with the goal of ensuring safe workplaces. However, barriers like the box on job applications actually hurt safety by worsening the stability of returning citizens and their families. Research has found that economic security and healthy family relationships reduce recidivism. When returning citizens struggle to find a job, their and their families' stability and wellbeing suffer, and they become more vulnerable to reoffending.

• **Economic instability and recidivism cost taxpayers.** Returning citizens experience not only limited job opportunities but also the burden of significant criminal debt. When they face these challenges together, their circumstances can ultimately cost the government and taxpayers. Studies find that having a record (and the limitations it brings) leads to around $5,800 in lost benefits to the community per person each year. In addition, if returning citizens in Florida end up reincarcerated due to economic instability—including the 12% whose crime is “failure” to pay criminal legal debt—they each cost the state an average of $19,069 per year. Therefore, our economy and tax base are stronger when returning citizens have the opportunity to work.

### THE SOLUTIONS

• **Enact a statewide ban-the-box policy for employers and licensing boards.** To enable returning citizens to succeed, we must remove a key barrier to their employment. While 13 cities and counties in Florida have fair-chance policies, these policies cover just 34% of the population and apply only to local government jobs. Without broader protections, millions of Floridians with records will continue to face job discrimination. Banning the box on applications from licensing boards and public and private employers, including prison contractors, allows returning citizens to get further in the application process for most roles. In turn, this increased opportunity gives them a better chance of finding a job and avoiding poverty, family instability, and recidivism.

• **Don’t ask about criminal records until later in the application process.** To ensure that returning citizens have a fair chance at employment, background checks or other inquiries about an applicant's criminal record should take place after that person has been made a conditional job offer. Delaying all questions about criminal records—oral or written, voluntary or required—until after an offer has been made is the most effective way to reduce job discrimination. It also helps employers by providing a wider pool of candidates to consider and potential cost-savings in hiring. Meanwhile, the state agency responsible for enforcement “will save investigation costs and be in a better position to ensure that the policy is upheld.”

• **Limit questions about criminal records to relevant convictions.** People with records should not be denied opportunities unless they would pose a safety risk in a given position. Therefore, disqualifications preventing returning citizens from gaining jobs or licenses should apply only when a person’s conviction is for an offense directly related and adverse to the duties of the role. In addition, employers and licensing authorities must consider individualized factors, including efforts at rehabilitation, before rescinding an offer or denying a license due to a person's record.

• **Improve transparency to limit unlawful discrimination.** Returning citizens should know when they are no longer being considered for an opportunity due to their records. Therefore, employers must provide written notice to a job applicant if they intend to rescind their conditional offer. At that time, the applicant must have the opportunity to respond, such as with any inaccuracies or explanation. If the employer still wants to rescind the job offer, they must provide final written notice. This same process should apply to licensing boards. Several states have already implemented these measures to promote compliance with their nondiscrimination laws.

• **Provide protections to employers to increase buy-in.** The majority of U.S. employers say that their primary reason for checking job applicants' backgrounds is to reduce legal liability. Concerns about liability make employers less likely to hire people with records who are otherwise well qualified. To address this barrier, the state should provide employers with protections from negligent hiring liability. This immunity for employers who follow fair-chance policies will make them more willing to hire skilled job-seekers with criminal records.

• **Ensure enforcement.** While numerous states already have the above solutions in place, few have defined how to enforce these measures. In Florida, individuals may file a complaint if they are denied public employment or refused an occupational license based on criminal conviction. To make sure that returning citizens have a fair shot at employment beyond the public sector, the state should expand its existing process to include the review of complaints about job discrimination by private employers and government contractors.
ABOUT THE 2021 POLICY PLATFORM

The Florida Rights Restoration Coalition (FRRC) policy platform for 2021 is informed by conversations, meetings, and surveys with thousands of returning citizens from all backgrounds and political persuasions throughout the state of Florida. The collective values and priorities in this platform are a blueprint for the policies that FRRC and Florida’s community of returning citizens will work to enact in the weeks and months ahead.

FRRC is a grassroots, membership organization run by returning citizens (formerly convicted persons) who are dedicated to ending the disenfranchisement and discrimination against people with convictions and creating a more comprehensive and humane reentry system that will enhance successful reentry, reduce recidivism, and increase public safety.

Footnotes


6 Friedman, “Just Facts.”


8 deVuono-powell et al., “Who Pays?”


11 deVuono-powell et al., “Who Pays?”


13 National Inventory of Collateral Consequences of Conviction, “Collateral Consequences Inventory.”

14 deVuono-powell et al., “Who Pays?”
Research has found that nearly half of formerly incarcerated individuals contributed at least 50% to their families' total household income prior to incarceration. See Ibid.

Ibid.

Ibid.

Avery, “Ban the Box.”


Avery, “Ban the Box.”

deVuono-powell et al., “Who Pays?”

Ibid.

Ibid.

Ibid.


deVuono-powell et al., “Who Pays?”

Ibid.

Ibid.

Ibid.

Ibid.


The study referenced in note 31 found that the biggest barriers to finding stable employment were lack of adequate education and training and being required to disclose conviction history when applying for a job. See deVuono-powell et al., “Who Pays?”

According to U.S. Census estimates, the total population of Florida as of July 2019 was 21,477,737. Also as of July 2019, the cumulative population of the 13 cities and counties who had adopted fair-chance policies by that date was 7,305,853. See Avery, “Ban the Box”; “QuickFacts: Florida; United States,” U.S. Census Bureau, July 1, 2019, https://www.census.gov/quickfacts/fact/table/FL,US/PST045219.

Avery, “Ban the Box.”


37 Rodriguez and Mehta, “A Key Fair-Chance Hiring Best Practice.”

38 Ibid.

39 National Association of Criminal Defense Lawyers, “Collateral Damage”; “Forgiving and Forgetting in American Justice: A 50-State Guide to Expungement and Restoration of Rights,” Collateral Consequences Resource Center, October 2017, https://www.prisonpolicy.org/scans/Forgiving_report_CCRC.pdf. This recommendation also entails that arrests, misdemeanors for which no jail time is required, and convictions that have been sealed, dismissed, or expunged should not be considered at all. See deVuono-powell et al., “Who Pays?”

40 Collateral Consequences Resource Center, “Forgiving and Forgetting.”

41 NELP, “Best Practices and Model Policies.”

42 For example, explanation could include mitigating circumstances. See Ibid.; National Association of Criminal Defense Lawyers, “Collateral Damage.”

43 NELP, “Best Practices and Model Policies.”

44 Collateral Consequences Resource Center, “Forgiving and Forgetting.”

45 Friedman, “Just Facts”; SHRM, “Background Checking”; Collateral Consequences Resource Center, “Forgiving and Forgetting.”

46 Friedman, “Just Facts.”

47 Collateral Consequences Resource Center, “Forgiving and Forgetting.”


49 Collateral Consequences Resource Center, “Forgiving and Forgetting.”

50 Florida Statutes § 112.011 (2020).