Fair Chance Licensing

Removing Barriers to Licensed Professions

Facing People with Conviction Records

December 11, 2017
Approximately 70 million people in the U.S. have an arrest or conviction record. That’s 1 in 3 adults.

Communities of Color Most Impacted
Severe race disparities in justice system

Holding back our next generation
Nearly half of children have a parent with a record

Landscape of Occupational Licensing Laws & Barriers
What Portion of the Workforce is Licensed?

Licensing Can Benefit Workers
As long as they aren’t unfairly excluded

- Increased wages
- Respect for the occupation
- Protects public safety

27,000 State Licensing Restrictions Facing People with Records

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

**STATE LICENSING LAWS**

<table>
<thead>
<tr>
<th>Permanent</th>
<th>Mandatory</th>
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<tbody>
<tr>
<td>7,468</td>
<td>11,338</td>
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<tr>
<td>19,786</td>
<td>15,916</td>
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Room for Improvement

- No Blanket Bans
- Clear Applicant Guidance
- No Vague Standards
- Limit Scope of Inquiry
- Consider Rehabilitation
- Data Collection
- Case-by-Case Review
- “Ban the Box”
- Notice & Chance to Respond
- Uniform Standards

[NELP National Employment Law Project]
No Blanket Bans

**Kansas Example:**

Although a licensing board “may consider any felony conviction of the applicant, . . . such a conviction shall not operate as a bar to licensure, certification or registration.”

New Jersey Example:
Licensing authorities may disqualify an applicant only if the conviction “relates adversely to the occupation,” and they must explain how various factors “relate to the license”:

- “Nature and seriousness of the crime”
- “Circumstances under which the crime occurred”
- “Date of the crime”
- “Age of the person when the crime was committed”
- “Whether the crime was an isolated or repeated incident”
- “Social conditions which may have contributed to the crime”

Consider Rehabilitation

**Minnesota Example:**

A person with a conviction “shall not be disqualified from the employment or occupation if the person can show competent evidence of sufficient rehabilitation and present fitness to perform the duties.”

Minn. Stat. § 364.03(3)
Limit Scope of Inquiry

Pennsylvania Example:

“The following information shall not be used in consideration of an application for a license . . . :

1. Records of arrest if there is no conviction of a crime based on the arrest.
2. Convictions which have been expunged.
3. Convictions of a summary offense.
4. Convictions for which the individual has received a pardon from the Governor.
5. Convictions which do not relate to the applicant’s suitability for the license . . . .”

Remove Vague Standards

Kentucky Example:

“A person may be denied a license on the grounds that he does not possess good moral character.” – K.R.S. 335B.040

Repealed via
Kentucky S.B. 120 (2017)
Illinois Example:

“[E]ach year, the Department must prepare, publicly announce, and publish a report of summary statistical information relating to new license . . . applications,” showing “at minimum”:

- Number of applicants (and number granted the license);
- Number of applicants with a conviction record (and number granted the license; denied the license; and denied the license because of a conviction).

Illinois S.B. 1688 (2017)
Do these reforms work? Are they feasible?

Post-9/11 TSA Credentialing Success Story

- Post-9/11 screening imposed on 1.5 million port workers.
- Case-by-case review of rehabilitation evidence and accuracy of record.
- TSA granted ~90% of waiver applications and appeals

Resources

