

Information on Addressing Barriers to Employment for Low-Skilled Workers: Limitations of Criminal Record Information

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Research shows that arrest and imprisonment are associated with lower employment and earnings. Individuals with criminal records face many barriers to getting a job, “including substance abuse problems, spotty work histories, poor educational backgrounds, physical and mental health problems, and bias against them” (Mukamal 2001). Any one of these barriers can affect an individual’s ability to get and keep a job.

In 2003, 8 percent of the working-age population (over 12 million Americans) had a felony record (Pager 2003). If misdemeanor offenses are included, 25 percent of the nation’s adult population has a criminal record (U.S. Census Bureau 1999).

Men and women with a criminal background are frequently rejected from jobs based only on the existence of a criminal record, regardless of the nature of their crimes, time elapsed since their crimes, or evidence of successful rehabilitation.

Criminal records remain a major barrier to employment in most states. Employee rights regarding criminal records vary; many state laws allow employers to ask about and consider criminal records when making employment decisions.

Restrictions on the use of criminal records in employment decisions vary by state, but overall:

- “Employers typically may not automatically disqualify job candidates, solely because they have criminal records.
- “Employers typically may not ask about or consider a juvenile criminal record to make job or other employment decisions.
- “Employers typically have the right to ask about and conduct an adult criminal record search to make job or other employment decisions.
- “Questions about criminal records and adverse job and employment decisions based on same, are limited to convictions only. But this might not apply if applicants are trying to land law-enforcement jobs or those where security or safety is a concern.
- “The type of conviction typically must be related to the applicant’s suitability to perform the job, before an employer can make an adverse job or other employment decision based solely on the conviction” (EmployeeIssues.com n.d.).

Strategies for Addressing a Criminal Record as a Barrier to Employment

Individuals with criminal records looking for work and organizations that aid those individuals should be aware of several important points:

- *Understand employee rights:* Individuals with criminal records are exempt from pursuing some jobs by law or convention (Wycoff & Wallace 2008).
 - » “Occupational bars” prevent people with drug convictions from taking jobs that involve pharmaceuticals.
 - » Financial institutions cannot hire people with convictions related to theft or fraud.
 - » Regulations in some states preclude people with records from obtaining a number of professional licenses.
- *Seek legal council:* “See an attorney to explore if you are eligible to get your conviction sealed, expunged, or legally minimized and to make sure you understand your rights” (Rosen 2003).
- *Use personal networks:* Make use of personal networks when looking for a job (Rosen 2003).
 - » Someone who knows you personally is more likely to understand or overlook a criminal record and give you a chance.
 - » “Ask everyone that likes you if they know someone who might be willing to hire you.”
- *Seek professional assistance:* Make use of community organizations and/or probation officers when looking for a job.
 - » In many urban areas, community-based organizations or other nonprofits aid the reentry of ex-offenders into society through job training, advising, and referral services.
- *Be honest:* “If an employer discovers that you weren’t honest about your criminal record on your job application, then the employer likely has the right to refuse to hire you or later, fire you” (EmployeeIssues.com n.d.).
- *Take the long-term view:* “Start to rebuild your [job history] one step at a time, even if it is not the ‘perfect’ job” (Rosen 2003).
- *If possible, consider offering fidelity bonding to your potential employers:* Some community rehabilitation programs offer it on an employee’s behalf (Niznik n.d.).

Resources

EmployeeIssues.com n.d. "Criminal Record—Job and Employment Decisions." Available at: http://employeeissues.com/criminal_record.htm. Accessed June 10, 2010.

- » General Information about employment and criminal records.

Kaplan, Claire. 2007. "CORI: Opening Doors of Opportunity: A Workforce and Public Safety Imperative." Boston, MA: The Boston Foundation and the Criminal Justice Institute. Available at: http://cjinstitute.org/files/cori_may2007_1.pdf.

- » The report of the Task Force on CORI Employer Guidelines outlines recommendations for Massachusetts to achieve a more effective balance in its efforts to both preserve public safety and encourage productive employment for the large and diverse segment of our population with criminal background information.

Legal Action Center. 2004. "After Prison: Roadblocks to Reentry: A Report on State Legal Barriers Facing People with Criminal Records." New York, NY: Author. Available at: www.lac.org/roadblocks-to-reentry/upload/lacreport/LAC_PrintReport.pdf.

- » A summary of the findings of an exhaustive two-year study by the Legal Action Center of the legal obstacles that people with criminal records face when they attempt to reenter society and become productive, law-abiding citizens. The study includes a comprehensive catalog of each state's legal barriers to employment, housing, benefits, voting, access to criminal records, parenting, and driving. It also grades each state on whether its laws and policies help or hurt those seeking reentry, and it outlines how federal and state policymakers can help reintegrate people with criminal records into society in ways that better promote public safety.

Legal Action Center. n.d. "Recommended Key Provisions." New York, NY: Author. Available at: www.lac.org/toolkits/standards/Key%20Provisions%20-%20Standards.pdf

- » The Legal Action Center has developed a list of key provisions that it believes should be included in state laws that create standards for the employment of people with criminal records.

Legal Action Center. n.d. "Standards for Employing People with Criminal Records: Model Laws." Available at: www.lac.org/toolkits/standards/model_laws_standards.htm. Accessed June 10, 2010.

- » Descriptions and full text of the state laws that the Legal Action Center designates as having the strongest laws protecting people with criminal records from employment discrimination.

Mukamal, Debbie. 2001. *From Hard Time to Full Time: Strategies to Help Move Ex-offenders from Welfare to Work*. Washington, DC: U.S. Department of Labor, Office of Adult Services, Division of Welfare-to-Work. Available at: www.hirenetwork.org/pdfs/From_Hard_Time_to_Full_Time.pdf.

- » This guide identifies general legal standards that may apply to hiring decisions involving ex-offenders.

Niznik, John Steven. "Landing a Job with a Criminal Record." About.com. Available at: http://jobsearchtech.about.com/od/laborlaws/a/criminal_record_2.htm.

- » General tips for an ex-offender looking for employment.

Pager, Devah. 2003. "The Mark of a Criminal Record." *American Journal of Sociology*. Vol. 108, No. 5.

Rosen, Les. 2003. "Criminal Records and Getting Back into the Workforce: Six Critical Steps for Ex-offenders Trying to Get Back into the Workforce." San Diego, CA: Privacy Rights Clearinghouse. Available at: www.privacyrights.org/ar/rosencrim.htm.

- » Outlines some steps ex-offenders should take in the job search process.

United States Census Bureau. 1999. *Resident Population Estimates of the United States by Age and Sex: April 1, 1990 to November 1, 1999, December 23, 1999*. Washington, DC: Author.

Wycoff, Laura & Dee Wallace. 2008. "Going to Work with a Criminal Record: Lessons from the Fathers at Work Initiative." Philadelphia, PA: Public/Private Ventures. Available at: www.ppv.org/ppv/publications/assets/238_publication.pdf.

- » This report details fundamental lessons on connecting people with criminal records to appropriate jobs and employers, as well as tools to organize your efforts. It also outlines how to avoid mistakes and how to develop important relationships—including with employers, parole officers and the local child support enforcement agency—and provides resumé writing tips and assessment tools for organizations that help ex-offenders looking for work.

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The National Fund for Workforce Solutions

www.nfwsolutions.org

The National Fund for Workforce Solutions is an unprecedented national partnership testing new ways to address a critical problem: the large gap between the skills many workers have and the skills many employers need to compete. In 23 sites across the country, the National Fund works closely with employers and leaders from the public and nonprofit sectors to find solutions, testing how the lessons learned from groundbreaking pilot projects in workforce development can be applied on a national scale. More than 200 foundations and 900 employers are part of the effort.