



Ban the Box and Beyond

Ensuring Individuals with a Criminal Record
Have Access to the Labor Market

By Angela Hanks July 27, 2017

Center for American Progress



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Contents

- 1 Introduction and summary**
- 2 Collateral consequences of mass incarceration**
- 5 Fair chance polices: Ban the box**
- 10 Case study: Ban the box implementation among federal contractors**
- 14 Beyond ban the box: Other fair chance hiring policies are needed**
- 16 Conclusion**
- 17 About the author and acknowledgments**
- 18 Endnotes**

Introduction and summary

Each year, more than 600,000 people¹ are released from federal and state prisons in need of jobs that provide economic security. Research shows that having a job and somewhere to live can reduce the likelihood of recidivism.² Yet returning citizens often face substantial barriers to re-entering the labor market. This is especially true of returning citizens of color, who already face multiple barriers to labor market entry.

Recently, there has been a bipartisan push to unwind the policies that have led to mass incarceration and overcriminalization over the past several decades and to institute hiring policies that mitigate discrimination against individuals with criminal records. Among the most well-known are ban the box policies. These policies require employers to remove the box on a job application that asks about an applicant's criminal record and to hold off on performing a background check until a candidate is under serious consideration for hire.³ Twenty-nine states have adopted ban the box policies to date.⁴

While ban the box policies can help alleviate the effects of having a criminal record, adopting the policy alone is not enough. New evidence suggests that employers could be implementing ban the box more effectively, reducing the likelihood of violating Title VII of the Civil Rights Act, which covers employment discrimination. Additionally, there are so-called fair chance policies beyond ban the box, such as record-clearing, that states, localities, and the federal government should adopt. A comprehensive suite of fair chance hiring policies would ensure that people with criminal records have equitable access to labor market opportunities.

This report first discusses the collateral consequences of mass incarceration and recent progress to reform the U.S. criminal justice system. It then takes an in-depth look at federal, state, and local ban the box policies, before highlighting a case study of ban the box implementation among federal contractors. Finally, the report outlines reforms needed beyond ban the box.

Collateral consequences of mass incarceration

An estimated 1 in 3 adults in the United States has a criminal record.⁵ Decades of tough-on-crime policies led to an unprecedented spike in incarceration rates since the 1980s,⁶ from which the nation is only beginning to recover.⁷ In 1980, for instance, the total correctional population—which encompasses all people under correctional supervision, including individuals on probation or parole—included approximately 1.8 million people. By 2007, the correctional population had quadrupled to more than 7.3 million, according to the Bureau of Justice Statistics. Since then, the correctional population has slowly begun to decline, to 6.7 million in 2015, the lowest level in more than a decade.⁸

Mass incarceration and overcriminalization have been particularly devastating for communities of color. Experts have pointed to policies that have disproportionately targeted people of color,⁹ racial and ethnic bias,¹⁰ and structural disadvantages as major drivers of overrepresentation of people of color in the criminal justice system.¹¹ People of color make up two-thirds of the state and federal prison population,¹² despite accounting for just 39 percent of the U.S. population.¹³ The rate of imprisonment for black men is nearly six times the rate for white men. While incarceration rates are lower among women overall, the rate of imprisonment among black women is twice the rate among white women.¹⁴

People with criminal records face multiple barriers to economic security. A criminal record can prevent individuals from accessing essential services such as affordable housing, food assistance, or education.¹⁵ Mass incarceration has taken a substantial toll on communities and families as well. An estimated 33 million to 36.5 million children in the United States have a parent with a criminal record.¹⁶ Prior research conducted by the Center for American Progress examining the intergenerational effects of criminal records shows how a parent's criminal record can create barriers to a family's income, savings and assets, education, access to housing, and family strength and stability.¹⁷ Likewise, the labor market is often a hostile place for someone with a criminal record. Nearly 60 percent of individuals with criminal records

remain unemployed one year after release.¹⁸ Wide-ranging background check policies can also prevent individuals with criminal records from obtaining occupational licenses necessary to work in certain occupations such as construction and health care, among others.¹⁹ Other people may face challenges that prevent them from being ready for work, such as housing instability, limited education or skills, or substance abuse or other health challenges.²⁰

A criminal record inquiry on a job application can be a major barrier to employment. According to a recent study, employers that ask applicants whether they have a criminal record are 63 percent more likely to call back the applicants that do not have a record.²¹ For people of color—who represent a disproportionate number of the formerly incarcerated—the odds of employment are even worse: For example, African Americans with a criminal record are 50 percent less likely to get a call back or an employment offer than white people with a criminal record.²²

Ensuring that returning citizens have access to stable, quality employment upon release is in the best interest of both individuals and society. A 2008 Urban Institute study found that individuals who earned more than \$10 per hour two months after release were half as likely to recidivate, at 8 percent, than individuals making \$7 per hour, at 16 percent. By comparison, individuals who were unemployed two months after release had a 23 percent probability of re-incarceration.²³ Additionally, according to the Federal Reserve Bank of Minneapolis, helping people with criminal records find employment has “positive secondary effects that accrue to society in the form of reduced incarceration costs, increased income and payroll tax receipts, lessened reliance on social services (e.g., Medicaid, food stamps, etc.), and decreased crime, among others.”²⁴

Recent progress to reform the criminal justice system

Policymakers have begun to take steps to reverse the policies that led to mass incarceration and establish new policies that help people who have been incarcerated fully re-enter their communities. Much of the work on criminal justice reform, such as sentencing and fair chance hiring reforms, has progressed on a bipartisan basis.²⁵

At the federal level, members of Congress have introduced several pieces of bipartisan legislation to reform the criminal justice system. In 2015, for example, the Fair Chance to Compete for Jobs Act, or the Fair Chance Act, was introduced by Sens. Cory Booker (D-NJ), Ron Johnson (R-WI), and Tammy Baldwin (D-WI).

The bill would prohibit the federal government and federal contractors from inquiring about an applicant’s criminal record until a conditional offer of employment is made.²⁶ Although it was not brought up for a final vote in the 114th Congress,²⁷ it has since been reintroduced in the 115th Congress and was unanimously passed out of committee.²⁸

In 2015, former President Barack Obama announced a series of administrative actions aimed at dismantling barriers to education, affordable housing, health care, and employment for people with criminal records.²⁹ Administrative actions included providing new grant funding to support re-entry education, issuing guidance clarifying how arrests may be used in determining whether an individual can reside in public and other U.S. Department of Housing and Urban Development (HUD) housing as well as establishing a National Clean State Clearinghouse that offers technical assistance on record-clearing to local legal services providers.³⁰

States have been leading on the implementation of fair chance policies as well.³¹ Connecticut Gov. Dannel Malloy’s (D) Second Chance Society, a multi-pronged criminal justice reform initiative, has focused efforts on both reducing incarceration rates and helping people involved with the justice system reintegrate into their communities.³² Since 2015, the state has worked to eliminate mandatory minimum sentences for minor drug offenders, expedite the parole and pardon processes, and support job training initiatives.³³ The state also opened a corrections unit for young adults to prepare them for successful re-entry.³⁴ More recently, Gov. Malloy put forth a legislative package aimed at reforming the state’s bail system and making elements of the juvenile justice system—such as limits on incarceration periods and automatic records sealing—available to young adults ages 18 to 20.³⁵

Similarly, Pennsylvania recently made progress to advance³⁶ bipartisan clean slate legislation that would ensure automatic sealing of certain minor criminal records if the individual is not subsequently convicted of a felony or misdemeanor within a certain time period.³⁷ And Pennsylvania Gov. Tom Wolf (D) recently announced that Philadelphia will ban the box on all noncivil service employment applications.³⁸

While this progress is encouraging, there is still much more work to be done to ensure that individuals with criminal records have full access to the labor market and basic services.

Fair chance polices: Ban the box

Policymakers and advocates have supported several policy changes as well as best practices for employers that will allow people with criminal records to receive fair consideration for employment. These include policies that support record-clearing through seal or expungement; bans on employers inquiring about arrests that do not result in conviction; or employer best practices such as allowing applicants to provide evidence of rehabilitation or to review their background checks for accuracy.

Over the past two decades, so-called ban the box policies have grown in popularity among localities, states, and the federal government.

Broadly speaking, the purpose of ban the box is to help people with criminal records more easily access the labor market by removing a key barrier: the box on an employment application that requires applicants to disclose their criminal history. Checking this box can lead to an application's immediate rejection before an employer even reviews an applicant's qualifications. Ban the box does not prohibit employers from inquiring about criminal records entirely; rather, it delays the inquiry until later in the process, once employers have had an opportunity to assess applicants on their merits. This policy can help ensure that employers do not discriminate against people who have a criminal record during the hiring process.

Federal, state, and local ban the box policies

To date, more than 150 cities and counties as well as 29 states have implemented ban the box laws and policies.³⁹ The majority of these policies and laws apply only to public sector employers, such as state and local government agencies, but they may apply to government contractors and private sector employers as well. Nine states and 30 cities have ban the box policies that apply to public sector employers and government contractors.⁴⁰ Nine states and 15 cities and counties have extended ban the box to cover private sector employers as well, covering roughly 20 percent of the nation's total workforce.⁴¹

Banning the box in Hawaii

In 1998, Hawaii became the first state to pass ban the box legislation.⁴² The law, still considered one of the nation's most robust, prevents both public and private employers from making a criminal record inquiry before making a conditional offer of employment. The law further requires that the employer can only rescind the offer if there is a "rational relationship" between the conviction and the prospective employee's position. The law does allow for exemptions for certain classes of employment, such as health care and security. Recent research has shown that the law has been effective in reducing recidivism rates.⁴³

The federal government has also weighed in, establishing guidelines for employers across the country and implementing policies aimed at federal agencies and federal contractors. In 2015, then-President Obama signed a presidential memorandum directing the Office of Personnel Management (OPM) to ban the box for federal hiring of employees.⁴⁴ The OPM issued a proposed rule governing the policy in April 2016⁴⁵ that was finalized in December 2016.⁴⁶ The rule prohibits federal agencies from making criminal inquiries until an applicant has been extended a conditional offer. Agencies are permitted to pursue exceptions from the OPM if there is a legitimate reason related to the position that criminal history should be inquired about earlier in the process.⁴⁷ While the rule only applies to federal agencies, it is an important first step toward ensuring that the federal government is a leader on fair chance hiring, setting an example for other employers across the country, including federal contractors.

As the National Employment Law Project has documented, ban the box policies vary across states and localities. For instance, state and local policies differ in terms of what positions require a background check, when the background check is used in the hiring process, what opportunities are available for notice or appeal, and whether a policy adheres to federal guidance. This is discussed in further detail in the next section.⁴⁸

In 2012, the federal Equal Employment Opportunity Commission (EEOC) updated its existing guidance on employer consideration of arrests and convictions during the hiring process. The EEOC is responsible for enforcing Title VII of the Civil Rights Act, which prohibits employment discrimination based on race, color, religion, sex, or national origin.⁴⁹ An employer potentially violates Title VII when they are found to have engaged in disparate treatment or when their policies have a disparate impact on individuals protected under Title VII.

Although Title VII does not directly address criminal records the EEOC has weighed in to “eliminate unlawful discrimination in employment screening, for hiring or retention, by entities covered by Title VII, including private employers, as well as federal, state, and local governments.” This is because criminal background checks, such as other employment screening policies, have a disproportionate discriminatory effect on people of color and others who are protected by Title VII. The guidance seeks to ensure that individuals protected under Title VII, who typically experience higher rates of arrest and incarceration, are not subject to disparate treatment or impact in the employment process.⁵⁰

According to the EEOC, an employer is potentially liable for a Title VII violation when the employer’s neutral screening or hiring policy disproportionately excludes a group protected by Title VII as well as if the employer fails to show that its policy or practice is “job related for the position in question and consistent with business necessity.”⁵¹ The updated EEOC guidance therefore does the following:

Arrests

- Because an arrest by itself does not prove criminal conduct, except in rare situations where the employer can prove that the underlying conduct occurred, the use of arrests will likely violate Title VII, according to the EEOC.

Convictions

- Title VII, as described by the EEOC guidance, requires employers to conduct a case-by-case analysis of an individual’s record, taking into account the age of the conviction; the nature and gravity of the offense; and whether the offense is related to the specific position. Thus, blanket restrictions against hiring anyone with a misdemeanor or felony record will likely violate Title VII.
- In order to avoid liability under Title VII, the EEOC guidance also urges employers to conduct an “individualized assessment,” whereby the employer notifies the applicant that they may be excluded because of their criminal record and allows the applicant to present evidence to the employer that the exclusion should not apply.

Equal Employment Opportunity Commission v. BMW Manufacturing Co., LLC

In 2013, the EEOC filed suit against BMW, alleging that the company had violated its employees' Title VII rights. According to the complaint, after BMW brought on a new logistics contractor, logistics employees were required to reapply to retain their jobs. Acting as a joint employer, BMW then directed the subcontractor to perform criminal background checks on all of the employees as part of the re-employment process. At the time, BMW had a policy excluding people who had been convicted of certain crimes from employment, regardless of how long ago the conviction had taken place.⁵² Eighty percent of the incumbent workers who lost their jobs as a result of the background check policy were black. In 2015, BMW entered into a consent decree with the EEOC, agreeing to pay \$1.6 million and provide employment opportunities to the workers who were denied re-employment.⁵³

In addition to setting forth the Title VII standards described above, which are based largely on criminal background check cases decided before the courts, the EEOC guidance provides a set of best practices for employers to follow. For example, the guidance recommends that an employer wait until the end of the hiring process to ask about conviction history to help ensure that employers do not violate Title VII. In practice, fewer than half of the states, counties and cities with ban the box policies follow the EEOC individualized assessment criteria.⁵⁴ Employers who do not comply run a greater risk of violating Title VII, and the EEOC has brought litigation in recent years against employers who have done so in this context.

EEOC employer best practices

The following are examples of best practices for employers who are considering criminal record information when making employment decisions.

General

- Eliminate policies or practices that exclude people from employment based on any criminal record.
- Train managers, hiring officials, and decision-makers about Title VII and its prohibition on employment discrimination.

Developing a policy

- Develop a narrowly tailored written policy and procedure for screening applicants and employees for criminal conduct.
 - Identify essential job requirements and the actual circumstances under which the jobs are performed.
 - Determine the specific offenses that may demonstrate unfitness for performing such jobs.
 - Identify the criminal offenses based on all available evidence.
 - Determine the duration of exclusions for criminal conduct based on all available evidence.
 - Include an individualized assessment.
 - Record the justification for the policy and procedures.
 - Note and keep a record of consultations and research considered in crafting the policy and procedures.
- Train managers, hiring officials, and decision-makers on how to implement the policy and procedures consistent with Title VII.⁵⁵

In 2013, following the issuance of the EEOC guidance, the Department of Labor Office of Federal Contract Compliance Programs, (OFCCP) issued Directive 306, “Complying with Nondiscrimination Provisions: Criminal Record Restrictions and Discrimination Based on Race and National Origin.”⁵⁶ The directive clarified that the EEOC guidance applies to federal contractors, in order to ensure compliance with anti-discrimination and affirmative action obligations under Executive Order 12466. This order prohibits discrimination unlawful under the Civil Rights Act by federal contractors.⁵⁷ The OFCCP also noted in the directive that it was aware that some federal contractors had blanket bans that bar anyone with a criminal record from employment consideration, and that those policies likely violate Title VII.⁵⁸ The directive was a crucial step for the OFCCP because it clarified that contractors must comply with the EEOC guidance in order to meet their nondiscrimination obligations. It also made contractors aware of the best practices the EEOC laid out in the guidance as well.

Case study: Ban the box implementation among federal contractors

The Center for American Progress recently commissioned the Equal Rights Center (ERC) to conduct an analysis to assess whether and how federal contractors are complying with Directive 306. In addition to background research on the fair chance hiring policies of top federal contractors, the ERC used matched-pair resume testing to probe how applicants were treated in the application process. The project's major finding was that the companies tested had inconsistent policies regarding criminal record inquires in the hiring process, indicating that many companies have not fully implemented the policies outlined in the EEOC guidance.

Methodology

The ERC identified the 100 largest federal contractors, as recognized by the Federal Procurement Data System (FPDS),⁵⁹ then conducted online research to obtain criminal-record-related hiring policies for the top 50 companies, measured by total federal dollars obligated to each firm annually. From that group of 50, one was eliminated due to limited job availability, and another was eliminated because the ERC was unable to create a resume, as the job postings lacked job descriptions. Two others were eliminated because they were owned by or affiliated with a company that already appeared on the list. The ERC went to the next four companies on the FPDS list to replace these firms, one of which was subsequently eliminated due to challenges in submitting resumes before jobs were no longer available. This took the number of firms tested down to 49.

The ERC then sent resumes to the selected companies to conduct matched-pair testing, a method by which two applicant profiles are created that are similar in every respect except one. The only distinction between the two applicants was that the test application indicated that the applicant had some criminal history,

while the control application did not. The profiles were created to be suitable for entry-level jobs, so both indicated that the applicant was in their early to mid-twenties and had an associate's degree. After the ERC submitted resumes, it monitored voicemail and email accounts created as part of the study for 45 days. Tests were terminated after the 45-day monitoring period.

Of the 49 companies tested, six required applicants to disclose their criminal history on their job application—this finding is discussed in more detail below. As such, the ERC directly disclosed on the application whether the applicant had a criminal record. Among the remaining companies, the ERC indirectly disclosed an applicant's criminal history by indicating on some resumes that the applicant had a year or more gap in employment and a GED diploma.⁶⁰ Alternatively, the ERC's applicant profile indicated that the applicant had spent some period of time employed by the state in a customer service position in a city where a minimum-security prison is located and had a subsequent three-month gap on their resume.⁶¹ The ERC tracked responses to each application for 30 days or until an in-person response was required by employers, whichever occurred sooner.

Employers that received resumes were not notified either before or after the testing that the resume testing was taking place.

Findings

The most notable finding the ERC and CAP encountered while evaluating each company's process for inquiring about applicants' criminal history was that contractors are inconsistent in their application of ban the box policies. Among the 50 contractors studied:

- Only six inquired directly about criminal history on the application.
- All the companies had nondiscrimination policies available on their website, but none addressed criminal records in their nondiscrimination policies.
- Nearly two-thirds had publicly available background check policies, but only 19 companies—more than half—addressed criminal records in those policies.

In their nondiscrimination and background check policies, 10 contractors just indicated that the background check would include a check for a criminal record. Nine contractors noted that an employment offer would be conditioned on a criminal background check, indicating that the check would likely take place later in the hiring process, which is consistent with fair chance hiring practices.

Six contractors, however, required applicants to disclose their criminal history during the application process, inconsistent with fair chance hiring policies. In each instance, the application only asked the applicant if they had a criminal record. None of the six companies specified what interactions with the criminal justice system required disclosure. For example, none made a distinction between arrests and convictions. In one instance, a contractor indicated that a background check would be run at the conditional offer stage, yet the company also stated that failure to disclose a felony conviction later uncovered by a criminal background check would be considered in the final employment decision. Similarly, another company advised applicants not to disclose a criminal record, yet the online application portal required applicants to select “yes” or “no” from a drop-down menu to indicate whether they had a criminal record. Applicants could not move on to the next phase of the application without answering the question.

In the course of testing, none of the 49 companies studied allowed applicants the opportunity to supply either supplementary information or other documentation to explain their criminal history. Nor did any of the companies have a publicly available policy permitting applicants to review their background checks or supply evidence of rehabilitation. Our analysis did not turn up any company out of the 49 tested that publicly indicated that it imposed a blanket ban on people with criminal records, though across the board and as noted above, it was extremely difficult to obtain information about what companies’ policies were in relation to criminal records before applying to jobs. Moreover, it is unlikely that any company would publicly disclose that it had a blanket policy to ban individuals with criminal records.

Another consistency across each of the companies tested was that the application process was difficult to navigate in regard to criminal records. Companies often did not fully explain their criminal record related policies upfront, requiring applicants to go through the entire application process to find out whether or how their criminal record might be treated. Employers were also unclear about what a criminal records check would entail, failing to list whether the inquiry would cover both convictions and arrests or misdemeanors in addition to felonies. Employers were similarly vague about or did not address when in the application process a criminal records inquiry would take place. This lack of clarity on how criminal records are handled puts an undue burden on applicants, who may go through the entire application process only to find out at the end that their arrest or conviction record disqualifies them from employment consideration.

Our analysis also suggests that contractors may not recognize the policies outlined in the EEOC guidance and in Directive 306 as nondiscrimination policies, even though the stated purpose of the directive is, in part, to provide federal contractors and subcontractors information about “the circumstances in which exclusions of applicants based on their criminal records may violate existing nondiscrimination obligations.”⁶² While all contractors listed nondiscrimination policies on their website, none of those policies addressed criminal records. As noted above, the EEOC established the 2012 guidance to prevent civil rights violations in the employment process. Furthermore, the OFCCP has been clear that the purpose of its directive is to help contractors and subcontractors comply with nondiscrimination provisions, including the EEOC guidance. Whether criminal records should be addressed in companies’ nondiscrimination policies, in order to provide clarity to applicants, is a question for further debate.

Perhaps most importantly, our analysis suggests that employers need to take greater care to implement fair chance policies effectively. To that end, employers should adopt the best practices that the EEOC has identified. States can play a role as well. For example, the Council of State Governments facilitates peer networks and information exchanges on re-entry.⁶³ A similar network, either between employers or states themselves, could be devised to share best practices. As documented above, contractors are either uncertain how to implement the EEOC guidance fully or disregarding it, both of which can open them up to Title VII liability, as well as create a confusing or potentially discriminatory process for job applicants.

Beyond ban the box: Other fair chance hiring policies are needed

Our research strongly indicates that there is still more work to be done to implement ban the box policies in the federal agencies, states, and localities that have adopted them, as well as among contractors for whom guidance has been issued. Moreover, it suggests that other critical fair chance hiring policies are not receiving the same level of consideration among employers.

While ban the box can help individuals with criminal records access the labor market, it is not the only tool available. Two recent studies help illustrate why ban the box should be just one element of a multi-pronged strategy to remove barriers to employment that people with criminal records face. In 2016, ban the box came under scrutiny following two studies that found that racial disparities in callbacks grew after employers banned the box.⁶⁴ In one study, researchers hypothesized that ban the box gave an advantage to white applicants with a criminal record and put black applicants at a disadvantage, because employers were more likely to assume that black applicants had a criminal record in the absence of any disclosure.⁶⁵ The authors suggested that ban the box itself was responsible for breeding greater racial or ethnic discrimination, a conclusion that should be viewed with skepticism. These studies posit that the answer to such discrimination is to eliminate ban the box policies, rather than addressing the underlying discrimination that Title VII-protected groups face. A more careful reading of these studies shows that they reveal the extent to which people of color experience labor market discrimination based on their race or ethnicity. Furthermore, the EEOC guidance was clear that such behavior is a violation of Title VII, suggesting that greater civil rights enforcement is likely the correct response—not abandoning ban the box policies wholesale.⁶⁶

For ban the box to be most effective, however, employers must have a better understanding of how to implement the policy successfully. Moreover, states, localities, and the federal government should seek to adopt a multi-pronged approach to fair chance hiring, implementing policies that address the numerous barriers to employment that people with criminal records face.

Next steps to further implement fair chance policies may include the following for states, localities, and the federal government and for employers:

States, localities, and the federal government

- Adopt ban the box legislation in states that have not already adopted it
- Establish ban the box policies that cover both public and private employers
- Increase employment opportunities for returning citizens
- Implement legislation or guidance on expungement and record-sealing
- Ensure returning citizens have access to essential supportive services
- Facilitate peer-to-peer networks to help employers devise, share, and implement EEOC best practices

Employers

- Allow applicants to more easily review their background checks for accuracy
- Allow applicants to provide evidence of rehabilitation or mitigation, such as evidence of compliance with their terms of probation or parole or letters from community members⁶⁷
- Fully adopt EEOC best practices

Finally, further research is needed to evaluate the effects of ban the box and other fair chance policies to ensure that they are implemented in a manner that creates greater employment opportunities for all individuals with a criminal record.

Guaranteeing jobs for returning citizens in New York City

In March 2017, New York City Mayor Bill de Blasio (D) announced a new \$10 million “Jails to Jobs” program that would guarantee employment for 8,500 returning citizens in city jails upon their release. Former inmates would have access to minimum wage jobs⁶⁸—jobs that currently pay \$10.50-\$11 an hour in New York City⁶⁹—that will last up to 8 weeks.⁷⁰ Program participants will be paired with a peer navigator, who will help them achieve stability after incarceration. The mayor also announced that under the plan, all workforce providers will be trained on laws and policies related to working with individuals with criminal records, including the city’s Fair Chance Act.⁷¹ Mayor de Blasio has promoted the plan as an effort to reduce recidivism, citing a 2012 U.S. Department of Health and Human Services study that found that short-term transitional jobs can decrease recidivism by 22 percent.⁷²

States, localities, and the federal government should take these affirmative steps to ensure that people with criminal records have access to the labor market, and they should also continue to evaluate what other policy changes are needed to remove obstacles to labor market entry and success.

Conclusion

Far too often, a criminal record is a permanent obstacle to economic security. This is especially true for communities of color, who have disproportionately felt the effects of mass incarceration and overcriminalization. But it doesn't have to be that way. Thoughtful, well-executed reforms can ease access to the labor market for people with criminal records. These fair chance hiring policies, including ban the box, can ensure that employers evaluate candidates not on their criminal history but instead on their ability to do their jobs successfully.

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