



June 9, 2016

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**Support the "Fair Chance Act," Amendment 4337 to the National Defense
Authorization Act, S. 2943**

Dear Senator:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 200 national organizations to promote and protect the civil and human rights of all persons in the United States, we urge you to support Amendment 4337, The Fair Chance to Compete for Jobs Act, to the National Defense Authorization Act (NDAA), S. 2943. This bipartisan Amendment, co-sponsored by Senators Johnson, Baldwin, Ernst, Brown, Portman, and Peters, would require the federal government and federal contractors to postpone a request for criminal history information from job applicants until the applicant has received a conditional offer of employment.

Currently, an estimated 70 million adults have arrests or convictions that will show up on routine background checks.¹ Although considerable strides have been taken to ensure that civil rights laws are being upheld and to provide guidance to employers on the appropriate use of background check information, many employers continue to utilize blanket prohibitions and questions regarding criminal history to exclude persons with prior records from employment before even considering those individuals' actual job qualifications. A study conducted in New York City demonstrated that a disclosure of a criminal record of an otherwise qualified applicant can reduce the likelihood of a callback or job offer by nearly 50 percent.² Such hiring practices often have an even more acute impact on individuals from low-income communities of color, due to the racial profiling and discriminatory practices that persist at all stages of the justice system.

A 2011 study found that employment is the single most important influence in decreasing recidivism.³ Without a job, it is virtually impossible for a formerly incarcerated person to rebuild his or her life. Laws and policies that prevent people with records from a fair shot at employment only exacerbate the challenges of reentry. Reducing barriers to employment for

¹ MAURICE Emsellem & Michelle Natividad Rodriguez, NATIONAL EMPLOYMENT LAW PROJECT, ADVANCING A FEDERAL FAIR CHANCE HIRING AGENDA (Jan. 2015), available at <http://www.nelp.org/page/content/Federal-Fair-Chance-Hiring-Agenda/>.

² Devah Pager, Bruce Western & Naomi Sugie, SEQUENCING DISADVANTAGE: BARRIERS TO EMPLOYMENT FACING YOUNG BLACK AND WHITE MEN WITH CRIMINAL RECORDS, 623(1) Ann Am Acad Pol Soc Sci. 195, 198 (2013) (Author Manuscript), available at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3583356/pdf/nihms-439026.pdf>.

³ Mark T. Berg & Beth M. Huebner, REENTRY AND THE TIES THAT BIND: AN EXAMINATION OF SOCIAL TIES, EMPLOYMENT, AND RECIDIVISM, 28 Just. Q. 382 (2010), available at <http://www.tandfonline.com/doi/full/10.1080/07418825.2010.498383>.



formerly incarcerated people also helps the economy and improves public safety. Economists have estimated that U.S. GDP was reduced by as much as \$65 billion in 2008 alone due to the poor job prospects of formerly incarcerated individuals.⁴

Many states and private employers have already embraced fair chance hiring initiatives. More than 100 jurisdictions, including 23 states, the District of Columbia, and more than 100 cities and counties, have adopted “ban the box” and other fair chance hiring reforms. Major U.S. corporations, such as Home Depot, Target Corporation, Starbucks, Walmart, and Koch Industries, have also joined the movement by instituting fair hiring policies.

Amendment 4337 would apply the same fair chance principles to hiring by the federal government and federal contractors. The Amendment does not prevent federal agencies or federal contractors from considering criminal history; it only delays consideration of criminal history so that all applicants are afforded a fair chance at consideration for employment. Amendment 4337 includes exceptions for positions related to law enforcement and national security duties, positions requiring access to classified information, and positions for which access to criminal history before the conditional stage is required by law.

We urge you to support this common sense Amendment, which will provide millions of Americans with equal access to federal employment opportunities, and set an example for states and private employers to adopt fair chance policies that relieve workplace reentry barriers.

Thank you for your consideration. If you have any questions, please contact Sakira Cook, Counsel, at cook@civilrights.org or (202) 263-2894.

Sincerely,

Wade Henderson
President & CEO

Nancy Zirkin
Executive Vice President

⁴ JOHN SCHMITT & KRIS WARNER, CTR. FOR ECON. AND POLICY RESEARCH, EX-OFFENDERS AND THE LABOR MARKET 1 (Nov. 2010), available at <http://www.cepr.net/documents/publications/ex-offenders-2010-11.pdf>.