



April 5, 2017

## Support “The Fair Chance to Compete for Jobs Act of 2017”

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 The Fair Chance to Compete for Jobs Act of 2017 (The Fair Chance Act). This bipartisan legislation would require the federal government and federal contractors to postpone a request for arrest or conviction history information from job applicants until the applicant has received a conditional offer of employment.

Each year, nearly 700,000 people are released from American prisons, and an estimated 9 million are released from jails.<sup>1</sup> Once released, formerly incarcerated people face a myriad of barriers to successfully re-entering society. Most are not allowed to vote, have little access to education, face limited job opportunities, and are ineligible for public benefits, public housing and student loans. These obstacles have a profoundly negative effect on millions of American families and make it practically impossible for millions of people who are returning home to be the engaged, responsible citizens we say we want them to be. Securing and holding employment is imperative to successful re-entry, but qualified job seeking people with arrest or conviction histories struggle against immense odds to do so. Today, seventy million adults living in the United States – almost one in three adults – has an arrest or conviction history that will show up on a routine criminal background check.<sup>2</sup> More than 90 percent of companies use background checks in their hiring decisions, putting jobs further out of reach for the one in three adults who are living with a record.<sup>3</sup>

Although there have been considerable efforts to provide guidance to employers on the appropriate use of background check information consistent with civil rights laws, many employers continue to utilize blanket prohibitions and questions regarding arrest or conviction 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.<sup>4</sup> 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 factor in decreasing recidivism.<sup>5</sup> 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

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employment only exacerbate the challenges of reentry. Reducing barriers to employment for 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.<sup>6</sup>

Many states and private employers have already embraced fair chance hiring initiatives. More than 150 cities and counties, including 25 states and the District of Columbia, have adopted “ban the box” and other fair chance hiring reforms.<sup>7</sup> Major U.S. corporations, such as Home Depot, Target Corporation, Starbucks, Walmart, and Koch Industries, have also instituted fair hiring policies.<sup>8</sup>

The Fair Chance Act would apply the same fair chance principles to hiring by the federal government and federal contractors. It 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. It 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 legislation, 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 polices that relieve workplace reentry barriers. Thank you for your consideration. If you have any questions, please contact Sakira Cook, Counsel, at [cook@civilrights.org](mailto:cook@civilrights.org) or (202) 263-2894.

Sincerely,



Wade Henderson  
President & CEO



Nancy Zirkin  
Executive Vice President

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<sup>1</sup> See “Facts and Trends.” *The Council of State Governments National Reentry Resource Center*.  
<http://csgjusticecenter.org/nrrc/facts-and-trends/>

<sup>2</sup> See McGinty, Jo Craven. “How Many Americans Have a Police Record? Probably More than You Think.” *The Wall Street Journal*. Aug. 7, 2015. <http://www.wsj.com/articles/how-many-americans-have-a-police-record-probably-more-than-you-think-1438939802>.

<sup>3</sup> See Rodriguez, Michelle Natividad and Emsellem, Maurice. “65 Million Need Not Apply.” *The National Employment Law Project*. Mar. 2011.  
[http://www.nelp.org/content/uploads/2015/03/65\\_Million\\_Need\\_Not\\_Apply.pdf](http://www.nelp.org/content/uploads/2015/03/65_Million_Need_Not_Apply.pdf).

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<sup>4</sup> See Pager, Devah and Western, Bruce and Sugie, Naomi. "Sequencing Disadvantage: Barriers to Employment Facing Young Black and White Men with Criminal Records." *National Institutes of Health*. May 2009. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3583356/pdf/nihms-439026.pdf>.

<sup>5</sup> See Berg, Mark T. and Huebner, Beth M. "Reentry and the Ties That Bind: An examination of Social Ties, Employment, and Recidivism." *Justice Quarterly*. July 30, 2010. <http://www.tandfonline.com/doi/full/10.1080/07418825.2010.498383>.

<sup>6</sup> See Schmitt, John and Warner, Kris. "Ex-Offenders and the Labor Market." *Center for Economic and Policy Research*. Nov. 2010. <http://www.cepr.net/documents/publications/ex-offenders-2010-11.pdf>.

<sup>7</sup> See Rodriguez, Michelle Natividad and Avery, Beth. "Ban the Box: U.S. Cities, Counties, and States Adopt Fair Hiring Policies." *The National Employment Law Project*. Feb. 2017. <http://www.nelp.org/publication/ban-the-box-fair-chance-hiring-state-and-local-guide/>.

<sup>8</sup> See "FACT SHEET: Fair Chance Hiring." *The Leadership Conference on Civil and Human Rights*. Mar. 27, 2017. [http://civilrightsdocs.info/pdf/criminal-justice/Fair\\_Chance\\_Hiring.pdf](http://civilrightsdocs.info/pdf/criminal-justice/Fair_Chance_Hiring.pdf).