



February 12, 2019

The Honorable Ron Johnson  
Chairman, Homeland Security & Governmental Affairs  
United States Senate  
Washington, D.C. 20510

The Honorable Gary Peters  
Ranking Member, Homeland Security & Governmental Affairs  
United States Senate  
Washington, D.C. 20510

**Support S. 387 (Fair Chance to Compete for Jobs Act of 2019)**

Dear Chairman Johnson and Ranking Member Peters:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 200 organizations to promote and protect the rights of all persons in the United States, The National Employment Law Project, and the American Civil Liberties Union, we urge you to support S. 387, the “Fair Chance to Compete for Jobs Act of 2019” (or “Fair Chance Act of 2019”). S. 387 is bipartisan legislation that 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. Companion legislation, H.R. 1076, has been introduced in the House with bipartisan support.

Currently, an estimated 70 million adults have arrests or convictions that will show up on routine background checks.<sup>i</sup> 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 by an otherwise qualified applicant can reduce the likelihood of a callback or job offer by nearly 50 percent.<sup>ii</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.

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. A 2011 study found that employment is the single most important influence in decreasing recidivism.<sup>iii</sup> 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 \$78 billion in 2014 alone due to the poor job prospects of formerly incarcerated individuals.<sup>iv</sup>

Many states and private employers have already embraced fair chance hiring initiatives. Thirty-two states and the District of Columbia, and more than 150 cities and counties, have adopted “ban the box” and other fair chance hiring reforms, including a dozen states that extend the policy to most private sector employers. 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. In addition, final regulations issued by the Office of Personnel Management in 2016 extended fair chance hiring policies to most federal agencies, prohibiting a hiring agency from making specific inquiries in regard to arrest, conviction, or credit background until the hiring agency has made a conditional offer of employment to the applicant.<sup>v</sup>

S. 387 would apply the same fair chance principles to hiring by the federal government and federal contractors. The legislation 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. S. 387 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.

Your support for the Fair Chance Act of 2019 is critical. 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 policies that relieve workplace reentry barriers.

Thank you for your consideration. If you have any questions, please contact Sakira Cook, Leadership Conference Program Director, at [cook@civilrights.org](mailto:cook@civilrights.org) or (202) 263-2894.

Sincerely,

The Leadership Conference on Civil and Human Rights  
The National Employment Law Project  
American Civil Liberties Union

Cc: Members of Homeland Security and Governmental Affairs Committee

<sup>i</sup> Maurice Emsellem & Michelle Natividad Rodriguez, Advancing a Federal Fair Chance Hiring Agenda, NATIONAL EMPLOYMENT LAW PROJECT (Jan. 2015), <http://www.nelp.org/page/content/Federal-Fair-Chance-Hiring-Agenda/>.

<sup>ii</sup> <http://cepr.net/images/stories/reports/employment-prisoners-felonies-2016-06.pdf?v=5> (p. 3)

<sup>iii</sup> <http://www.tandfonline.com/doi/full/10.1080/07418825.2010.498383>

<sup>iv</sup> <http://www.cepr.net/documents/publications/ex-offenders-2010-11.pdf> (p. 1)

<sup>v</sup> <https://www.hireimage.com/wp-content/uploads/Final-Rule-Act.pdf>