



ISSUE BRIEF | Center for the American Worker & Center for Opportunity Now

SECOND CHANCE OCCUPATIONAL LICENSING REFORM

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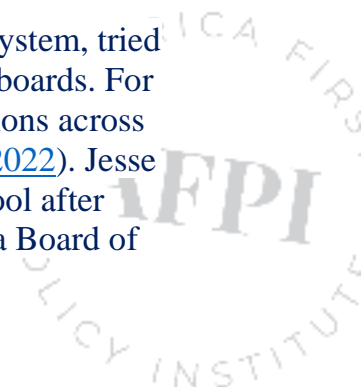
TOPLINE POINTS

- Most states have laws on the books making it more difficult for ex-offenders to earn occupational licenses—even if they have been rehabilitated or if they committed the crime many years earlier.
- Employment for ex-offenders is critical for reducing recidivism rates and is a partial solution for the widespread worker shortages facing many industries.
- States have many opportunities to reform their occupational licensing processes to make it easier for ex-offenders to become productively employed, taxpaying citizens.

Introduction

The ability to secure productive employment is one of the most important parts of re-integrating ex-offenders back into society. However, many states and occupational licensing boards make it unnecessarily difficult for those who have a criminal background to earn any occupational license. Nearly 25% of Americans are required to hold an occupational license to work in their chosen field ([Institute for Justice, 2022](#)), and preventing ex-offenders from earning a license shuts them out from many career options. As a result, ex-offenders have a harder time making an honest living and providing for their families without resorting to crime, which increases recidivism rates.

Heartbreaking stories abound of those who have entered the criminal justice system, tried to turn their lives around, and been denied that opportunity by state licensing boards. For those who have been convicted of a crime, there are more than 25,000 limitations across all states for occupational and business licensure ([Mitchell and Palagashvili, 2022](#)). Jesse Wiese, who spent seven years in prison, successfully graduated from law school after serving his sentence only to be repeatedly denied a law license by the Virginia Board of



Bar Examiners ([Mathewson, T., 2023](#)). A cosmetologist in Pennsylvania needed to hire a lawyer when her cosmetology license was revoked in 2017 due to a prior drug conviction ([Nerbovig, A., 2018](#)). A childcare provider in Wisconsin lost her license after a mistake resulted in her receiving \$294 more in public assistance than she had qualified for—despite the fact that this misdemeanor conviction had occurred 30 years earlier ([Avery, B., 2016](#)).

The majority of the criminal justice process, as well as occupational licensing laws and regulations, take place at the state level. States have the ability to protect public safety while also ensuring that ex-offenders are able to effectively reintegrate into society, without unnecessary licensing barriers holding them back.

Recidivism in the U.S.

Public safety is, and always should be, a top priority for policymakers. Prisons in America serve a necessary and important role in keeping our communities safe and holding criminals accountable. However, parts of America's criminal justice system operate inefficiently and ineffectively. This is most evident when looking at the recidivism rates in the U.S. Recidivism is the technical term for a relapse of criminal behavior—when someone who previously committed a crime, and was arrested, convicted, and punished for it, then commits a new crime within three years.

In the U.S., nearly two million individuals are currently in prisons and jails ([Dept. of Justice, 2022](#)). Additionally, 4.5 million Americans are on probation or parole, and more than 77 million Americans have a criminal record ([Ferguson, 2022](#)).

More than 95% of the U.S. prison population is eventually released and re-enters society ([James, 2015](#)). However, odds of repeat criminality are quite high. In a U.S. Department of Justice study that tracked recidivism patterns for released inmates over nine years, around 68% of those who were formerly incarcerated were rearrested within three years, 79% were rearrested within six years, and 83% were rearrested within nine years ([Alper et al., 2018](#)). High levels of recidivism demonstrate that the U.S. is lacking effective mechanisms for rehabilitating offenders.

Recidivism is not only dangerous for communities—as it means an increase in crimes committed—but also costly to American taxpayers. In total, the criminal justice system costs the U.S. more than \$270 billion annually ([Council of Economic Advisors, 2018](#)). A deeper dive into the data of just one individual state evaluates the isolated costs of recidivism. Illinois is about average in recidivism and incarceration rates compared to the rest of the country, so it provides a good case study. According to a report from the Illinois Sentencing Policy Advisory Council (SPAC), the average recidivism event costs \$151,662, when looking at the combined cost to the taxpayer, cost to victims, and indirect



costs ([Illinois SPAC, 2018](#)). The SPAC report estimated that just one year of recidivism in Illinois costs the state \$1.5 billion, and over five years, the costs accumulate to an estimated \$13 billion ([Illinois SPAC, 2018](#)).

Second Chance Hiring Reduces Recidivism Rates

One mechanism that has been proven time and time again to reduce recidivism rates and strengthen the U.S. workforce is second chance hiring. Second chance hiring is the practice of hiring individuals with a criminal background. Today, many large companies, including Home Depot, Best Buy, and American Airlines, engage in the practice of second chance hiring. There were 8.8 million job openings in the U.S. in November 2023 ([Bureau of Labor Statistics, 2024](#)) and 77 million Americans with a criminal record, so second chance hiring can be a mutually beneficial practice for both employers and ex-offenders ([Bureau of Labor Statistics, 2023b](#)). However, despite many companies engaging in second chance hiring, ex-offenders still face many barriers to become meaningfully employed in a career field of their choice. Research shows that these barriers are a major contributor to recidivism rates.

Data regarding how much recidivism rates decline due to employment varies, but many studies show a significant drop. Former inmates who stay employed for one year are about 35% less likely to return to jail than those who don't work ([The Sentinel Echo, 2018](#)). A 2022 study from the North Carolina Department of Commerce revealed those in the study cohort who found employment soon after leaving prison were 20% less likely than their non-employed counterparts to return to prison ([Berger-Gross, 2022](#)). Notably, this study found that quality employment, or the lack thereof, is a major factor in recidivism rates. Those in the study with high-paying jobs post-release were only half as likely to be reincarcerated, but the lowest-paid workers in the study returned to prison as frequently as those with no employment ([Berger-Gross, 2022](#)).

An additional study of individuals released from prison in Ohio revealed significantly different recidivism rates by category of employment. There was no statistically significant difference in the recidivism rates for those who had stable employment both before prison and after release and for those who gained stable employment after release (12% and 18% respectively). However, both groups were significantly less likely to recidivate than those who lacked stable employment before prison and after release (41%) and those who had stable employment before being incarcerated but lacked it upon release (29%). ([Council on Criminal Justice, 2023](#) & [Kolbeck et. al, 2023](#)).

Second Chance Hiring Boosts the Economy

Second chance hiring also benefits businesses in need of employees. One study found that more than 80% of human resource leaders and business leaders say that second



chance hires performed the same as or better than other employees ([Ferguson, 2022](#)). Unfortunately, the unemployment rate amongst formerly incarcerated individuals is more than 27% ([Couloute and Kopf, 2018](#)). This is not for lack of trying—studies have shown that formerly incarcerated individuals are more likely to be active in the labor market than their peers in the general public. Among 25-44-year-olds, 93% of those who were formerly incarcerated were either employed or actively seeking employment, compared to 83% of the general population in that age range ([Couloute and Kopf, 2018](#)). Most formerly incarcerated individuals want to work—but all too often, policy barriers and stigma prevent them from finding meaningful work.

Barriers that prevent ex-offenders from finding jobs reduce overall employment by a full percentage point and reduce annual GDP by as much as \$87 billion, according to 2014 data ([Bucknor and Barber, 2016](#)). Reducing these barriers poses significant opportunities for economic growth, particularly as many states continue to face a significant labor shortage. Preventing ex-offenders from obtaining meaningful work artificially exacerbates this labor shortage and hurts businesses that are actively looking for workers.

Licensing Reform in the States Provides a Second Chance

One of the most common barriers to entry in the American labor market is occupational licensing. Each state requires workers who want to practice certain professions—including surgeons, nurses, barbers, auctioneers, general contractors, and others—to earn an occupational license to do so. Earning such a license typically includes certain education requirements, training, work experience, or formal exams, as well as an annual fee and the approval of a licensing board.

In the 1950s, only 1 in 20 Americans needed an occupational license to work in their profession of choice. Today, nearly one in four Americans need a license ([Institute for Justice, 2022](#)). Ex-offenders face even more barriers—states currently have more than 16,000 limitations on “occupational and professional licensure certification” for those who have been convicted of a crime and nearly 13,000 additional limitations on “business licensure and participation” ([Mitchell and Palagashvili, 2022](#)). Data suggests that excess barriers to work can reduce offenders’ incentives to build skills in prison. Excessive retribution can also undermine efforts to deter criminal behavior, because it decreases the opportunity cost of crime.

One of the broadest ways that states prevent workers with a criminal background from earning an occupational license is through requirements that license applicants be of “good moral character” or lack “moral turpitude.” This gives licensing boards a significant amount of discretion to deny a license applicant based on any prior criminal record, regardless of how long ago a crime was committed or whether the crime was relevant to the occupation. Moreover, applicants in more than 30 states can be denied a



license based on an arrest that did not lead to a criminal conviction ([Sibilla, 2020](#)). As a result, some applicants who are well-qualified for certain professions do not receive licenses because of mistakes they made years ago or because they were arrested but never convicted.

At least 40 states have taken some steps since 2015 to make it easier for ex-offenders to earn an occupational license and get to work. However, every state still has work to do to ensure that once someone has served his or her time and been rehabilitated, he or she can become a productive member of society. According to the Institute for Justice’s latest report, “Barred from Working,” the average state grade for allowing ex-offenders to earn an occupational license was a “C,” leaving plenty of room for improvement ([Sibilla, 2020](#)). This report analyzed laws in all 50 states and assigned letter grades based on 10 different criteria related to licensing laws for ex-offenders.

States run the gamut on this issue. In four states—Alabama, Alaska, Nevada, and South Dakota—ex-offenders have very few protections throughout the occupational licensing process and are unable to earn many licenses. Most licensing boards in these states are able to deny applicants a license based on any criminal history, deny a license based on an arrest that did not lead to a conviction, and not consider evidence of rehabilitation, character testimony, or employment history ([Collateral Consequences Resource Center, 2023](#); [Sibilla, 2020](#)).

Conversely, Iowa, Indiana, New Hampshire, and Ohio have all passed significant reforms in this space that aim to expand opportunities for ex-offenders while preserving public safety appropriately. Iowa passed a law in 2020 that required licensing boards to consider only crimes directly related to the occupation, prevented boards from considering an arrest that did not lead to a conviction, and required boards to publicly post a list of disqualifying convictions so that the applicant would know before undertaking expensive and time-consuming training ([Iowa House File 2627, 2020](#)).

Indiana similarly mandates that licensing boards post a list of disqualifying convictions, requires disqualifying crimes to be directly related to the license sought, and prevents the consideration of crimes more than five years old, except for sexual or violent crimes ([Indiana House Bill 1245, 2018](#)). New Hampshire’s 2018 reform allows ex-offenders to petition the licensing board before undergoing training or education in pursuit of the license and allows licensing boards to deny a license only if the ex-offender had a violent felony or misdemeanor conviction. Additionally, New Hampshire’s reform requires boards to consider if not issuing a license would cause more harm than issuing a license ([New Hampshire Senate Bill 589, 2018](#)). Ohio implemented a robust petition and reporting process that requires boards to provide significant transparency to how criminal records are considered throughout the licensing process ([Ohio Senate Bill 255, 2019](#)).



Occupational licensing reform has specifically been shown to reduce recidivism rates among ex-offenders, making communities more safe. According to one comprehensive study, states with onerous occupational licensing restrictions for formerly incarcerated individuals experienced a 9% increase, on average, in their three-year, new-crime recidivism rates, while states with fewer licensure barriers saw a 2.5% decline in recidivism ([Slivinski, 2016](#)).

Options for Second Chance Licensing Reform

Overall, states can consider several different types of licensing reform for ex-offenders. Of note, each of these recommendations can and should exclude those with criminal histories that involve violent felonies or sexual offenses.

Reform options include, but are not limited to, the following:

- Preventing licensing boards from denying a license to an applicant based on an arrest that did not lead to a conviction of a crime;
- Prohibiting licensing boards from holding sealed, expunged, or vacated records against a license applicant;
- Preventing licensing boards from denying a license to an applicant solely due to the applicant's criminal record;
- Blocking licensing boards from denying a license to an ex-offender based on their criminal records unless the crime is directly related to the occupation (with a clear definition in statute of how licensing boards should determine if a crime is directly related);
- Preventing licensing boards from denying a license to an ex-offender due to a crime committed a certain amount of time in the past;
- Preventing licensing boards from denying licenses to ex-offenders based on "good moral character" or "moral turpitude" requirements, which are often vague and subject to abuse;
- Preventing licensing boards from considering juvenile adjudications during the license application process;
- Allowing ex-offenders to petition any licensing board to see if their criminal background disqualifies them for a license before they complete expensive and time-consuming training, education, or exams;
- Requiring licensing boards to consider whether an ex-offender has been rehabilitated, their previous employment history, and/or personal character references during the application process;
- Creating court-issued employability certificates to ex-offenders who have met certain rehabilitation criteria to use as evidence throughout the licensure process;



- Providing denied applicants with an opportunity to appeal the licensing board’s decision; and
- Requiring licensing boards to notify applicants of the board’s decision in writing.

Each of these reforms can also be targeted to individual occupations and licensing boards, rather than every licensing board in the state. This can be a good place for states to start and can lay the foundation for incremental change in the future.

As policymakers consider specific licensing reforms to create pathways to meaningful employment for ex-offenders, they should also look broadly at their state’s occupational licensing schemes and identify opportunities to improve access to licensure for all workers—including recognizing out-of-state licenses, reducing unnecessarily burdensome education and training requirements, and even eliminating licenses that may not be necessary.

Conclusion

Public safety remains a top priority for all elected officials, and by creating more pathways for productive employment for ex-offenders, policymakers can reduce recidivism, make their communities more safe, and boost the economy. These reforms also ensure that America’s criminal justice system is operating more fairly for those who serve their time and deserve a second chance. In the words of New York District Court Judge John Gleeson, “I sentenced [a defendant] to five years of probation supervision, not to a lifetime of unemployment” ([Mathewson, 2023](#)). Licensing reforms for ex-offenders appropriately balance public safety with the need for ex-offenders to successfully reintegrate into society, while also benefitting local workforces and businesses.



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