



# Remove Employment Barriers for People with Past Convictions

Whether a person with a conviction can find gainful employment is one of the most important factors in determining if that person will succeed in reintegrating into his or her community, or will commit another crime. Florida's occupational licensing laws can block job and entrepreneurial opportunities for people returning from prison. These barriers impede and, in some cases, completely prevent people with convictions from becoming gainfully employed.

Florida law should be changed to limit the number and types of convictions that can prevent occupational licensure, certification, and permitting. Florida law should require licensing authorities to demonstrate that convictions that do prevent licensure are necessary to protect health, safety and public welfare. Moreover, people in prison should be allowed to train and obtain occupational licenses, certifications and permits while incarcerated so that they are able to enter a profession immediately upon release and return to their communities.

## THE PROBLEM

### Florida has unusually broad occupational licensing laws

- Nearly 30 percent of Florida's workforce requires a license, more than any other state in the southeast, and the fifth-highest in the country.<sup>1</sup>
- More than 300 professions and businesses require occupational licenses in Florida, including barbering, cosmetology, and several construction trades such as HVAC and drywall installation.<sup>2</sup>
- Several states have recently removed licensing barriers. A 2017 Kentucky law prohibits disqualification for a license based solely on a person's criminal record.<sup>3</sup> A 2009 Texas law prohibits state agencies from disqualifying individuals for occupational licenses unless the conviction relates directly to the duties of the job.<sup>4</sup>

### Florida's licensing laws create additional obstacles for people with convictions

- People convicted of first-degree felonies are permanently barred from obtaining occupational licenses in Florida.<sup>5</sup>
- People convicted of other felonies or certain misdemeanor offenses must wait seven or, in some cases, 15 years after completing all terms of their sentencing (prison, probation, restitution, payment of court fines) before becoming eligible for occupational licenses, making it more challenging for individuals to find steady gainful employment upon re-entering their communities.
- People often learn trades while they are incarcerated, but these barriers render them unable to obtain licenses to work upon their release from prison. In some cases, working without a proper license is itself a felony offense.<sup>6</sup>

### Employment barriers especially disadvantage communities of color

- As of 2016, nearly 1 out of every 3 Floridians with a felony conviction who had completed their sentence was black.<sup>7</sup>
- Employment applications often contain a check box requiring applicants to identify prior convictions. This is particularly harmful to people of color, as they historically are more likely to have criminal records than their white counterparts due to structural and systemic racial bias in our criminal justice system.

### Lack of job opportunities can be harmful to individuals, communities and the economy

- Research has found a relationship between higher rates of recidivism and occupational licensing restrictions for people with convictions.<sup>8</sup> If more and better jobs were available for

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formerly incarcerated people, the crime rate would continue to decrease, fewer people would be behind bars, and taxpayers would save money that would otherwise be spent on jails and prisons.

- In most instances, a person's criminal history is unrelated to job performance, consumer safety, or service quality. Eliminating job opportunities for people who have already paid their debts to society is nothing more than continued and unsanctioned punishment, a damper on the economy, and a source of economic insecurity for many Florida families.
- The unemployment rate of formerly incarcerated people is more than 27 percent, five times higher than the general population, and greater than the highest level of unemployment during the Great Depression.<sup>9</sup> With 1.5 million formerly incarcerated people living in Florida, the economic loss for excluding these individuals – magnified among African Americans and women – from the full job market is disastrous.

## THE SOLUTION

- Remove prior convictions as a basis for denial of licensure, certification, or permit where those prior convictions are unrelated to the profession for which licensure, certification or permitting is sought.
- Remove the arbitrary “good moral character” requirement for licensure.
- Ensure that if a person in prison can be employed by a company with a contract with FDC while incarcerated, the company cannot deny employment to formerly incarcerated people once released.
- Require each licensing, certifying, or permitting authority to provide a study showing the impact to health, welfare, and public safety for any disqualifying conviction.
- Require each authority that prohibits licensure, certification, or permit based on disqualifying convictions to conduct an assessment of the justification for its disqualifying convictions every 4 years.
- Fully fund GED attainment, job training and licensure programs for currently incarcerated people.
- Allow incarcerated people or those who are still under community supervision to apply for occupational licenses before completing their sentences, so they can get a valid and active license immediately upon their return to the community.
- Increase transparency at professional licensing boards, so that people with convictions can see what criminal convictions will and won't disqualify them from a particular profession – before they invest in expensive professional training, education and licensing fees.
- Prohibit employers from inquiring about prior convictions on employment applications.

## Support SB 394 & HB 667 (Ban the box on employment applications)

## Support amending SB 334 & HB 397 (Occupational licensing) consistent with the proposed solutions above

1 Dick M. Carpenter II, et. al, *License to Work: A National Study of Burdens from Occupational Licensing*, 2nd Ed., Institute for Justice, at pp. 62-63 (Nov. 2017), [https://ij.org/wp-content/themes/ijorg/images/tw2/License\\_to\\_Work\\_2nd\\_Edition.pdf](https://ij.org/wp-content/themes/ijorg/images/tw2/License_to_Work_2nd_Edition.pdf).

2 Businesses & Professions, Florida Dept. of Business & Professional Regulation website, <http://www.myfloridalicense.com/dbpr/businesses-and-professions/>.

3 *Supra* n.1 at p. 35.

4 Tim Henderson, *State Conviction Rates Have Risen Sharply, But Unevenly*, Pew Charitable Trusts (Jan. 2, 2018), <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2018/01/02/felony-conviction-rates-have-risen-sharply-but-unevenly>.

5 Applicants with Criminal Histories, Division of Insurance Agent and Agency Services, Florida's Chief Financial Officer website, <https://www.myflorida.com/division/agents/licensure/general/priorcrimhist.htm>.

6 498.127, Fla. Stat. (2018), [http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&URL=0400-0499/0489/Sections/0489.127.html](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0400-0499/0489/Sections/0489.127.html).

7 Christopher Uggen, Ryan Larson, & Sarah Shannon, *6 Million Lost Voters: State-Level Estimates of Felony Disenfranchisement*, 2016, The Sentencing Project (2016), <https://www.sentencingproject.org/wp-content/uploads/2016/10/6-Million-Lost-Voters.pdf>.

8 Stephen Slivinski, *Turning Shackles into Bootstraps*, Center for the Study of Economic Liberty at Arizona State University, Policy Report (Nov. 7, 2016), <https://research.wpcarey.asu.edu/economic-liberty/wp-content/uploads/2016/11/CSEL-Policy-Report-2016-01-Turning-Shackles-into-Bootstraps.pdf>.

9 Lucius Couloute & Daniel Kopf, *Out of Prison & Out of Work: Unemployment among formerly incarcerated people*, Prison Policy Initiative (July 2018), <https://www.prisonpolicy.org/reports/outofwork.html>.