



March 12, 2019

The Honorable Jamie Raskin
Chairman, House Subcommittee on Civil Rights and Civil Liberties
2154 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Chip Roy
Ranking Member, House Subcommittee on Civil Rights and Civil Liberties
2154 Rayburn House Office Building
Washington, D.C. 20515

Support H.R. 1076 (The Fair Chance to Compete for Jobs Act of 2019)

Dear Chairman Raskin and Ranking Member Roy:

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 H.R. 1076, the “Fair Chance to Compete for Jobs Act of 2019” (or “Fair Chance Act of 2019”). H.R. 1076 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, S. 378, has been introduced in the Senate with bipartisan support, and reported favorably out of committee.

Each year, nearly 700,000 people are released from American prisons, and an estimated 9 million are released from jails.¹ 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.

Currently, an estimated 70 million adults – almost one in three adults – have arrests or convictions that will show up on routine background checks.² 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.³ 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.⁴ 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.⁵ 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.⁶

Many states and private employers have already embraced fair chance hiring initiatives. Thirty-three 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 eleven states that extend the policy to most private sector employers.⁷ 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.⁸ 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 with regard to arrest, conviction, or credit background until the hiring agency has made a conditional offer of employment to the applicant.⁹

H.R. 1076 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. H.R. 1076 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 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 Oversight and Reform Committee



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

² National Employment Law Project. Fair Chance Licensing Reform: Opening Pathways for People with Records to Join Licensed Professions. Nov. 2018, at page 31. <https://s27147.pcdn.co/wp-content/uploads/FairChanceLicensing-v3-2018.pdf>

³ 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.

⁴ See Bucknor, Cherrie & Barber, Alan. “The Price We Pay: Economic Costs of Barriers to Employment for Former Prisoners and People Convicted of Felonies.” *Center for Economic and Policy Research*. Jun. 2016.
“<http://cepr.net/images/stories/reports/employment-prisoners-felonies-2016-06.pdf?v=5> (p. 3).

⁵ 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>.

⁶ 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> (p. 1).

⁷ 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*. Sep. 2018. <https://s27147.pcdn.co/wp-content/uploads/Ban-the-Box-Fair-Chance-State-and-Local-Guide-September.pdf>

⁸ See “Fact Sheet: Fair Chance Hiring.” *The Leadership Conference on Civil and Human Rights*. March 27, 2017.
http://civilrightsdocs.info/pdf/criminal-justice/Fair_Chance_Hiring.pdf.

⁹ See Federal Register. “Recruitment, Selection, and Placement (General) and Suitability.” *A Rule by the Personnel Management Office*. December 1, 2016. <https://www.hireimage.com/wp-content/uploads/Final-Rule-Act.pdf>.