



H.261

House Committee on
General, Housing, and
Military Affairs

February 25, 2016

Re: H.261 - An act relating to criminal record inquiries by an employer.

A criminal record should not be a life-long barrier to gainful employment. Unfortunately for many Vermonters, it is a Scarlet Letter that limits their ability to earn a living, find housing, and rebuild their lives. A criminal conviction, even for minor offenses, limits a person's job opportunities and future earnings potential.

- Nearly 90% of all employers conduct background checks and a criminal history is a real barrier to new employment.
- Nationally, more than 60%¹ of people formerly incarcerated are unemployed one year after release from prison.
- Those who have found jobs are making 40% less pay annually.²

If a person is convicted of a crime and pays their debt to society, VBSR believes they deserve a second chance. More and more employers across the state have already banned the box – recognizing that it wrongly limits their own pool of applicants. Passing H.261 and expanding this practice to private employers across the

state is not only the right thing to do, but it also makes economic sense for Vermont.

A 2011 study in Philadelphia found that putting 100 ex-offenders back to work would:

- Increase their lifetime earnings by \$55 million,
- Increase income tax contributions by \$1.9 million,
- Boost sales tax revenue by \$770,000,
- Save the state government more than \$2 million annually in future incarceration costs.³

A booming prison population

The United States has the largest prison population in the world. There are approximately 2.2 million people in prisons and jails – about 1 in every 110 U.S. residents. There are also 4.7 million adults on parole or probation – representing approximately 1 in every 51 U.S. residents.⁴

Vermont's prison population has declined in recent years, but there are more than 1,900 state residents behind bars. The state also struggles with an opiate addiction that ensnares Vermonters of all walks of life, bringing more and more people in contact with law

¹ Society for Human Resource Management, "Background Checking—The Use of Criminal Background Checks in Hiring Decisions" (2012),

² Bruce Western, "Collateral Costs" (Washington: The Pew Charitable Trusts, 2010)

³ Economy League of Greater Philadelphia, "Economic Benefits of Employing Formerly Incarcerated Individuals in Philadelphia" (2011)

⁴ U.S. Bureau of Justice Statistics, "Correctional Populations in the United States, 2013" (2014)

enforcement and the state's criminal justice system.

Vermonters returning to their communities from prison need assistance and resources. Removing the criminal history question on job applications increases job opportunities for people with criminal records.

Durham, N.C. experience –

- The city and county eliminated criminal history question for government jobs in 2011.
- Since then, the number of employees with criminal records hired by the city has increased almost 7 fold.
- For county jobs, 96% of applicants with criminal histories who were recommended for a county position were ultimately hired.⁵

Hawaii banned the box in 1998 and the result has been increased participation in the workforce by ex-offenders and a 57% reduction in felony-level recidivism in Honolulu County.⁶

Banning the Box is a Good Hiring Practice

The U.S. Equal Employment Opportunity Commission (EEOC) recommended in 2012 that employers remove the question from job applications as a “best practice” to ensure fair hiring standards. Because minorities and workers of color are statistically more likely to have criminal records, businesses may be violating the civil rights of applicants by wholesale screening out those with criminal histories.

The EEOC recommends that employers give applicants the opportunity to explain the circumstances of their criminal record and why it should not disqualify them from obtaining employment. The EEOC also recommends that

employers instead consider the (1) gravity of the offense, (2) the time that has passed since the conviction, and (3) if the conviction is relevant to the job the applicant is seeking.⁷ None of these important questions can be answered by an employer based on a check mark on a job application.

A person's criminal history does not tell a prospective employer if the candidate will be a good worker. In fact, a study of hiring practices found that employees with criminal histories are 1.1% more productive at work than employees without criminal histories.⁸

Preserves the Rights of Employers

H.261 does not prohibit an employer from conducting a background check or asking an applicant about criminal convictions during a job interview. This legislation does not force the business to hire anyone. The goal of the legislation is to ensure fair access for job applicants by placing the focus on skills, qualifications, and work history.

We urge you to pass this legislation and help better the lives of Vermonters with criminal histories. Thank you for your time and service to Vermont.

Daniel Barlow

Public Policy Manager

*Vermont Businesses for Social Responsibility
danielb@vbsr.org (802) 355-7461*

⁵ The Southern Coalition for Social Justice, “The Benefits of Ban the Box: A Case Study of Durham, N.C.” (2014)

⁶ American Journal of Criminal Justice, “The Effect of Hawaii's Ban the Box Law on Repeat Offending” (2014)

⁷ U.S. Equal Employment Opportunity Commission, “Consideration of Arrest and Conviction Records in Employment Decisions Under Title XII of the Civil Rights Act of 1964” (2012)

⁸ Business Insider, “Why Criminals Might Make Better Employees” (2012)