

## Support Fair Chance Employment Legislation

**The ACLU urges the adoption of Fair Chance Employment legislation to ensure that Idahoans returning to the workforce post-incarceration are able to obtain employment opportunities that decrease their likelihood of recidivism, allow them to provide for themselves and their families, and increase their ability to contribute to Idaho's growing economy.**

### **What is Fair Chance Access to Employment legislation?**

Most job applications have a checkbox asking applicants to disclose if they have a criminal record. Checking the box slashes the likelihood of a callback or offer by nearly 50 percent. This is devastating for people who are trying to rebuild their lives and provide for their families. Today, 70 million Americans—one in three adults—have a criminal record. While 2.3 million people are imprisoned in the United States, 95 percent of people in state prisons will re-enter our communities at some point<sup>1</sup> with more than 640,000 people released from prisons each year.<sup>2</sup> These are people who have or will reenter their communities and need gainful employment to build stability and find success after incarceration. Giving all job applicants a fair chance at employment opportunities offers them a fresh start, while ensuring that Idaho's recidivism rates stay low because formerly incarcerated Idahoans are able to access meaningful employment in their local communities.

### **What is the problem in Idaho?**

- Approximately 30% of the U.S. population has a criminal record of some kind. An estimated 361,000 adult Idahoans (21% of Idahoans) have a previous criminal conviction.<sup>3</sup> In Idaho, there are currently 12,800 people incarcerated in prison and jail and 16,649 people on probation or parole.
- Racial disparities in conviction and incarceration rates means Black and Hispanic Idahoans will face increased barriers in accessing employment upon release from prison or jail. According to the Sentencing Project, Idaho ranks 5th in the country for highest incarceration rates of Black prisoners per 100,000 – despite Black community members only representing .80% of Idaho's total population. Idaho also ranks 3rd in the country for highest incarceration rates of Latinx prisoners per 100,000 – despite Latinx community members only representing 12% of Idaho's total population<sup>4</sup>.
- People with felony records have difficulty obtaining employment, which impacts their ability to secure safe housing and to provide for themselves and their families. This substantially contributes to Idaho's unemployment and homelessness rates.

### **What is the solution?**

Reducing recidivism rates in Idaho requires successful community reentry upon release from incarceration. The Federal Interagency Reentry Council reported that holistic reentry, which includes access to employment, reduces recidivism. And, a period of stability that lasts just a few years can have significant, positive outcomes on ensuring the long-term success of an individual's reentry.<sup>5</sup> Fair Chance Employment legislation begins to remove the structural discrimination and stigmatization that formerly incarcerated people face when accessing

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<sup>1</sup> Timothy Hughes and Doris James Wilson "Reentry Trends in the U.S.," Bureau of Justice Statistics, <https://www.bjs.gov/content/reentry/reentry.cfm>.

<sup>2</sup> Prison Policy Initiative, "Mass Incarceration: The Whole Pie" (2017): <https://www.prisonpolicy.org/reports/pie2016.html>.

<sup>3</sup> 1,245,523 people 18 years of age or older in Idaho multiplied by estimated 30% of US adults with a criminal record.

<sup>4</sup> The Color of Justice: Racial and Ethnic Disparity in State Prisons. The Sentencing Project. <https://www.sentencingproject.org/publications/color-of-justice-racial-and-ethnic-disparity-in-state-prisons/>

<sup>5</sup> Lynch, L. and Muñoz, C. (Eds.) (2016). The Federal Interagency Reentry Council: A Record of Progress and Roadmap for the Future. Washington, D.C.: United States Department of Justice.



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employment while also educating employers and human resource departments about how to evaluate a criminal record justly.

**What does Fair Chance Employment legislation do?**

This fair chance employment policy encourages employers to eliminate blanket exclusions of people with criminal records, delaying criminal history inquiries until later in the hiring process, and ensuring that information about an applicant's criminal record is considered in a job-related context.<sup>6</sup>

Specifically, this Idaho proposal would:

1. Ensure access to the employment process by barring language in job descriptions and applications that seeks to exclude people with previous criminal convictions.
2. Allow employers to first determine whether the applicant is otherwise qualified for the job before inquiring into an applicant's previous criminal history at either the interview stage, or upon a conditional offer of employment, if no interview is offered. Employers could not consider arrests that did not lead to a conviction or expunged convictions in making their hiring decisions.
3. Permits employers to conduct criminal background checks to make informed hiring decisions and provides balanced exemptions for employers who are required by law, rule or regulation to consider an applicant's criminal background prior to an interview or conditional offer of employment.

For more information about Fair Chance Employment legislation, or to learn more about this campaign, please contact:

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