

[2015 Session] Implement Policies that Would Facilitate Individual Consideration of a Potential Employee's Application by Delaying Background Checks for People with Criminal Histories

Policy Background:

Men and women reentering the community from the criminal justice system face significant challenges finding steady, stable employment.^[1] Several jurisdictions and national employers, however, have adopted policies that remove questions about a person's criminal history from initial job applications and delay background checks until later in the hiring process. This gives work-ready individuals with a criminal history a chance to emphasize current qualifications rather than past mistakes when applying for a job, making it easier for them to find gainful employment, be economically successful, and remain crime-free. For employers, it widens the available candidate pool.

Texas policy-makers should require employment applications to limit the use of a pre-screening tool that indicates whether an applicant has been convicted of a felony. Agencies and private corporations should be permitted to request information about whether a job applicant has been convicted of a felony in either of the following circumstances:

- At a point later in the consideration process after an applicant has had an opportunity to be given individual consideration of their unique qualifications and background; or
- When a conviction would, by its very nature, exclude an applicant from consideration for a particular job (e.g., a felony conviction for theft that would exclude a person from consideration for a job as a cashier).

Note: This policy does not force employers to hire people with a criminal conviction; it only expands the candidate pool for employers at the initial application point.

Key Facts:

- In Fiscal Year 2014, more than 70,000 individuals were released from the Texas Department of Criminal Justice.[\[2\]](#)
- Previously incarcerated individuals who are employed are three times less likely to recidivate than their unemployed peers.[\[3\]](#)
- Lowering recidivism rates saves states and counties significant expenses associated with arrest, prosecution, public defense, and incarceration. Furthermore, when individuals work and support themselves and their families, state and community agencies have lower social service costs. Stable employment also helps previously incarcerated individuals pay back the billions owed in child support and restitution to the state.[\[4\]](#)
- Travis County and the City of Austin implemented “Ban the Box” policies in 2008, joining about 70 cities and counties across the country, as well as 13 states.[\[5\]](#)

Private employers have also taken up the initiative to “Ban the Box.” In October 2013, Target Corporation announced that it would remove questions concerning criminal history from its applications nationwide.[\[6\]](#) Target’s decision to “Ban the Box” could have a potentially massive impact on disenfranchised job-seekers in Texas, with 149 Texas locations.[\[7\]](#)

Relevant Bills:

- **Bill Number:** [HB 548](#) (Johnson, Elkins, Deshotel)
Bill Caption: Relating to the consideration of criminal history record information regarding applicants for state employment.
TCJE Materials: [Fact Sheet](#) | [CSHB 548 Fact Sheet](#) | [CSHB 548 Testimony](#)
Hearing Notice: House Government Transparency & Operation Committee, [Notice of Public Hearing on April 22, 2015](#)
Archived Hearing Video: House Government Transparency & Operation Committee, [04/22/15 Video](#) [TCJE testimony begins at 02:12:54]
- **Bill Number:** [HB 1720](#) (Deshotel)
Bill Caption: Relating to the consideration of criminal history record information regarding applicants for employment.

TCJE Materials: [Testimony](#)

Hearing Notice: House Business & Industry Committee, [Notice of Public Hearing on April 21, 2015](#)

Archived Hearing Video: House Business & Industry Committee, [04/21/15 Video](#) [TCJE testimony begins at 00:05:12]

- **Bill Number:** [SB 376](#) (Rodríguez)

Bill Caption: Relating to the consideration of criminal history record information regarding applicants for employment.

TCJE Materials: [Fact Sheet](#)

Relevant Media:

- **Houston Chronicle [Editorial]:** “[Ban the box: Roadblocks to nonviolent ex-offenders simply aren't a good idea](#)” [May 11, 2015; behind a paywall]
- **Enid News:** “[One box says it all for job-hunters with a criminal past](#)” [January 10, 2015]

[1] Stephen J. Tripodi, Johnny S. Kim, and Kimberly Bender, “Is Employment Associated with Reduced Recidivism?: The Complex Relationship between Employment and Crime,” *International Journal of Offender Therapy and Comparative Criminology*, 54(5), 2010, pp. 706-720.

[2] Texas Department of Criminal Justice, *Statistical Report: Fiscal Year 2014*, p. 3; http://www.tdcj.state.tx.us/documents/Statistical_Report_FY2014.pdf. Total releases in FY 2013 equaled 70,521.

[3] Jeanette Moll, *Locked Out of Their Livelihoods: Criminal Convictions and Occupational Licensing in Texas*, Texas Public Policy Foundation: Center for Effective Justice, June 4, 2012, slide 3; <http://www.texaspolicy.com/center/effective-justice/reports/convictions-and-licensing-cle-presentation>

[4] Ibid.

[5] National Employment Law Project (NELP), *Ban the Box is a Fair Chance for Workers with Records*, p. 1;

<http://www.nelp.org/page/-/SCLP/2014/NELP-Fair-Chance-Factsheet-0914.pdf?nocdn=1>

[6] NELP, *Press Release: Target Corporation Announces New “Ban the Box” Policy, Setting Example for Large Corporations Across the U.S.*, October 29, 2013;

<http://www.nelp.org/page/-/Press%20Releases/2013/PR-Target-Ban-the-Box.pdf?nocdn=1>

[7] Target Store Locator – Texas;

<http://www.target.com/store-locator/state-result?stateCode=TX>