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**FACT SHEET 2013**

**H.B. 1188**

## **Remove Barriers to Personal Responsibility**

### *Limit Negligent Hiring Actions Against Employers*

### *To Improve Employment Options for Individuals with Criminal Records*

#### **PEOPLE WITH CRIMINAL RECORDS NEED GAINFUL EMPLOYMENT TO CONTRIBUTE TO SOCIETY AND KEEP TEXAS COMMUNITIES SAFE**

Texas law designates more than 2,500 offenses as felonies,<sup>1</sup> which ultimately results in a huge felon population in Texas. These are people who, upon release from prison or state jail, must find employment or risk turning to illegal activity to survive. However, employers often view job seekers with a criminal history as sources of potential liability in negligent hiring actions. As a result, employers may avoid candidates with a history of incarceration during hiring decisions to avoid potential liability.

In an economy that is righting itself, Texas businesses must have every available applicant in their candidate pool that can help their business thrive. Removing the fear of being sued for simply hiring someone with a felony conviction enables Texas businesses to grow and can keep the Texas economy strong.

Furthermore, for individuals with felony convictions to live responsible, productive, and law-abiding lives, they must have the tools to succeed. Expanding employment options will lower their chances of re-offending and reduce taxpayer spending on costly re-incarceration.

#### **KEY FINDINGS**

- Job seekers with a criminal record receive half as many offers as job seekers without a criminal record.<sup>2</sup>
- Previously incarcerated individuals who are employed are three to five times less likely to re-offend.<sup>3</sup>
- After five years of a clean record, individuals have a very low chance of re-offending.<sup>4</sup>

#### **COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTIONS:SUPPORT H.B. 1188 BY REPRESENTATIVE THOMPSON**

- ***H.B. 1181 will provide business owners*** – whether employers, general contractors, premises owners, or other third parties – ***with more hiring options by limiting their liability*** on charges of negligently hiring or failing to adequately supervise an employee who has a criminal conviction. This will allow Texas business owners to expand their candidate pool, enhance their work force, and strengthen the Texas economy.

**NOTE:** Any policy change should not totally eliminate liability. Causes of action should still be permitted for offenses committed by employees in the routine performance of business if the business owner knew or should have known of the conviction **and** the conviction was for a sexually violent offense, or an act that falls under Section 3(g), Article 42.12, Code of Criminal Procedure. Likewise, employer liability protections should not apply in certain suits involving employee fraud or the misuse of funds.

- ***H.B. 1181 will expand employment opportunities for individuals with criminal records***, providing them with more options and assisting them in their efforts to become law-abiding, self-sufficient, contributing members of their communities.

*Citations on reverse.*

## Citations

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<sup>1</sup> Texas Board of Pardons and Paroles, *Current Offense Severity Rankings List*, February 2012, [http://www.tdcj.state.tx.us/bpp/parole\\_guidelines/PG%20OFF%20SEV%20RANK%20LIST%20%2802-09-2012%29.pdf](http://www.tdcj.state.tx.us/bpp/parole_guidelines/PG%20OFF%20SEV%20RANK%20LIST%20%2802-09-2012%29.pdf).

<sup>2</sup> Pew Charitable Trusts, *Collateral Costs: Incarceration's Effect on Economic Mobility*, 2010, 22, [http://www.pewstates.org/uploadedFiles/PCS\\_Assets/2010/Collateral\\_Costs\(1\).pdf](http://www.pewstates.org/uploadedFiles/PCS_Assets/2010/Collateral_Costs(1).pdf).

<sup>3</sup> Goodwill Industries of Central Texas, *Annual Report 2007*, <http://www.austingoodwill.org/media/literature/Annual%20Report%202007%20Web.pdf>.

<sup>4</sup> Megan C. Kurlychek, Robert Brame, Shawn D. Bushway, *Enduring Risk? Old Criminal Records and Short-Term Predictions of Criminal Involvement*, March 2006, <http://blogs.law.columbia.edu/4cs/files/2008/11/crime-and-delinquency-racine.pdf>.