



**SOUTHERN
COALITION**
for SOCIAL JUSTICE

Fair Chance Hiring: Opportunity for Individuals, Communities, Businesses, and the Economy

Between 70 and 100 million people – as many as one in three Americans – live with a criminal record, a result of our country’s public policies feeding mass incarceration.¹ Over 600,000 people make the transition from prison back home to their families and communities each year.² The difficulty of this transition is compounded by collateral consequences - in policy, practice, and public will - that create barriers to stable employment and other vital services. Research shows that removing unjust barriers to employment benefits individuals, families, communities, businesses and the economy.³

Securing and holding a job that supports self-sufficiency is crucial to successful re-entry, but job seekers with criminal records face immense obstacles and structural discrimination in the job market. As a result, more than 60 percent of individuals who have been incarcerated are unemployed the year after being released and those who are able to find employment bring home less pay – up to 40 percent less.⁴ Black and Latinx people, already overrepresented in every stage of the criminal legal system, face increased discrimination. Research shows that Black applicants with a criminal record receive significantly fewer job interviews than white applicants with similar histories.⁵ A lack of stable employment is the single most important predictor of recidivism — moreover, the destructive and inequitable cycle of reentry into poverty has immensely detrimental consequences for people with criminal records, their families, and communities.⁶

Fair chance hiring considers an applicant’s qualifications first, without the stigma of a conviction or arrest record. Removing questions about criminal records from the early stages of the application process is usually the first step in fair chance hiring practices.⁷ Given that 92 percent of employers choose to conduct criminal background checks on job applicants, fair practices on background check policies are also crucial.⁸ The EEOC has laid out guidance on the use of records.⁹ Additional best practices include:

- ensuring the applicant has the opportunity to check for accuracy;
- limiting the number of people who read the record and ensuring they are trained; and
- giving the applicant an opportunity to provide evidence of rehabilitation.¹⁰

Support for fair chance public policies has grown over the last two decades, borne from the efforts of *All of Us or None*, a grassroots organization of people who have been incarcerated, their family members, and allies.¹¹ To date, 36 states and over 150 cities and counties have adopted fair chance policies.¹² The majority of these policies, while crucial, only apply to public sector employers. Only 14 states and 20 localities have adopted fair chance policies that apply to the private sector.¹³ Of these states and localities, almost none are located in the South.

Fair chance policies benefit people with criminal records, their families, communities, businesses and the economy.¹⁴ Not only have fair chance policies proven to be effective in helping people with criminal records find and keep stable employment, the single most important predictor of recidivism, these policies also increase the economic security of children and families and the health of communities.¹⁵ Moreover, fair chance policies help businesses find valued employees, substantiating the research that employees with records are retained at higher rates, reducing turnover, and constituting “a better pool for employers.”¹⁶ More than 100 companies – including Google, Pepsico, and Xerox – signed the White House Fair Chance Business Pledge in 2016, citing strong support of economic opportunity for all.¹⁷

Ban the Box in North Carolina:

The Durham Second Chance Alliance (DSCA) – led by directly affected communities – successfully advocated for the City of Durham and Durham County to ban the box for public employees in 2011 and 2012. Since 2012, the number of people with criminal records hired by Durham County nearly tripled. Fifteen additional counties and four cities in North Carolina have since followed suit and in 2020, Governor Roy Cooper signed Executive Order 158 to implement fair chance and “Ban the Box” policies at state agencies.

See: Southern Coalition for Social Justice, The Benefits of Ban the Box: A Case Study of Durham (2018).

¹ The Sentencing Project, 2015. “Americans with Criminal Records,” Poverty and Opportunity Profile: <http://www.sentencingproject.org/wp-content/uploads/2015/11/Americans-with-Criminal-Records-Poverty-and-Opportunity-Profile.pdf>

² Prison Policy Initiative, July 2018. “Out of Prison & Out of Work: Unemployment Among Formerly Incarcerated People” <https://www.prisonpolicy.org/reports/outofwork.html>

³ National Employment Law Project, 2016. “Research Supports Fair Chance Policies” https://www.nelp.org/publication/research-supports-fair-chance-policies/#_edn1

⁴ The Sentencing Project, 2015. “Americans with Criminal Records,” Poverty and Opportunity Profile: <http://www.sentencingproject.org/wp-content/uploads/2015/11/Americans-with-Criminal-Records-Poverty-and-Opportunity-Profile.pdf>

⁵ Pager, Devah, 20013. “The Mark of a Criminal Record,” American Journal of Sociology Vol 108, no. 5: http://scholar.harvard.edu/files/pager/files/pager_ajs.pdf

⁶ Ibid.

⁷ Note that recent studies have also found that ban the box policies may have unintended consequences in decreasing the probability of employment among young, low-skilled black men. See Raphael, Steven, 2020. “The Intended and Unintended Consequences of Ban the Box” Annual Review of Criminology.

⁸ See Southern Coalition for Social Justice, 2018. “The Benefits of Ban the Box: A Case Study of Durham” https://southerncoalition.org/wp-content/uploads/2018/11/BantheBox_WhitePaper.pdf

⁹ EEOC, 2012. “Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions under Title VII of the Civil Rights Act”

¹⁰ See Southern Coalition for Social Justice, 2018. “The Benefits of Ban the Box: A Case Study of Durham” https://southerncoalition.org/wp-content/uploads/2018/11/BantheBox_WhitePaper.pdf

¹¹ All of Us or None: <https://prisonerswithchildren.org/about-aouon/>

¹² NELP, 2020. “Ban the Box: US Cities, Counties, and States adopt Fair-Chance Policies” <https://s27147.pcdn.co/wp-content/uploads/Ban-the-Box-Fair-Chance-State-and-Local-Guide-Oct-2020.pdf>

¹³ Ibid

¹⁴ National Employment Law Project, 2016. “Research Supports Fair Chance Policies” https://www.nelp.org/publication/research-supports-fair-chance-policies/#_edn1

¹⁵ Almost half of US children have at least one parent with a record. Vallas, Rebecca et al., 2015. “Removing Barriers to Opportunity for Parents with Criminal Records and Their Children” Center for American Progress: <https://cdn.americanprogress.org/wp-content/uploads/2015/12/09060720/CriminalRecords-report2.pdf>. See also Berg, Mark T. and Huebner, Beth M., 2011. “Reentry and the Ties that Bind: An Examination of Social Ties, Employment, and Recidivism,” Justice Quarterly (28) www.tandfonline.com/doi/abs/10.1080/07418825.2010.498383?journalCode=rjqy20#preview

¹⁶ ACLU Foundation, 2017. “Back to Business: How Hiring Formerly Incarcerated Job Seekers Benefits Your Company” https://www.aclu.org/sites/default/files/field_document/060917-trone-reportweb_0.pdf

¹⁷ The White House, 2016. Fact sheet: “White House Launches the Fair Chance Business Pledge,” www.whitehouse.gov/the-press-office/2016/04/11/fact-sheet-white-house-launches-fair-chance-business-pledge