

Fair Chance Hiring: Reducing Criminal Records Barriers to Employment Improves Public Safety and Builds Stronger Communities

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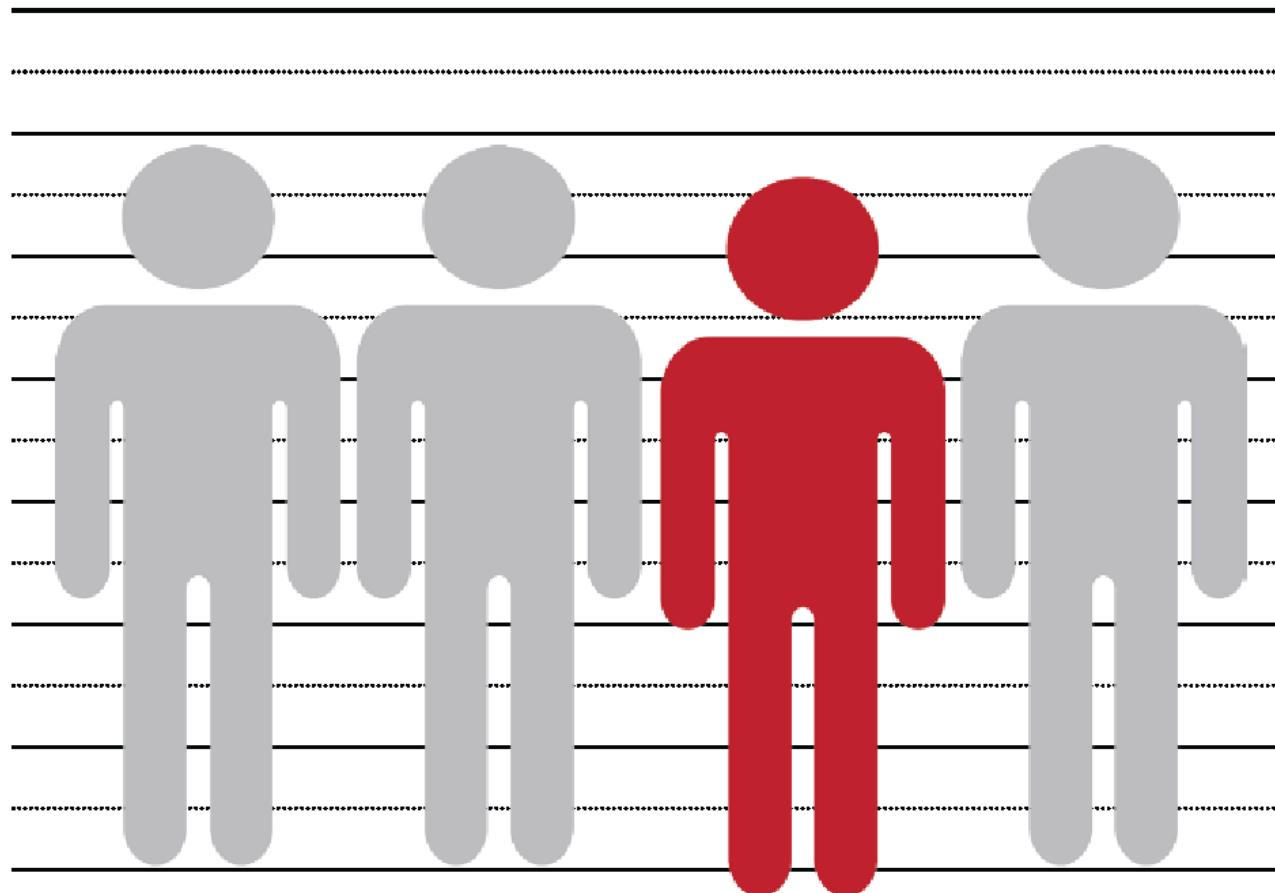
Overview

- The Proliferation of Criminal Background Checks for Employment
- Employment Turns Lives Around and Contributes to a Growing Economy
- The New Federal Landscape of Civil Rights and Consumer Protections
- Seizing the Momentum for Reform
 - Fair Chance Hiring/Ban the Box
 - Occupational Licensing Protections
 - Sealing/Expungement & Limiting Access to Records in the Digital Age
 - Federal Reform Priorities

1. *The Proliferation of Criminal Background Checks*



About 1 in 4 U.S. Adults (Over 70 Million) Has an Arrest or Conviction Record Compared to Roughly 4 in 10 Texans - Texas Has the Highest Number of Any State (BJS 2012 SEARCH Survey)



The Proliferation of Criminal Background Checks Since 9/11

- In 2012, the FBI conducted 17 million background checks for employment and licensing purposes (six times more than in 2002).
- Over 90% of large employers conduct criminal background checks for employment (SHRM 2010).
- Commercial and on-line background checks are big business and growing fast (e.g., Choicepoint was sold for \$1 billion).
- States also conduct millions of background checks for employment and licensing purposes (e.g., California conducted 1.7 million in 2011).

[Home](#)[Order](#)[Order Lookup](#)[Sample Record](#)[Search ICC](#)[Employee Check](#)[FAQ](#)

InstantCriminalChecks.com Order Form

Person You Are Investigating:

***=Required Information**

*First Name:

Middle Initial:

*Last Name:

Suffix (if any):

 (Jr, Sr, III)

Social Security Number:

 - -

*Date of Birth:

Please Select Statewide, 3-State or National Criminal Check:

Statewide Criminal Check \$24.95


 California multi-county (CA)
[view state descriptions](#)

– Add 2 additional states for only \$20 –

3-State Criminal Check \$44.95

 2nd

–Select 2nd State \$20–

 3rd

–Select 3rd State FREE–

OR

National Criminal Check \$59.95


 National Criminal Check [view national description](#)

46 state national search plus Washington DC:

AL, AK, AZ, AR, CA, CO, CT, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, TN, TX, UT, VA, VT, WA, WI, WV

All orders include a free [national sex offender search](#), [terrorist background report](#) & [most wanted check](#).

Contact Information:

*E-Mail Address:

Phone Number:

Credit Card Information:

We Accept:



*Name:

Enter name exactly as appears on your card

*Type of Card:

*Card Number:

“No Arrests”

“Do Not Apply with Any Misdemeanors/Felonies”

“No Felonies or Misdemeanors Allowed”



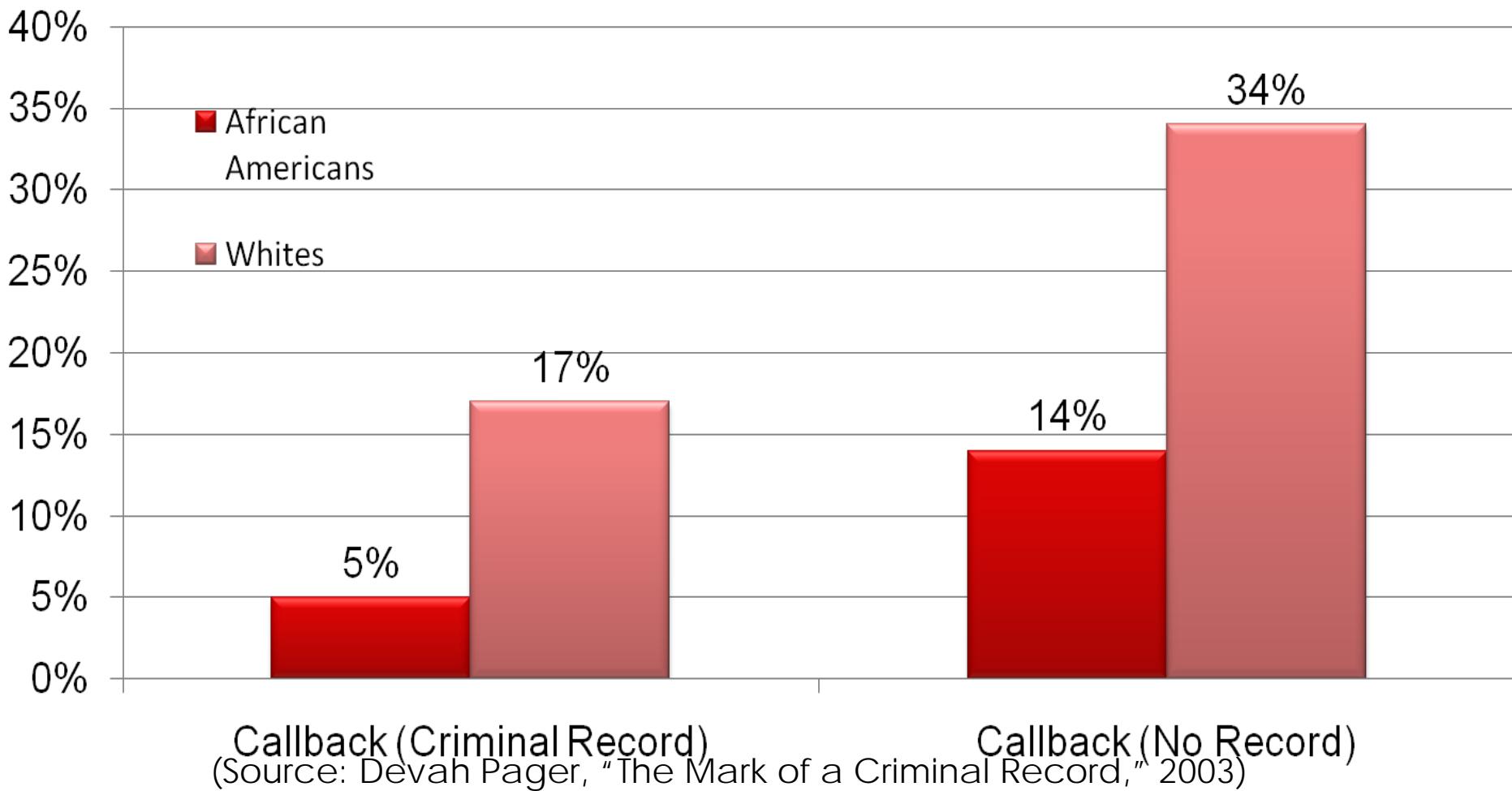
“Clean Records”

“Spotless Background/Criminal History”

“Must Not Have Any Felony Or Misdemeanor Convictions PERIOD.”

“No Misdemeanors No Felonies”

Testing Studies Find People with Criminal Records are Far Less Likely to Receive Callback

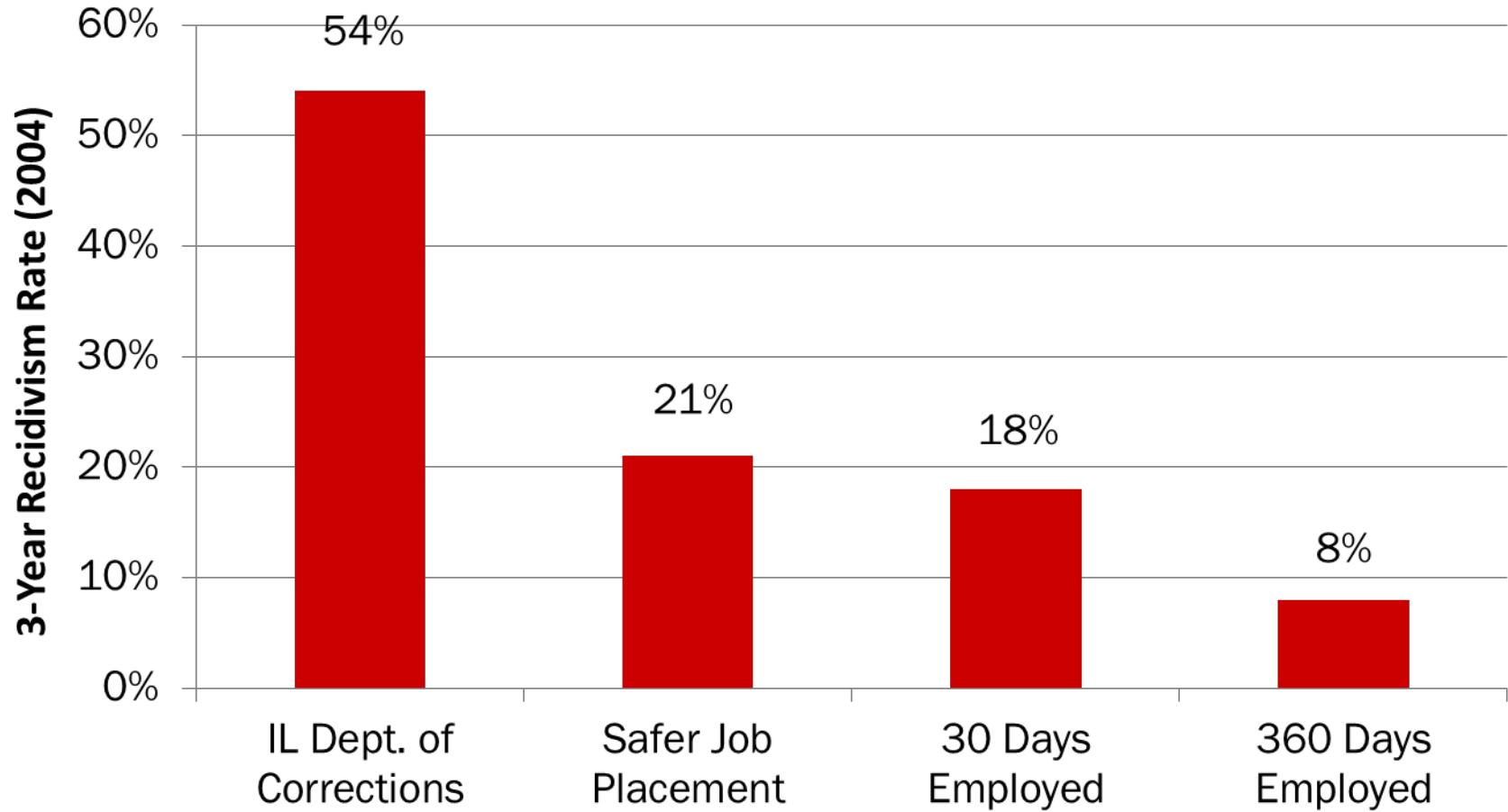


2. Employment Turns Lives Around and Contributes to a Growing Economy



Employment Significantly Reduces Recidivism

(Results of Chicago's Safer Foundation Job Placement for 1,600 People Recently Released from Prison)



The Impact on the Economy

- The nation's gross domestic product was reduced by up to \$65 billion in 2008 due to lack of employment of 1.7 million people with felony records (CEPR 2012).
- A 2011 study by the Economy League of Greater Philadelphia found that employing 100 formerly incarcerated people increased lifetime earnings by \$55 million, tax contributions and sales tax revenue by almost \$3 million, and saves \$2 million annually in criminal justice spending.

The Johns Hopkins Hospital Experience

- 2003 to 2006: 491 employees hired with criminal background.
- 41% of applicants with records hired.
- In 2009, 212 (43%) still employed.
- Turnover is lower than employees without records for the first 40 months.
- Zero “problematic” terminations involved people with criminal records.



3. The New Federal Landscape of Civil Rights & Consumer Protections



The Federal Reentry Council Bolsters Federal Agency Actions

- Convened in 2011 by Attorney General Holder, a wide range of Cabinet Secretaries actively coordinate and promote policies that remove barriers to reentry.
- The Employment Working Group includes the EEOC, DOL, FTC, OPM, HHS, SBA and other key federal agencies.



New Federal Actions Regulating Criminal Background Checks

- Equal Employment Opportunity Commission issued criminal records guidance regulating private and public employers (April 25, 2012).
- Department of Labor civil rights directive regulates all federally-funded workforce programs (May 25, 2012).
- Federal Trade Commission settles \$2.6 million lawsuit with HireRight under Fair Credit Reporting Act (August 8, 2012).
- Office of Federal Contract Compliance Programs civil rights guidance regulates federal contractors (January 28, 2013).
- Office of Personnel Management guidance recommends model policies for federal agencies and their contractors (May 15, 2013).

The Key Elements of the EEOC Criminal Records Guidance

- Caselaw and the EEOC's guidance interprets Title VII of the Civil Rights Act of 1964 to apply to criminal background checks because of the "disparate impact" on people of color.
- The guidance affirms that private or public employers that have automatic or blanket exclusions of people with criminal records from all employment opportunities violate federal civil rights laws.
- Instead, employers must take into account the age of the individual's offense, the nature and severity of the offense, whether the offense is "job related" and an "individual assessment" of rehabilitation.

4. Fair Chance Hiring Reforms



Texas State Employment Criminal History Question

Have you ever been convicted of a felony or subjected to deferred adjudication on a felony charge? Yes/No. If your answer is "Yes," explain in concise detail on a separate page, giving dates and nature of the offense, name and location of the court, and disposition of the case(s). A conviction may not disqualify you, but a false statement will. Note: Some state agencies may require additional information related to convictions of misdemeanors.



THE STATE OF TEXAS APPLICATION FOR EMPLOYMENT

Date received _____
Time received _____
Received by _____

Job Applicant No. _____

PRINT IN BLACK INK OR TYPE. These instructions must be followed exactly. Fill out application form completely. If questions are not applicable, enter "NA." **Do not leave questions blank.** Be sure to sign when completed. The State of Texas is an Equal Opportunity Employer and does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or the provision of services. You may make copies of this application and enter different position titles, but **each copy must be signed.** **Resumes will not be accepted in lieu of applications,** unless specifically stated in the job vacancy notice. This application becomes public record and is subject to disclosure.

With few exceptions, you have the right to request and be informed about information that the State of Texas collects about you. You are entitled to receive and review the information upon request. You also have the right to ask the state agency to correct any information that is determined to be incorrect. (Reference: Government Code, Sections 552.021, 552.023 and 559.004.)

NAME _____
(Last) _____ (First) _____ (Middle) _____
(Daytime Phone) _____
MAILING ADDRESS _____
(Street) _____ (City) _____ (State) _____ (Zip) _____ (Country) _____
(Work Phone, Optional) _____
E-MAIL ADDRESS _____

List any other names used if different from name on this application. _____

List exact title of position or type of work and location for which you wish to apply:	Job Posting Number	Closing Date
List the state agency with which you wish to apply:	Do you have any relatives working for this agency? If so, list names and relationships:	

Full-Time Part-Time Summer Temp/Project Date available for work? _____ Are you at least 17 years of age? Yes No

Are you willing to work hours other than 8-5? Yes No What days are you unable to work? _____

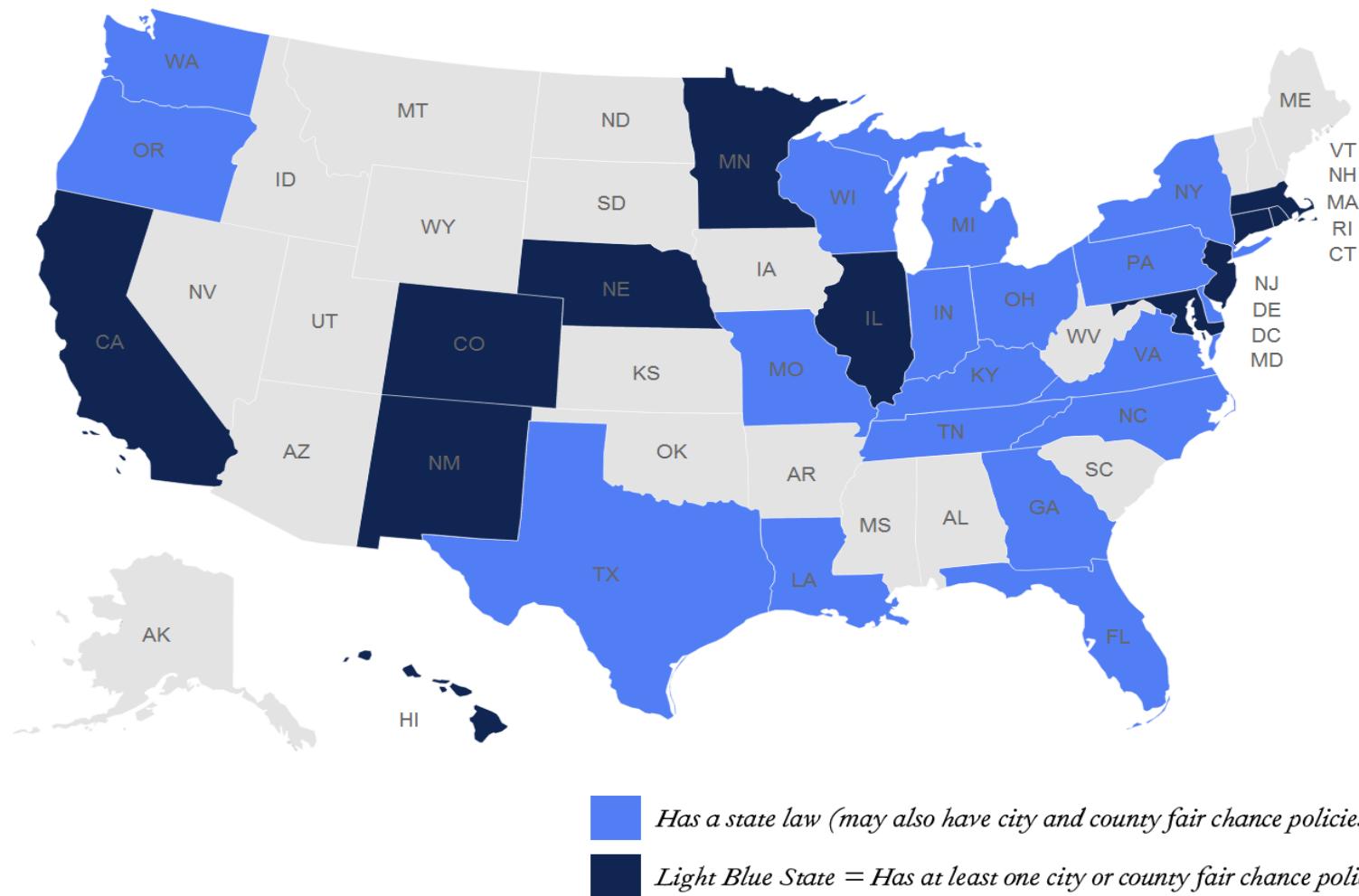
Are you willing to travel? Yes No If yes, what percent of time? _____

Current Driver's License # (if required for position) _____
(State) _____ (Number) _____ Commercial Driver's License Yes No

Geographic preference. (Be specific to city/area. If no preference, write "statewide.") _____

Have you ever been convicted of a felony or subjected to deferred adjudication on a felony charge? Yes No If your answer is "Yes," explain in concise detail on a separate page, giving dates and nature of the offense, name and location of the court, and disposition of the case(s). A conviction may not disqualify you, but a false statement will. Note: Some state agencies may require additional information related to convictions of misdemeanors.

“Ban the Box” Adopted by States, Cities and Counties, Covering One-Third of the U.S. Population



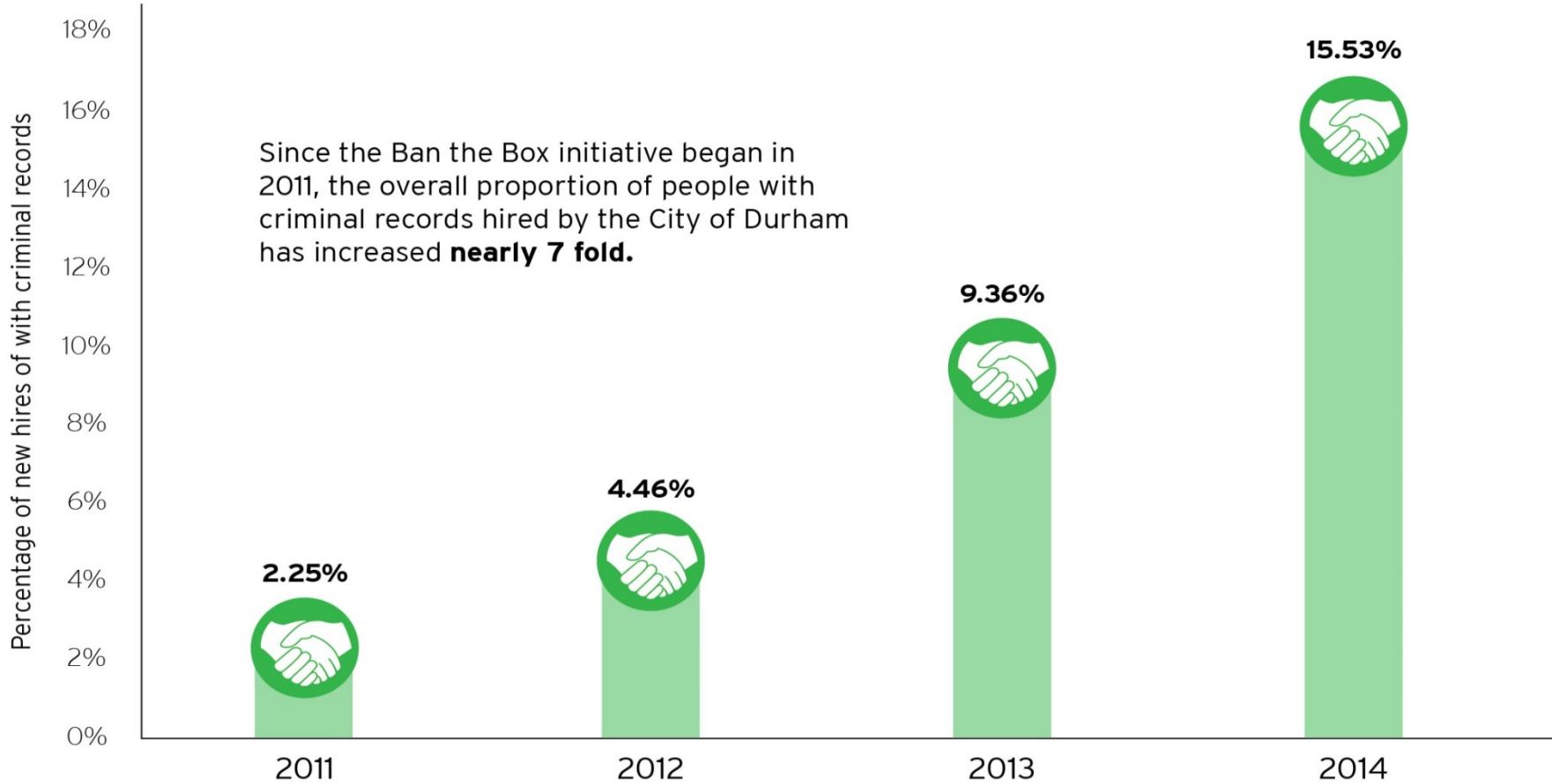
Major Wave of State and Local Reform

- 13 States Ban the Box
 - ✓ In 2014, 3 new states adopted ban the box (DE, NE, NJ), and IL expanded its law.
 - ✓ In 2013, 4 new states did so (CA, IL, MD, RI), and MN expanded its law.
 - ✓ NJ (2014), IL (2014), MN (2013), RI (2013), MA (2010) and HI (1998) cover private employers, not just public employers.
 - ✓ GA Governor has pledged to ban the box for state jobs by Executive Order.
- Over 80 Cities & Counties
 - ✓ Since 2011, about 50 new cities and counties have adopted ban the box (e.g., Atlanta, Baltimore, Indianapolis, Louisville, New Orleans, New York City, Richmond, Tampa, Buffalo, Kansas City, Washington, D.C.).
 - ✓ More cities are covering private employers (e.g., Baltimore, Buffalo, Philadelphia, San Francisco, Seattle) and others (e.g., Boston, Detroit, Pittsburgh) cover government contractors.

Growing Bi-Partisan & Employer Support for Fair Chance Hiring Reforms

- Major retailers (including Walmart, Target, Home Depot, and Bed Bath & Beyond) have adopted ban the box, and it has been endorsed by the EEOC.
- President Obama's My Brother's Keeper Task Force recommends banning the box, which "allows employers the opportunity to judge individual job candidates on their merits as they reenter the workforce."
- NJ Governor Chris Christie signed legislation in August, stating: "this is going to make a huge difference for folks who have paid their debts to society, who want to start their lives over again"
- GA Governor Nathan Deal pledged to issue an Executive Order, which will "afford those with blemishes on their record a shot at a good job, which is key to preventing a return to crime."

New Hires With a Criminal Record Increase 7-Fold in Durham (NC) Post- "Ban the Box"



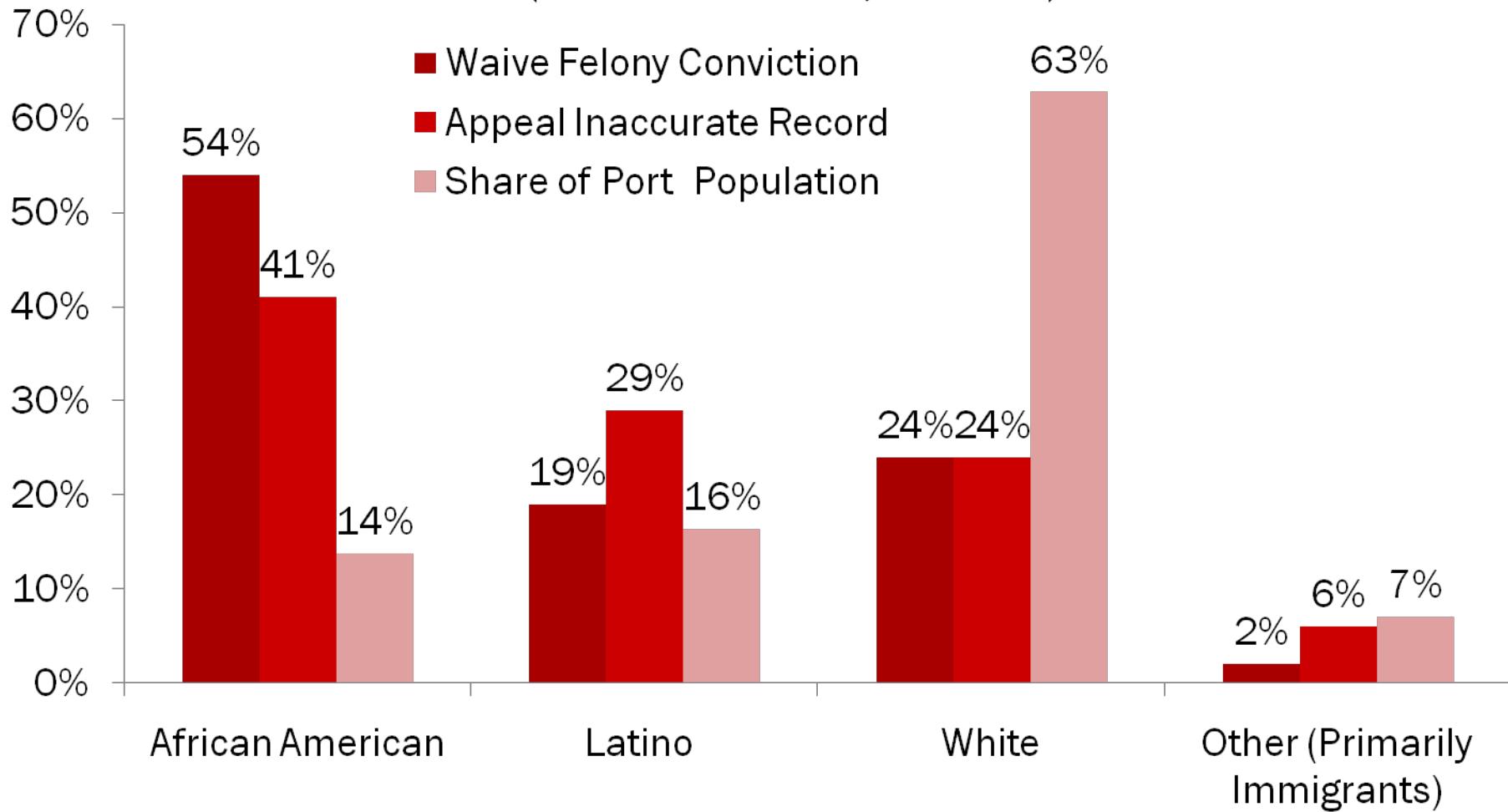
5. Occupational Licensing Laws with Strong Worker Protections



TSA Port Worker Security Program Appeal and Waiver Process

- Program Goals: Post-9/11 maritime security law required three million workers to be screened by TSA for “terrorism security” risks and credentialed to work at the ports.
- Age Limits & Narrowly Tailored Disqualifications: Federal law limits disqualification to specific felony convictions more than 7 years old (or released from incarceration in past 5 years), not including drug possession.
- Appeal of Faulty Records: In writing, TSA isolates the specific disqualifying offense, allowing the worker to challenge its accuracy (97% success rate/57,000 workers).
- “Waiver” to Prove Rehabilitation: TSA “waiver” procedure allows workers to establish rehabilitation (87% success rate/14,000 workers).

Favorable Impact of TSA's Port Worker Appeal and Waiver Protections on People of Color (NELP's Docket, N=287)



UK and State Laws Recognizing Passage of Time Correlates with Rehabilitation

■ State Protections

Rehabilitation is “presumed” by the occupational licensing agency if the sentence is served or a specified period has passed without subsequent record.

-New Mexico: Completion of parole or probation for 3-year period following release from incarceration without offense.

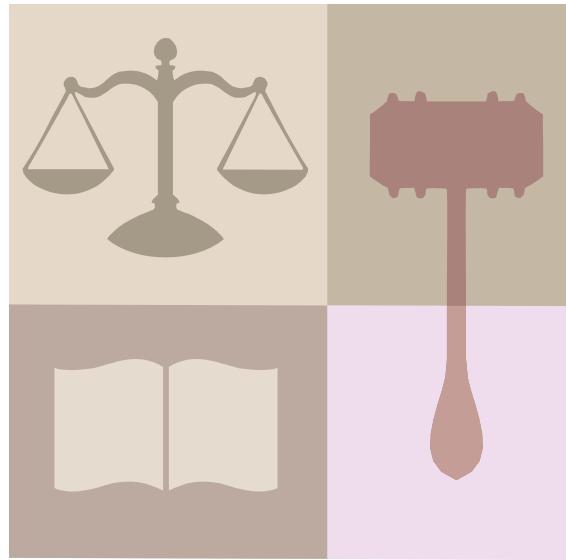
-North Dakota: 5 years after completion of final discharge, parole or probation without subsequent conviction.

-Arkansas: Completion of parole or probation or 5 years after release from prison create “prima facie” evidence of rehabilitation.

■ UK Protections

□ Rehabilitation Offender Act of 1974: Certain convictions (not including jobs involving vulnerable populations) deemed “spent” after a “rehabilitation period,” preventing employers from asking about the record for employment purposes (convictions involving prison term of more than 2.5 years cannot be considered “spent.”)

6. Sealing, Expungements & Limiting Access to Records in the Digital Age



Expand Sealing and Expungement of Arrest Records, Misdemeanors and Lesser Felonies

- Automatically seal and expunge arrest records
 - Connecticut automatically expunges arrests if the state doesn't prosecute and 13 months have passed since the arrest.
 - Massachusetts seals records upon application to the probation department after period of law-abiding conduct (5 years misdemeanor/10 years felony)
- Expand sealing and expungement to cover first felony offenses (e.g., Mississippi, Colorado, Tennessee, Kansas) and lesser felonies (drug offenses) after waiting period.
- Prohibit release of arrests not leading to convictions (e.g., Alaska, Indiana, Hawaii, Kentucky, Minnesota) and preclude employers from asking about arrests (California, New York, Massachusetts).

Limiting Access to Records in the Digital Age

- Aggressively enforce and expand federal and state consumer protection laws, including the Fair Credit Reporting Act, which require timely updating of records and a copy of the background check report to verify accuracy.
- Move to a “closed” criminal records system and away from open and on-line access to state and local records.
 - California does so with its state records system.
 - Massachusetts makes state records available, but limits “look back” to 5 years for misdemeanors and 10 years for felonies.
- Impose quality control checks and auditing procedures on law enforcement and commercial criminal record databases.
 - Pennsylvania set up special database for expunged records that must be checked weekly by background check companies, and the state law requires the Attorney General to audit state and local databases, which can be enforced by private parties.

7. Federal Reform Priorities

- Executive Action:
As recommended by the Reentry Council and the My Brother's Keeper Task Force, the federal government and federal contractors should be model fair chance hiring employers.
- Legislative Action:
 - Clean up FBI background checks for employment (H.R. 2865, sponsored by Congressman Bobby Scott & H.R. 2999, sponsored by Congressman Keith Ellison)
 - Provide for sealing and expungement of juvenile and non-violent felony records (REDEEM Act/S.2567, sponsored by Senators Corey Booker/Rand Paul).
 - Incorporate the Maritime law's appeal and waiver protections into all new federal background check requirements.

Resources

- Helen Gaebler, “Criminal Records in the Digital Age: A Review of Current Practices and Recommendations for Reform in Texas” (William Wayne Justice Center for Public Interest Law, Uni. Of Texas School of Law: March 2013)
<http://www.utexas.edu/law/centers/publicinterest/research/criminalrecords.pdf>
- NELP Fair Chance Hiring/Ban the Box On-Line Toolkit
<http://www.nelp.org/page/content/banthebox/>
- NELP, “Wanted Accurate FBI Background Checks for Employment” (July 2013)
<http://www.nelp.org/page/-/SCLP/2013/Report-Wanted-Accurate-FBI-Background-Checks-Employment.pdf?nocdn=1>
- NELP, “The Wild West of Employment Background Checks” (August 2014)
<http://www.nelp.org/page/-/SCLP/2014/Wild-West-Employment-Background-Checks-Reform-Agenda.pdf?nocdn=1>
- NELP, “65 Million ‘Need Not Apply’: The Case for Reforming Criminal Background Checks for Employment”
http://nelp.3cdn.net/e9231d3aee1d058c9e_55im6wopc.pdf
- NELP, “A Scorecard on the Post-9/11 Port Worker Background Checks”
http://nelp.3cdn.net/2d5508b4cec6e13da6_upm6b20e5.pdf