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FACT SHEET 2015
SB 376

Enhance Employment Opportunities for Individuals Returning to Texas Communities

*Emphasizing Current Qualifications Results in More Working Texans
And a Deeper Employee Pool for Texas Employers*

DELAYING BACKGROUND CHECKS ALLOWS INDIVIDUALS TO STRESS PERSONAL RESPONSIBILITY AND JOB READINESS

The path to the American dream has always rested on an individual's willingness to seek and find employment and climb the ladder to success. However, technological advancements that allow for instantaneous background checks, combined with employers' reluctance to shoulder perceived liability if hiring people with criminal records, have resulted in dwindling employment opportunities for people with criminal histories. In Texas, this means the **11.8 million people with criminal history records** in 2012¹ would ALL have potentially been denied the chance to be interviewed for positions with Texas employers.

The use of background checks as a pre-employment screening tool is almost universal. A 2012 study by the Society for Human Resource Management found that 69 percent of surveyed organizations conducted background checks on all applicants, with another 18 percent running checks on selected candidates.² The impact of these checks, and of a criminal history, are undeniable. One study showed that employer callbacks for entry-level positions dropped 50 percent if applicants had a criminal history.³

At least 110 areas throughout the U.S. – 13 states, 20, counties, and 77 cities or municipalities – have enacted Fair Chance policies that allow job applicants to be initially judged on their qualifications for employment and not on their criminal histories. The most recent states to institute Fair Chance policies were traditionally "red" Nebraska, as well as New Jersey, with legislation signed by Governor Chris Christie, a Republican.⁴

FAIR CHANCE LEGISLATION: WHAT IT **WILL AND WILL **NOT DO****

It **WILL INCREASE** the employment opportunities of people with criminal records by delaying questions about criminal history until the applicant has been offered an interview or conditional employment.

It **WILL ENSURE** that business owners and employers have access to the largest pool of qualified applicants for their businesses.

It **WILL ENHANCE** employment opportunities for work-ready individuals with criminal histories, thus reducing the chances they will commit further crimes.

It **WILL NOT PREVENT** or prohibit any business or employer from performing background checks; it merely delays such checks until an applicant has been offered an interview or conditional offer of employment.

It **WILL NOT PROHIBIT** any business owner or employer from asking on an application for information about specific history that is required by law.

Continued on reverse.

KEY FINDINGS

- The single most negative determining factor contributing to recidivism is a lack of employment.⁵
- The economic consequences of denying employment to individuals with criminal histories can be devastating. A study by the Center for Economic and Policy Research estimated that the Gross Domestic Product shrunk by \$57-\$65 billion per year as a result of lowered employment among formerly incarcerated individuals.⁶ These figures do not take into account individuals with criminal histories who are not working but have not been incarcerated; thus, the actual impact may be much higher.

COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTION: SB 376 BY SENATOR RODRIGUEZ

- **SB 376 will delay background checks until applicants are promised an interview or extended a conditional position, thus allowing job-seeking individuals to present their relevant qualifications for employment without fear of automatic denial.** Employers will benefit from having a larger pool of qualified applicants for available positions, while retaining the choice to run criminal history checks. Combined with HB 1188 by Representative Senfronia Thompson, which in 2013 extended protection to employers hiring people with criminal records, this legislation will greatly increase the employment opportunities for individuals with criminal histories, thus leading to more stable families and safer communities.
- **SB 376 will increase the employment opportunities available for work-ready Texans, lessening the amount of public assistance debt that would otherwise be borne by taxpayers.** A study of women released from Texas prisons showed that 18 percent were still on public assistance almost a year after release.⁷

Citations

¹ Dennis A. DeBacco & Owen M. Greenspan, "Survey of State Criminal History Information Systems, 2012," (Bureau of Justice Statistics, U.S. Department of Justice, 2014): Table 2, accessed on September 10, 2014, available at <https://www.ncjrs.gov/pdffiles1/bjs/grants/244563.pdf>.

² Society for Human Resources Management. "Background Checking – The Use of Background Checks in Hiring Decisions." (2012.) at 2. Available at <http://www.shrm.org/research/surveyfindings/articles/pages/criminalbackgroundcheck.aspx>.

³ Pager, D. (2003). As cited in "Advancing a Federal Fair Chance Hiring Agenda – Background Check Reforms in Over 100 Cities, Counties, & States Pave the Way for Presidential Action." January 2015, p. 2. Maurice Emsellem and Michelle Natividad Rodriguez, *National Employment Law Project*. Available at <http://www.nelp.org/page/-/SCLP/Report-Federal-Fair-Chance-Hiring-Agenda.pdf?nocdn=1>.

⁴ Emsellem, M. & Rodriguez, N. (2015). "Advancing a Federal Fair Chance Hiring Agenda – Background Check Reforms in Over 100 Cities, Counties, & States Pave the Way for Presidential Action." *National Employment Law Project*. p. 5. Available at <http://www.nelp.org/page/-/SCLP/Report-Federal-Fair-Chance-Hiring-Agenda.pdf?nocdn=1>.

⁵ Berg, M. & Huebner, B. (2011). "Reentry and the Ties that Bind: An Examination of Social Ties, Employment, and Recidivism." *Justice Quarterly* (28). P. 382-410. Available at <http://www.pacific-gateway.org/reentry,%20employment%20and%20recidivism.pdf>.

⁶ Schmitt, J. & Warner, K. (2012). "Ex-offenders and the Labor Market." Center for Economic and Policy Research. p. 14. Available at <http://www.cepr.net/documents/publications/ex-offenders-2010-11.pdf>.

⁷ Brooks, L et al. (2009). "Women on the Outside: Understanding the Experiences of Female Prisoners Returning to Houston, Texas." Research Report, Urban Institute. Justice Policy Center. Available at http://www.urban.org/UploadedPDF/411902_women_outside_houston.pdf.