



Ban the Box - Removing Barriers to Employment for People with Criminal Convictions

One of the biggest barriers for individuals returning from jail or prison is finding employment.

What does this bill propose?

- ◆ This bill seeks to “ban the box” to remove some of the barriers people with criminal convictions face to successfully find and secure a job. **“Banning the box” will remove the question on public job applications asking if the person has ever been convicted of a felony.**
- ◆ Applicants will be considered on equal status with other job applicants, and only during the finalist interview process will a criminal background check be completed if it is relevant or required for the position.
- ◆ Employers have every right to ask about conviction status during the interview process, and can deny anyone a position based on “moral turpitude” – which could include everything from drug dealing, to sex offenses, to other violent crimes.

What is the Box?

Most applications for public employment require the applicant to check a "yes" or "no" box indicating if they have ever been convicted of a felony.

Even though the NM State Personnel Office job applications allows individuals to provide an explanation for their conviction, many people with former convictions applying for the job are intimidated and are discouraged from even applying for the position because of the question.

*From the NM State Personnel Office
Online Job Application:*

Have you ever been convicted of a felony?

YES
 NO

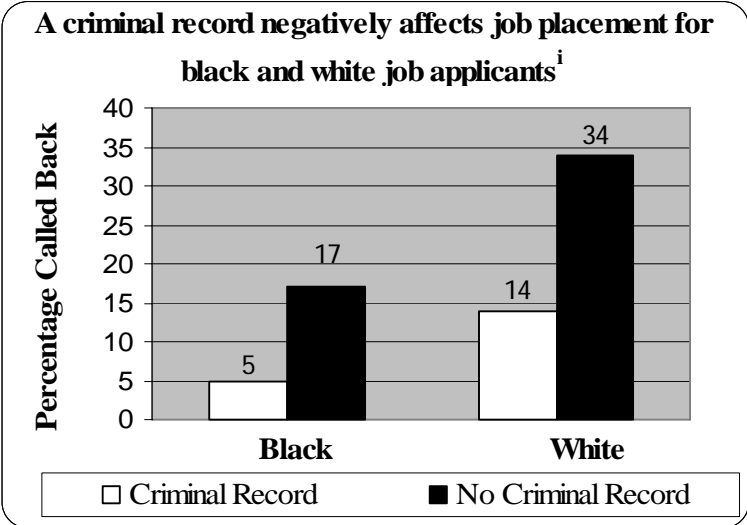
How Does A Criminal Record Impact Employment?

The discrimination faced by individuals with former criminal convictions in the application process prevents many individuals from securing employment, despite their qualifications for the job.

A recent study shows that **in nearly 50% of cases**, employers were unwilling to consider equally qualified applicants on the basis of their criminal record.ⁱ

The study also shows that people of color are more likely to face additional discrimination when seeking employment.

Another major survey reflected that **40% of employers will not even consider a job applicant** for employment once they are aware that the individual has a criminal record.ⁱⁱ



Improve the Application Process for People with Convictions

The 2007 House Memorial 41 Taskforce produced a comprehensive report titled “Barriers to Employment for Individuals with Criminal Convictions.” One of the recommendations of the report is to “improve the State Personnel Office application process.”ⁱⁱⁱ

The bill does not prevent employers from asking about conviction status, nor does this bill prevent criminal background checks.

- ◆ This bill improves the application process for people with convictions by removing the question on the initial job application that asks if a person has a criminal conviction.
- ◆ Employers still have the full right to ask about a person’s criminal conviction during the interview process. Employers are not obligated in any way to hire someone with a conviction over someone without a conviction.
- ◆ The NM Criminal Offender Employment Act specifically excludes people applying for jobs with law enforcement agencies. Other public job positions that require an added level of security, such as position working with children or the elderly, will in no way be compromised by this bill.

Access to Employment Improves Public Safety

According to the U.S. Department of Justice, at least 95% of all state prisoners will eventually be released from prison.^{iv}

Thousands of individuals with convictions are reentering our communities every day^v, and the best way to ensure our communities are safe is to facilitate the employment process for people with convictions.

An estimated **one in five** adults in America have a criminal record on file with the states.^{vi}

Finding and securing stable employment directly reduces a person’s chance of recidivism.^{vi} The New Mexico Department of Correction’s Office of Reentry and Prison Reform supports this proposal to help remove barriers to employment for people leaving prison.

We must take practical steps to remove barriers to employment to help people released from jail or prison reenter our communities, and to make our communities safer by decreasing the probability for recidivism.

ⁱ Devah Pager, “The Mark of a Criminal Record,” *American Journal of Sociology* .108(5) (March 2003): 956

ⁱⁱ Harry Holzer, Stephen Raphael, Michael Stoll, “Employer Demand for Ex-Offenders: Recent Evidence from Los Angeles,” (March 2003), at pages 6-7.

ⁱⁱⁱ New Mexico House Memorial 41 Taskforce Final Report, “Final Report: Barriers to Employment for Individuals with Criminal Convictions.” (November 2007).

^{iv} U.S. Department of Justice, Bureau of Justice Statistics, *Reentry Trends in the United States*. (August 2003).

^v Bureau of Justice Statistics, *Survey of State Criminal History Systems*, 2001 (August 2003)

^{vi} Harer, M. “Recidivism among Federal Prisoners Released in 1987.” Federal Bureau of Prisons, Office of Research and Evaluation. (1994) p.28.