



Florida
TaxWatch

LOCKED UP, THEN LOCKED OUT

*Removing Barriers to Employment
for Persons with Criminal Records*

JULY 2016



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Dear Fellow Taxpayer,

Florida's prison population is among the largest in the United States and is expected to continue growing in the coming years. Contributing to this trend, roughly one-quarter of Florida inmates reoffend within three years of being released. As these offenders cycle in and out of state and local facilities, they run up a costly corrections bill, building upon the already crippling corrections costs incurred by taxpayers.

Almost 9,000 inmates admitted into state and local facilities each year have served time before, but have been unable to successfully reintegrate into free society. Previous Florida TaxWatch research has provided useful policy recommendations to address this issue that would divert many low-level offenders from costly prison or jail sentences through treatment and programs. While these strategies are still essential, this report focuses on improving access to employment opportunities for ex-offenders.

Employment is a critical factor in reducing recidivism, and many states have forged policy solutions to address the cyclical relationship between unemployment and crime. To help stop this revolving door in Florida, this TaxWatch report makes recommendations for Florida to improve access to employment opportunities for released ex-offenders; reducing recidivism, driving down future prison populations, and saving taxpayer dollars.

Sincerely,

Dominic M. Calabro

Dominic M. Calabro

EXECUTIVE SUMMARY

Over time, the “F” in “felony” has become the new scarlet letter. Persons with criminal records (PCRs) are excluded from many opportunities critical for successful reentry into society, particularly employment. While this issue affects all individuals that have criminal records, including those who have been arrested but not charged or convicted, it particularly affects offenders leaving prison.

Common sense, research, and anecdotal evidence all show that if these released offenders do not secure stable employment, they are more likely to reoffend and return to prison. To decrease recidivism and increase the return on state investment in corrections, offenders need to be able to find jobs and keep them; however, there are several barriers to this goal. This paper addresses some of these barriers and recommends that Florida:

- Expand educational, vocational, and reentry programs to provide services to more inmates behind bars and ensure continued educational/employment assistance and support for PCRs post-release;
- Implement a state complement to the federal Work Opportunity Tax Credit (WOTC) for employers who hire qualified ex-offenders; and
- Authorize judges and the Florida Commission on Offender Review to issue Certificates of Rehabilitation for PCRs who have completed sanctions and shown commitment to a crime-free life.

INTRODUCTION

As crime continues to decline across the U.S. despite states' varying methods regarding incarceration and reentry, the attitudes of policymakers across the country are beginning to align in favor of reforms. Specifically, there has been a shift in focus towards reforming prisoners, rather than just punishing them. Florida is no exception; Legislators, criminal justice leaders, and communities within the state are increasingly emphasizing the necessity of reentry and recidivism prevention programs.

When it comes to reentry, stability is a major contributor to success. Ensuring persons with criminal records (PCRs) have a stable environment is crucial. This stability allows them to form bonds with friends, family, neighbors, and their communities—the foundation, researchers have long agreed, essential for a life free of crime.¹ Critical to the longevity and durability of this foundation is that these individuals find and maintain employment. Research shows that steady employment plays a significant role in reducing the likelihood of future offending in PCRs, particularly those leaving prison.²

Unfortunately, many PCRs are not able to find employment post-release. It is crucial that barriers to employment opportunities be removed, where appropriate, in order to promote public safety and ensure the successful rehabilitation of PCRs. States have taken a variety of different approaches to accomplish these goals and have had success; Florida should do the same.

1 Causes of Delinquency. (1969). Travis Hirschi. Berkeley, CA: University of California Press. See also: Criminological Theories: Introduction, Evaluation, and Application. (2009). Ronald L. Akers and Christine S. Sellers, New York, NY: Oxford University Press, Inc.

2 Le'Ann Duran et al. (2013). Integrated Reentry and Employment Strategies: Reducing Recidivism and Promoting Job Readiness. Office of Justice Programs - National Criminal Justice Reference Service; Nally et al. (2014). Post-Release Recidivism and Employment among Different Types of Released Offenders: A 5-Year follow-up Study in the United States. International Journal of Criminal Justice Sciences, 9(1), 16-34; Mark T. Berg and Beth M. Huebner. (2011). Reentry and the Ties that Bind: An Examination of Social Ties, Employment, and Recidivism. Justice Quarterly, 28(2), 382-410. See also: Haddock v. City of New York, 553 N.E.2d 987, 992 (N.Y. 1990). (noting that an opportunity for stable employment may mean the difference between recidivism and desistance).

BACKGROUND

If you asked an employer who they would prefer as an employee—an ex-con or someone who has never committed a crime—you probably would not be surprised by the answer. Studies have found that having a crime (committed at any age) appear on a background check reduced job applicants’ chances of being considered for an entry-level position by up to 75 percent.³ Another study found that, in a list of undesirable characteristics of potential employees, employers considered applicants with criminal records to be the least desirable.⁴ This “once a criminal, always a criminal” attitude regarding PCR job applicants is a problem because the number of PCRs in the U.S. is growing every day.

The Wall Street Journal said it best: “America has a rap sheet.”⁵ The U.S. has consistently incarcerated more people, per capita, than any other nation in the world⁶ and that number continues to grow; the U.S. incarceration rate has increased almost four-fold since 1980.⁷ As of 2013, 1 in 5 Americans had a criminal record.⁸ Florida is no different, with approximately 150,000 inmates in its state prisons and local jails, and an estimated 3 million Floridians with criminal records.⁹

The assumption that PCRs are incapable of reform is not only problematic because of the reasons listed above, it is also untrue. First, having a criminal record does not always mean having a conviction. One study examining a sample of arrestees whose job options were affected by their records found that almost half of them were never convicted.¹⁰ Second, in cases where an individual *was* convicted and served time, research has shown that their risk of reoffending

3 Devah Pager. (2003). The mark of a criminal record. *American Journal of Sociology*, 108(5), 937-975; Jocelyn Simonson. (2006). “Rethinking ‘Rational Discrimination’ Against Ex-Offenders.” *Georgetown Journal on Poverty Law. & Policy*, 13 (283,284).

4 Gebo & Norton-Hawk. (2009). Criminal record policies and private employers. *Justice Policy Journal*, 6(1).

5 “As Arrest Records Rise, Americans Find Consequences Can Last a Lifetime.” (8/18/2014). Gary Fields and John R. Emshwiller, *The Wall Street Journal*.

6 “A Stigma that Never Fades.” (Aug. 8, 2002). *The Economist*.

7 Carson, E. Ann and Mulako-Wangota, Joseph. Bureau of Justice Statistics. (Imprisonment rates of total jurisdiction population). Generated using the Corrections Statistical Analysis Tool (CSAT) - Prisoners at www.bjs.gov. (Accessed 5/13/2016).

8 This does not include traffic citations, warnings, or other minor infractions. Source: “Check Yes or No’: The Hurdles of Job Hunting with a Criminal Past.” (1/31/2013). Stan Alcorn, NPR.

9 This estimate assumes that national estimates hold true on a state by state basis. As Florida incarcerates at a much higher rate than much of the nation, this is likely a conservative estimate. Source: “Check Yes or No’: The Hurdles of Job Hunting with a Criminal Past.” (1/31/2013). Stan Alcorn, NPR.

10 “As Arrest Records Rise, Americans Find Consequences Can Last a Lifetime.” (8/18/2014). Gary Fields and John R. Emshwiller, *The Wall Street Journal*.

declines with time. After a certain period of desistance¹¹ (about 4 to 8 years), they are no more likely to commit a crime than anyone else in the general population.¹² Another study expanded on this finding by including how prior history of convictions can affect the future likelihood of reoffending and reached almost identical conclusions.¹³

Steady employment can help a PCR achieve the period of desistance necessary to get his or her life back on track and become no more of a risk than any other member of the population. Despite the findings of the aforementioned and numerous other studies, and despite the growing population of PCRs in Florida and the nation, stigma with regards to hiring PCRs persists, and they are excluded from employment opportunities that are crucial to their rehabilitation.

UNEMPLOYED PCRs ARE A PROBLEM FOR FLORIDA

Excluding PCRs from employment opportunities based solely on their records not only borders on discriminatory, but is also detrimental to Florida taxpayers. About 40 percent of PCRs cannot find work in the years following their release from prison,¹⁴ which can have a significant impact on Florida's public safety, as well as its budget.

RECIDIVISM AND HIGHER TAXPAYER COSTS

Out of the approximate 33,000 inmates Florida releases each year,¹⁵ about 13,000 are unable to find employment¹⁶ and approximately 8,700 return to prison within three years.¹⁷ Ensuring access to job opportunities for these PCRs could reduce this recidivism as well as save the state millions of tax dollars.

11 This term refers to the amount of time a PCR must remain crime-free until their risk level (the likelihood that they will reoffend) reaches a baseline or, in other words, they become no more likely to offend than anyone else.

12 "Redemption in the Presence of Widespread Criminal Background Checks." (2009). Blumstein and Nakamura, *Criminology*, 47(2), 327-359.

13 The study's findings were consistent with previous results, finding that criminal records over 6 or 7 years old held little predictive power regarding future offending. Additionally, this study found that first time offenders could take as little as one year of desisting to be considered reformed: "The predictive value of criminal background checks: Do age and criminal history affect time to redemption?" (2011). Bushway, Nieuwbeerta, & Blokland, *Criminology*, 49(1), 27-60.

14 Department of Labor Notice of Availability of Funds and Solicitation for Grant Applications for Reintegration of Ex-Offenders – Adult Program Grants. (2011).

15 "2014-2015 Agency Statistics: Inmate Releases and Time Served." (2015). Florida Department of Corrections.

16 Department of Labor Notice of Availability of Funds and Solicitation for Grant Applications for Reintegration of Ex-Offenders – Adult Program Grants. (2011).

17 Assumes a recidivism rate of 26.3 percent. Source: "2013 Florida Prison Recidivism Study." (May 2014). Florida Department of Corrections.

Employment has been cited as reducing recidivism by as much as 50 percent.¹⁸ Assuming this holds true in Florida, corresponding reductions in corrections expenditures would save the state about \$86 million in averted future corrections costs, per group of released inmates.¹⁹ Assuming reductions in recidivism were enough to close a prison, lower operational costs would boost this savings estimate to approximately \$280 million.²⁰

Unemployed PCRs that do not recidivate may also pose a cost. Without work, some PCRs may have to rely on publicly funded assistance programs, like Medicaid. Medicaid spending per adult enrollee in FY2011 was \$2,880.²¹ For every 100 PCRs that find employment and are able to procure their own health insurance, Florida residents save almost \$300,000 dollars in federal and state tax dollars.²² When combining this with reductions in spending on corrections, police, courts, unemployment,²³ and other public assistance programs like SNAP²⁴ it becomes clear that improving access to employment for PCRs could help Florida avoid billions of dollars in spending in the years to come.

UNEMPLOYMENT AND COST TO THE ECONOMY

A criminal record makes it very difficult for many Floridians to find employment. Increasing the number of Floridians without work is bad for businesses and bad for the economy. After just six months, families with one unemployed worker consume 16 percent less products; 24

18 “Ex-Felons get Second Chance at Jobs.” Alexa Vaughn, U.C. Berkeley News21.

19 If 4,350 (half of 8,700) released offenders recidivate and return to prison to serve an average of 3.4 years (source: “2014-2015 Agency Statistics: Inmate Releases and Time Served.” (2015). Florida Department of Corrections) at a cost—not including fixed operational costs—of \$15.91 per inmate per day (source: 2016 Government Efficiency Task Force: Civil and Criminal Justice Subcommittee update, 1/5/2016), the cost to house all of them is approximately \$86 million.

20 If 4,350 (half of 8,700) released offenders recidivate and return to prison to serve an average of 3.4 years (source: “2014-2015 Agency Statistics: Inmate Releases and Time Served.” (2015). Florida Department of Corrections) at a cost—including fixed operational costs—of \$51.65 per inmate per day (source: “2014-2015 Agency Statistics: Budget.” (2015). Florida Department of Corrections), the cost to house all of them is approximately \$280 million.

21 “Medicaid Spending per Enrollee, by State.” (Accessed 6/1/2016). The Henry J. Kaiser Foundation

22 100 PCRs x \$2,880 in per enrollee Medicaid spending = \$288,000. “Medicaid Spending per Enrollee, by State.” (Accessed 6/1/2016). The Henry J. Kaiser Foundation

23 The only PCRs ineligible for unemployment benefits (if they are within the time range in which these benefits are allowable) are those who committed crimes involving fraud in application, or other crimes in connection with their employment that lead to termination. Source: F.S. 443.101

24 Supplemental Nutritional Assistance Program. PCRs convicted of drug trafficking or who are running away from a felony warrant are ineligible. Source: “General Information about Food Assistance and SUNCAP.” (accessed 6/20/2016). Florida Department of Children and Families.

percent less if the sole worker in the family is unemployed.²⁵ Further, jobless PCRs caused a 1 percentage point drop in the U.S. employment rate and cost the nation's economy between \$57 and \$65 billion in lost output in 2008.²⁶

FEDERAL SOLUTIONS

The main hurdles when it comes to employment seem to be leveling the playing field and changing employers' perceptions of PCR applicants. The federal government has implemented several programs and incentives to address these issues and put PCRs on a path towards successful rehabilitation

The Federal Bonding Program lowers the liability of employers that hire PCRs by providing business insurance policies through a Federal Fidelity Bond that insures the employer for "theft, forgery, larceny, or embezzlement by the bonded employee."²⁷ This incentive attempts to mitigate employers' concerns regarding hiring PCRs by protecting businesses from the possibility of perceived risks.

Another incentive, the federal Work Opportunity Tax Credit (WOTC) program, encourages private, for-profit businesses to hire qualified ex-felons and vocational rehabilitation referrals. Depending on the applicant, employers can reduce their federal taxes by up to \$9,600 over two years, and there is no limit to the number of employees matching the incentive criteria for whom the employer can receive the credit.²⁸

Taking another approach, the federal government also provides reentry support through the Second Chance Act (SCA). Enacted in 2007, the U.S. Bureau of Justice Assistance funds seven SCA grant programs that provide housing, education, employment, and other supports to PCRs post-release.²⁹ Since the first SCA appropriation in 2009, the Bureau of Justice Assistance has authorized a cumulative \$475 million in grants, training, and technical assistance to 49 states, the District of Columbia,

25 "Consequences of Long-Term Unemployment." (Aug. 20, 2013). Austin Nichols, Josh Mitchell, and Stephan Lindner, the Urban Institute.

26 "Ex-offenders and the Labor Market." (November 2010). John Schmitt and Kris Warner, Center for Economic and Policy Research.

27 Tax Credit and Incentive Programs: Federal Bonding Program. (accessed 6/20/2016). FloridaJobs.org

28 "Quickfacts: Workforce Services – Work Opportunity Tax Credit Program". (accessed 6/20/2016). FloridaJobs.org.

29 "Second Chance Act." (accessed 5/20/2016). U.S. Department of Justice Bureau of Justice Assistance.

and U.S. territories.³⁰ More than 113,000 people had participated in SCA programs as of March 31, 2015.³¹

STATE SOLUTIONS

While the federal creation of incentives and reforms like those mentioned above are a huge step in the right direction, there are still improvements that can be made on a state level. To address the continuing issue of PCR unemployment, states have implemented varying strategies that better prepare PCRs for work as well as inform, protect, and incentivize the employers that hire them.

HELPING PCRs PREPARE FOR, FIND, AND MAINTAIN WORK

The first thing states have done to improve PCRs' employment opportunities post-release is expand skills training and job-readiness programs that begin behind bars and provide substantial support post-release.

Ohio created the Ex-Offender Reentry Coalition in 2008, which seeks to address ex-offender employment “as part of [a] long term investment in the state’s economy.”³² The Coalition finds available funding and offers support to local programs that provide offender reentry programs that address education, employment resources, and mentorship. It also monitors evidence-based practices and programs and makes recommendations to the legislature for reducing barriers to reentry.³³

Wisconsin used federal SCA funding to expand and improve their “Windows to Work” job skills program, which begins pre-release and teaches PCRs interview skills, job market information, and financial literacy. Participants are also assigned a reentry coach, who continues to assist them with employment opportunities post-release. In 2008 and 2009, every individual who participated in the program obtained employment within 60 days of release.³⁴ Participants in Windows to

30 “Second Chance Act.” (accessed 5/20/2016). U.S. Department of Justice Bureau of Justice Assistance.

31 “Second Chance Act.” (accessed 5/20/2016). U.S. Department of Justice Bureau of Justice Assistance.

32 “Ex-Offender Employment Opportunities.” (July 2011). National Conference of State Legislatures. See also: The Ohio Ex-Offender Reentry Coalition website (accessed: 6/21/2016): www.reentrycoalition.ohio.gov.

33 “Ex-Offender Employment Opportunities.” (July 2011). National Conference of State Legislatures.

34 “Ex-Offender Employment Opportunities.” (July 2011). National Conference of State Legislatures.

Work have a low recidivism rate of 12.8 percent³⁵ compared to the overall prison recidivism rate of 30.1 percent.³⁶

In **Maryland**, “Partnerships for Re-Entry Programming” (along with the state’s pre-release program) is offered to 90 percent of the offenders being released in the state and provides cognitive skills, employment readiness, career development, and other trainings to PCRs post-release.³⁷

The Florida Department of Corrections offers transitional community work-release for low-risk inmates, but the program only serves 3,000 inmates annually (less than 10 percent of releasees).³⁸ Additionally, Florida reentry programs like the Transition from Prison to Community Initiative (TPCI) do not put adequate emphasis on aftercare; inmates in TPCI create plans for the “creation of employment opportunities” and other goals while behind bars, but are expected to meet those goals with limited support post-release.³⁹

INCENTIVIZING BUSINESSES TO HIRE PCRs

A number of states provide income tax benefits that complement the federal Work Opportunity Tax Credit (WOTC) for employers who hire PCRs. **Iowa’s** state WOTC provides employers with an income tax deduction of 65 percent of the wages paid to a PCR in the first 12 months of employment, with a maximum deduction of \$20,000.⁴⁰ The **Illinois** state WOTC for employers that hire PCRs is a flat \$1,500 per eligible employee.⁴¹ Additional states with federal WOTC complements for employers hiring PCRs include **California, Louisiana, and Maryland.**⁴²

35 “Becky Young Community Corrections Recidivism Reduction Fiscal Year 2014 Report.” (Oct. 2014). Wisconsin Department of Corrections.

36 “Recidivism After Release from Prison.” (June 2014). Dr. Megan Jones and Jenna Rogers, Wisconsin Department of Corrections.

37 “Maryland.” (accessed 5/17/2016). National HIRE Network.

38 “Lower Costs & Less Crime: Criminal and Juvenile Justice Reform Options for Florida.” (May 2016). Florida TaxWatch.

39 “Re-Entry: Transition from Prison to Community Initiative (TPCI).” (accessed 5/18/2016). Florida Department of Corrections.

40 “Income Tax Benefit for Iowa Employers who Hire Ex-Offenders.” (accessed 4/1/2016). Iowa Department of Revenue.

41 “2015 Schedule 1299-D Instructions.” (accessed 6/21/2016). Illinois Department of Revenue.

42 “New Illinois Law Aims to Help Ex-Felons Find Jobs.” (8/3/2013). Nancy Harty, CBS Chicago.

CERTIFYING PCRs AS REHABILITATED

Other states improve PCR employment opportunities by certifying individuals with criminal records as rehabilitated or otherwise qualified for employment. **California, Illinois, New Jersey, New York, North Carolina,** and **Ohio** all authorize Certifications of Rehabilitation⁴³ or Qualification for Employment.⁴⁴ These certifications improve the potential for PCRs to become licensed by state boards and are awarded when a judge/parole board determines that a PCR has shown continued dedication to rehabilitation, and that classifying him or her as rehabilitated would be consistent with public interest and not pose a risk to public safety.⁴⁵

Arkansas, Minnesota, Montana, New Mexico, and **North Dakota** also authorize the certified rehabilitated status of PCRs.⁴⁶ To be eligible, a PCR must have a 5-year period of desistance, completed his or her sanctions, and/or have a recommendation from his or her probation or parole officer. An approved application allows qualifying PCRs to enroll in certification or licensure programs from which they were previously excluded due to their criminal records.⁴⁷

These certificates and their equivalents lift barriers that restrict employment and licensing opportunities for all PCRs, but do not erase felony convictions or seal criminal records. In California, for example, an offense is still considered a prior conviction if a PCR recidivates after being certified as rehabilitated and he or she is not allowed to claim no record of conviction when applying for employment.⁴⁸

Convicted PCRs in Florida face almost 800 legal barriers to education, occupational/business licensure, and certifications,⁴⁹ such as ineligibility for a tattoo artist's license.⁵⁰ Despite this, Florida does not offer Certificates of Rehabilitation that would allow PCRs access to these opportunities after a period of desistance, and there have been no recent legislative attempts to establish a similar program.

43 "Ex-Offender Employment Opportunities." (July 2011). National Conference of State Legislatures.

44 Ohio: ORC 2953.25

45 "Ex-Offender Employment Opportunities." (July 2011). National Conference of State Legislatures.

46 "Ex-Offender Employment Opportunities." (July 2011). National Conference of State Legislatures.

47 "Ex-Offender Employment Opportunities." (July 2011). National Conference of State Legislatures.

48 "Certificate of Rehabilitation & Pardon Instruction Packet." (accessed 6/20/2016). Superior Court of California, County of San Diego.

49 "National Inventory of the Collateral Consequences of Conviction." (accessed 6/20/2016). American Bar Association. Available at: <http://www.abacollateralconsequences.org>.

50 S. 381.00783, F.S.

CONCLUSION

To promote public safety and conserve taxpayer dollars, it is essential that Florida emphasize strategies that improve PCR's access to the opportunities necessary to desist from crime. Employment is one critical avenue to success that PCR's continue to have limited access to, despite the fact that helping these individuals find stable employment lessens the drain on taxpayer dollars and has consistently been shown to reduce recidivism.

To improve PCR's access to employment opportunities in Florida, the state must implement solutions that address employer perceptions and PCR job readiness. To do so, Florida should:

- Implement a state complement to the federal Work Opportunity Tax Credit (WOTC) for employers who hire qualified ex-offenders;
- Authorize judges and the Florida Commission on Offender Review⁵¹ to issue Certificates of Rehabilitation for PCR's who have completed sanctions, desisted from crime, and shown commitment to a crime-free life; and
- Expand educational, vocational, and reentry programs to provide services to more inmates behind bars and ensure continued educational/employment assistance and support for PCR's post-release.

51 Formerly the Florida Parole Board.

**“IT’S REALLY EASY TO COMMIT CRIME WHEN YOU CAN
PERSUADE YOURSELF THAT NO ONE ELSE OUT THERE IS
CONVINCED OF YOUR REHABILITATION.”**

*– Glenn E. Martin, former offender and Vice President of
the Fortune Society, a New York City program that provides
a continuum of care for recently released offenders as well as
alternatives to incarceration for certain offenders.⁵²*

⁵² “Recidivism Hard to Shake for Ex-Offenders Returning Home to Dim Prospects.” (6/9/12).
Tymaine Lee, Huffington Post.

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