



**Justice Center**

THE COUNCIL OF STATE GOVERNMENTS

# REDUCING STATUTORY BARRIERS TO SCHOOL AND WORK FOR PEOPLE IN OREGON WITH JUVENILE OR CRIMINAL RECORD

# The Council of State Governments (CSG) Justice Center

We are a national nonprofit, nonpartisan organization that combines the power of a membership association, serving state officials in all three branches of government, with policy and research expertise to develop strategies that increase public safety and strengthen communities.



# Why focus on reducing barriers to school and work for Oregonians with a juvenile/criminal record?

- Similar to the rest of the country, Oregon's unemployment rate has recovered to pre-pandemic levels (5.2%). However, nationally employment rates for people of color, younger adults, and those without a college degree lag significantly behind.
- Individuals who were formerly incarcerated have significantly higher rates of unemployment, particularly Black men and women. In 2018 the unemployment rate for Black formerly incarcerated women was 43.6% compared to 4.3% for white women without a record and 23.2% for white women who had been incarcerated
- At the same time, Oregon employers—like employers across the country—report a shortage of skilled labor and challenges filling vacant positions.
- Educational obtainment and employment are associated with improved lifetime earnings and reduced crime/improved public safety.

# Why focus on reducing barriers to school and work for Oregonians with a juvenile/criminal record? (cont.)

- Employers are more reluctant to hire people who have been convicted of a crime— including individuals whose only offenses are juvenile adjudications.
- Postsecondary application attrition rates have been shown to be over three times higher for people with a record than their peers without a record.
- <7 percent of people eligible for record sealing/expungement get their records cleared within 5 years of eligibility.
- Youth and young adults are developmentally wired to act impulsively, not consider long-term consequences, and be heavily swayed by their peers.

# The CSG Justice Center conducted a comprehensive statutory/ application review and focus groups with key stakeholders.

The examination focused on education- and employment-related collateral consequences of a juvenile and adult record.

Reviewed justice, education, occupational licensing, and employment statutes

Reviewed public, private, and community college as well as largest public and private employer applications

Conducted focus groups with key justice, employment, and education stakeholders

# A working group of diverse stakeholders worked to turn the assessment findings into recommendations

CSG presented assessment findings

Working group identified key priorities to focus on for this legislative session

The working group in partnership with CSG developed recommendations and draft bill language

# Key Findings

# Overarching Finding of the Analysis

Oregon has established *foundational statutory best practices*, such as Fair Chance Licensing and Fair Chance Hiring laws.

However, a *lack of comprehensiveness, legislative carve outs, and vague language* undermine these best practices and create legal barriers to school and work for Oregonians with a juvenile and/or adult criminal record.



- 1 Despite Fair Chance Licensing laws, Oregonians can be denied licensure because of their records.**
- 2 Exceptions and a lack of clarity limit the effectiveness of “ban the box” provisions**
- 3 Statute does not provide clear guidance on the use of an adjudication compared to a conviction or limits on how an adjudication can be utilized**
- 4 Permissible access to court proceedings and juvenile information undercuts confidentiality laws.**

# Key Bill Provisions

# Key Finding #1: Despite Fair Chance Licensing laws, Oregonians can be denied licensure because of their records.

- Repeals broad authorization for all licensing bodies to consider criminal history and those licensing bodies authorized to consider criminal history must do so in accordance with consistent standards.
- Prohibits disqualification absent a direct relationship between the crime and licensed activity.
- Creates a factor based framework for assessment of history that includes an individualized consideration of applicants.
- Establishes a pre-application qualification process to allow for individuals to pursue post-secondary education with confidence they will not be rejected a license.

## Key Finding #2: Exceptions and a lack of clarity limit the effectiveness of “ban the box” provisions

- Expands existing law prohibiting use of expunged juvenile records in licensing and employment decisions to include all juvenile records, except for specific carve out offenses, and includes private employment.
  - There exists a carve out to ensure that any entity explicitly authorized by state law to consider juvenile adjudications is still able to consider adjudications.

## **Key Finding #3: Statute does not provide clear guidance on the use of an adjudication compared to a conviction or limits on how an adjudication can be utilized**

- Establishes clarifying language around a juvenile adjudication that not only explicitly differentiates between an adjudication and conviction but also provides guidance on the use of adjudications in key decisions.
- Language states that outside specific offense based carve outs, an adjudication shall not operate as a forfeiture of any right or privilege and shall not disqualify any person pursuing or engaging in any lawful activity, occupation, profession, or calling.

## **Key Finding #4: Permissible access to court proceedings and juvenile information undercuts confidentiality laws.**

- Removes a carve that allows for key juvenile facts and court records to be disclosed to the public.
  - The legislation maintains access to key information for victims as required.