

# Smart Solutions:

INDIVIDUALS WITH CRIMINAL HISTORIES:

A POTENTIAL UNTAPPED RESOURCE



*A not-for-profit corporation organized under  
the laws of the District of Columbia*

**LEGAL  
ACTION  
CENTER**



**URBAN INSTITUTE**  
Justice Policy Center

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All across the country, stories are told about how former welfare recipients have surpassed initial expectations and are excelling as able, motivated workers. These new employees are posting the same or higher retention rates as other employees and are moving from lives of dependence to independence. Now there is a new group of workers who also merit your serious consideration as viable employees: individuals with criminal histories, or ex-offenders.

About 25 percent of the nation's adult population have a criminal record on file with state or federal governments. It may surprise you however, that most ex-offenders have convictions for nonviolent crimes, like drug offenses. In fact, 71 percent of state prisoners were convicted of nonviolent offenses.

The challenge is to take advantage of the opportunities that hiring qualified ex-offenders provides. Three fourths of ex-offenders were working at least part time before being incarcerated and many acquired new training skills while in prison. Many ex-offenders, particularly those referred by service providers and supervision agencies that specialize in vocational training and employment placements for ex-offenders, offer the skills and motivation to contribute to your business' success.

The information contained in this guide is designed to answer frequently asked questions to help you make smart hiring decisions when it comes to employing people with conviction records.

## Advantages to hiring an ex-offender

*Hiring individuals with criminal records provides your business with incentives that you should be aware of, including:*

- ◆ **Financial Incentives:** Work Opportunity Tax and Welfare to Work Tax Credits are available to private employers to hire targeted groups of workers, including ex-offenders and long-term welfare recipients. The maximum credit available is \$2,400 per new worker for the Work Opportunity Tax Credit. Under the Welfare to Work Tax Credit, an employer can claim up to 35 percent of an employer's first year wages. In addition, you may be eligible to receive Workforce Investment Act (WIA) assistance, including on-the-job training and welfare to work wage subsidies, if you are willing to train and provide work experience to ex-offenders. (see resource section)
- ◆ **Support from Service Providers and Supervision Agencies:** Ex-offender employment agencies help businesses hire with confidence by acting as intermediaries between the employer and the job applicant. While these programs (and other public-or private-sector social service organizations that typically train and support people moving into the workforce) vary in the package of services they offer, they typically provide job readiness and orientation, job assessment and development, pre-employment education and/or training, and post-placement services. These organizations provide no-cost human resources assistance to businesses, evaluating the skills, work history and reliability of potential employees, as well as information related to an applicant's criminal past. After a placement is made, many employment agencies provide continuing support to both the ex-offender and the employer and will intervene if problems arise. Parole officers may also serve as an external monitor/support system for ex-offenders. By supervising individuals and monitoring their conditions of release (i.e. working, staying off drugs, etc.) parole officers can act as another resource for employers. Working with a service provider or supervision agency can definitely increase your chances of

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finding and retaining new employees who are not just eager for a chance to work, but are already prepared for the particular demands of your workplace. Another good way to find service providers in your area is through The Welfare to Work Partnership's Solutions Network, a searchable online database of welfare to work resources located on The Partnership's Web site at [www.welfare-to-work.org](http://www.welfare-to-work.org).

- ◆ **Trained, Motivated Workers:** Businesses across the country have been pleased with the performance of welfare recipients in general. Eight out of ten (80 percent) executives who have hired former welfare recipients found that their new hires are "good, productive employees." employment agencies and other service providers that work with ex-offenders can increase the odds of success by providing education and training so their clients have the tools to succeed.

### Other businesses are hiring ex-offenders

In a fact that may surprise you, a large majority of businesses active in welfare to work hiring are willing to consider employing appropriate candidates with criminal records.

- ◆ In a survey of 600 employers who are members of The Partnership, 82 percent said they would consider hiring a former welfare recipient who had been convicted of a misdemeanor offense.

Moreover, the circumstances make a difference, too. For example:

- ◆ Two thirds of these businesses are more likely to hire an ex-offender who was convicted more than five years ago and has avoided any further trouble with the law;
- ◆ More than half of these employers would be more likely to hire an ex-offender if a social service agency stayed involved with the employee post-

placement; and

- ◆ 53 percent would be more inclined to do so if the government could insure them against any financial loss or legal liability. (Read more below about such programs available to you.)

### The laws of hiring ex-offenders:

In most cases, it is legal for you to hire an ex-offender. While there are some jobs that individuals who have certain kinds of criminal histories cannot hold because of the nature of their conviction and the specific type of job, most occupations are open to qualified ex-offenders.

In addition, several states and the federal government (through the Equal Employment Opportunity Commission) limit how and under what circumstances private employers and government agencies may consider an applicant's criminal record. These laws often forbid employers from asking about and considering arrests that did not lead to conviction and from having flat bans against hiring people with conviction records; rather, they require employers to make individual determinations about job applicants. Factors that are generally considered include the relationship between the job being sought and the individual's conviction(s), time that has elapsed since the offense, and the seriousness of the offense (*i.e.* whether the crime is a misdemeanor or a felony, as well as the specific nature of the offense). For instance, if a job applicant who had a prior conviction for drug possession applied for a position as a food service worker, you should probably not deny him employment based solely on his criminal record.

To learn more about the federal laws and to determine the standards your state has governing the employment of people with criminal records, including what kinds of questions you can ask job applicants on employment applications and whether there are restrictions on hiring people with criminal records in certain jobs, you should contact the Legal Action Center or your state's Attorney General.

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## Ex-offenders and employer liability:

Many employers are resistant to hire ex-offenders because they worry that if they hire an individual with a criminal history who later commits a new crime, they will be liable. In most cases, an employer will not face liability if he or she hires an ex-offender. While each state may have their own standards, liability is usually based on whether the employer could have foreseen the crime. An employer's reasonable efforts to check and evaluate a potential employee's background will suit the legal requirements and reduce the risk of liability on the employer's part. However, check your state's standards for negligent hiring.

The Federal Bonding Program, sponsored by the Department of Labor, is a successful tool for protecting employers and addressing their concerns. The Federal Bonding Program provides bonding insurance to employers willing to hire certain high-risk job applicants who may otherwise be denied coverage from commercial bond carriers. These applicants include: ex-offenders, welfare recipients, youth, and those with poor job histories. The bonds protect employers against theft, forgery, larceny, and embezzlement.

To qualify for bonding insurance, the job must be a minimum of 30 hours per week and must have the expectation of lasting six months or more. The worker must meet the state's legal age for working; however, there are no other age limits. Workers must be paid wages with federal taxes automatically deducted from their pay. If eligible, the employer will receive a \$5,000 bond to cover a six-month period of time. Employers interested in securing bond insurance for employees with past convictions should call their State Department of Labor (see resource section) or see the Fidelity Bonding online at [www.bonds4jobs.com](http://www.bonds4jobs.com).

## Recruiting qualified ex-offenders

Ex-offender employment agencies and welfare-to-work service providers can screen clients and ensure the needs

of employers are matched with potential applicants. The services provided by these agencies differ based on location. Examples of these agencies are the Center for Employment Opportunities in New York City and the Safer Foundation in Chicago. (see description)

The National Institute of Correction's work to assist correctional agencies in promoting offender job training, placement, and retention is coordinated by the Office of Correctional Job Training and Placement (OCJTP). OCJTP was created by the Violent Crime Control and Law Enforcement Act of 1994 for the purpose of coordinating efforts of federal agencies and others nationwide to improve job training and placement programs for offenders and ex-offenders. Although OCJTP does not work directly with ex-offenders, its programs can train an employer's human resources department on how to support ex-offenders.

Another way for businesses to provide opportunities to individuals with a criminal history is to ensure that hiring policies and practices do not indiscriminately screen-out qualified applicants. Making reasonable efforts to investigate an applicant's history will shield an employer from liability. Therefore, you may want to make sure:

- ◆ Your human resource manager understands the difference between an arrest that did not lead to a conviction and an actual conviction.
- ◆ You do not consider a conviction as the sole reason to deny an applicant a job; an ex-offender should be treated like any other applicant, unless his or her conviction is directly job-related or indicates that the applicant might pose a threat to people or property.
- ◆ You give full consideration to evidence of rehabilitation, including education, volunteer experience, prior employment, references from previous employers, community leaders and others, as well as certificates of rehabilitation granted by the state.

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## Success Stories...

### Embassy Suites

Embassy Suites is a firm believer in second chances. Embassy Suites has hired several ex-offenders from different programs, and was encouraged to hire individuals with criminal records because of the support systems in place. The company felt secure because they were not just "out there" hiring, Embassy Suites had the extra help and support they needed.

Ann Sermons was hired in October 1999 as a suite keeper at Embassy Suites after serving 14 months in jail for delivering drugs. Ann knew she had to change her life, that the life she was living was not a positive one. Ann had to be a positive role model for her three children, ages 14, 13, and 8, who currently live with her mother. After two and a half years on the job, Ann enjoys coming to work and making the guests happy, and currently lives in her own apartment, just down the street from her job at Embassy Suites.

### Petroleum Engineering Council (PEC)

The Welfare to Work Partnership/BizLink brokered with service providers Tulane/Xavier University and Goodwill to prepare 25 noncustodial fathers, many ex-offenders, for training at Petroleum Engineering Council (PEC) facilities in Hammond, Morgan City, St. Rose and Venice, LA. These jobs have starting salaries from \$7 to \$15 an hour. A normal workweek usually runs around 84 hours while the offshore rigs are at-sea drilling for oil and natural gas. BizLink, Tulane/Xavier and Goodwill screened the participants, while BizLink and Tulane/Xavier partnered to purchase tools and uniforms. PEC also covered costs for training to work on oil and natural gas rigs, which normally runs \$2,400 per person, accommodations and food for the participants. Participants received a PEC identification card with a list of programs they completed to help on interviews, which began towards the end of training.

The eight days of extensive, hands-on training provides the skills for successful employment on offshore rigs in the Gulf of Mexico, including a basic orientation about life on an oil rig, core compliance information, including fire prevention, hearing conservation, welding and forklift safety, off-shore water survival, first aid and basic rigging techniques.

### The Center for Employment Opportunities

The Center for Employment Opportunities (CEO) in New York City is one of the many programs that help ex-offenders prepare for, find, and keep jobs. CEO's program is a two-step process for participants. The Neighborhood Watch Program (NWP) offers immediate short-term employment through day labor programs. Participants provide general building maintenance, ground keeping services through out New York, and at the same time, build work skills on the job like getting to work on time. NWP participants are also involved in the Vocational Development Program (VDP). Upon arriving at CEO, individuals attend a week long life skills and pre-employment workshop. Participants learn how to create a resume, basic interview skills, and how to discuss their conviction with potential employers. On the last day of the workshop, participants work with an individual employment counselor to develop an employment plan and evaluate their vocational skills and interests. While enrolled in NWP, participants work for four days and meet with their counselor once a week. CEO has placed participants in more than 300 companies and maintains a 65 percent placement rate.

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## FOR MORE INFORMATION TO GUIDE YOU THROUGH THE PROCESS OF HIRING INDIVIDUALS WITH CRIMINAL HISTORIES, CONSIDER CONTACTING:

### **The Legal Action Center**

(212) 243-1313

[www.lac.org](http://www.lac.org)

### **The Urban Institute**

(202) 833-7200

[www.urban.org](http://www.urban.org)

### **The US Department of Labor**

(866) 4-USA-DOL

[www.dol.gov](http://www.dol.gov)

### **The Federal Bonding Program**

(800) 233-2258

[www.bonds4jobs.com](http://www.bonds4jobs.com)

### **The Welfare to Work Partnership**

(888) USA-JOB1

[www.welfaretowork.org](http://www.welfaretowork.org)

*The BizLink Network is a Partnership effort in five cities - Chicago, Los Angeles, Miami, New Orleans and New York - to help businesses hire, retain and promote good productive employees. For more information:*

#### **Chicago**

(312) 245-9675

#### **Los Angeles**

(213) 251-1441

#### **Miami**

(305) 576-3422

#### **New Orleans**

(504) 588-9168

#### **New York**

(212) 414-4870

### **THE LEGAL ACTION CENTER**

The Legal Action Center is the only nonprofit law and policy organization in the United States whose sole mission is to fight discrimination against people with histories of alcohol and drug dependence, HIV/AIDS, or criminal records, and to advocate for sound public policies in these areas.

The center's newest initiative is the National H.I.R.E. Network, which serves as a national clearinghouse for information and provides leadership on key public policy initiatives related to the employment of people with criminal records.

### **THE URBAN INSTITUTE**

The Urban Institute is a nonprofit policy research organization established in Washington, D.C., in 1968. The institute's goals are to sharpen thinking about society's problems and efforts to solve them, improve government decisions and their implementation, and increase citizens' awareness about important public choices.

The Justice Policy Center (JPC) carries out nonpartisan research to inform the national dialogue on crime, justice, and community safety. JPC researchers collaborate with practitioners, public officials and community groups to make the center's research useful not only to decisionmakers and agencies in the justice system, but also to the neighborhoods and communities harmed by crime and disorder.

### **THE WELFARE TO WORK PARTNERSHIP**

*The Welfare to Work Partnership is a national, nonpartisan, nonprofit organization created by the American business community to encourage companies to hire and retain former welfare recipients. The Partnership was started in 1997 with five founding companies—Burger King, Monsanto, Sprint, United Airlines and United Parcel Service—and has grown to include more than 20,000 companies that have hired an estimated 1.1 million people from welfare to work.*

