

Reducing Barriers to Occupational Licensing for Floridians with Past Criminal Convictions

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Floridians with past criminal convictions experience significant barriers when entering the workforce. Current regulations contribute to Florida's rank as having the fifth most burdensome requirements for occupational licensing in the nation, according to the Institute for Justice.¹

Florida Over-Regulates Professional Licensing

- Florida heavily regulates several occupations, such as drywall installation contractors, that are not regulated in many other states.²
- On average, Florida requires more training hours and imposes higher fees to be eligible for licensing exams, which can easily be a financial hurdle for those who have been incarcerated and have meager or no source of income.³

Why Does This Matter?

Many Floridians with criminal histories are being left out of Florida's economy. Nationally, former inmates are paid at least 40 percent less than those who were not incarcerated.⁴

What Specific Policies are Hindering People With Past Convictions From Procuring an Occupational License?

Florida's laws generally fall into two main categories: permanent bar and disqualifying periods.⁵

- **Permanent Bar:** This applies to people who have been convicted of a felony of the first degree, a capital felony, a felony involving money laundering, a felony of embezzlement, or a felony directly related to the financial services business. This is regardless of adjudication, guilty pleas, or nolo contendere pleas.
- **Disqualifying Periods:** There is a 15-year disqualifying period for people in Florida who have been convicted of felonies with moral turpitude, such as manslaughter, grand theft and larceny, perjury, burglary, robbery, and passing worthless bank check less than \$500.

The 7-year disqualifying period includes all felonies that are neither permanently banned nor have a 15-year disqualifying period, and all misdemeanors that are directly related to the financial services business. Examples include trespassing, drug possession, sale of fireworks, and solicitation of prostitution.

Additional policies:

- **Good Character:** Florida’s licensing regulations contain a “good moral character” clause that bestows licensing boards with broad discretionary power to disqualify applicants with criminal pasts based on their moral character.⁶
- **Court Fines and Fees:** All applicants must pay all related fines, court costs and fees, and court-ordered restitution before they can be issued an occupational license.

Have There Been Any Changes?

- The state cannot deny applications on the sole basis of the applicant’s criminal history.
- Boards cannot consider offenses committed more than five years prior to application for certain types of crimes.
- Licensing agencies must post a list of crimes that would disqualify applicants based on their criminal records on their website.⁷

Who is Affected the Most?

- Blacks and Hispanics; specifically, Black males with past criminal convictions are disproportionately affected by Florida’s current licensing regulations.
- As of 2016, nearly 1 out of every 3 Floridians with a felony conviction who had completed their sentence was Black.⁸
- Being incarcerated reduces the total earnings of white males by 2 percent, Hispanic males by 6 percent, and Black males by 9 percent.⁹

What are Some Viable Policy Recommendations?

Florida’s Legislature should adopt the following recommendations:

- Develop and implement data-driven mechanisms that would reduce the discretionary power of licensing boards in their usage of “good moral character” as a basis for application denial.
- Decrease the disqualifying period for certain types of nonviolent crimes and offenses that are not directly related to the profession. For example, New Mexico’s laws only allow disqualifications for crimes with moral turpitude if they are directly related to the license.
- Reduce the financial barrier by lowering the amount of required training hours and associated fees for all technical educational programs the Department of Corrections offer such as barbering, cosmetology, and construction contractors.

How Would These Recommended Policies Help Florida?

- **Foster rehabilitation and public safety:** Improving access for those who are being released from prison to secure and maintain gainful employment would promote comprehensive rehabilitation and public safety.
- **Provide fiscal benefits:** Studies have shown that immediate access to job opportunities is a crucial determinant of whether those who are leaving prisons will successfully re-integrate into their communities or re-commit new crimes that can potentially lead to re-arrests.¹⁰ Those who are employed upon their release are less likely to commit crimes, which would help lower crime rates, decrease the rates of prison admission, and save taxpayer dollars. In fiscal year 2017-18, Florida's inmate population was 96,253 and cost roughly \$22,000 per inmate.¹¹

¹ Dick M. Carpenter II, et. al, License to Work: A National Study of Burdens from Occupational Licensing, 2nd Ed., Institute for Justice, at pp. 62-63 (Nov. 2017), https://ij.org/wp-content/themes/ijorg/images/lw2/License_to_Work_2nd_Edition.pdf

² Vittorio Nastasi, Samuel R Staley, Bridging the Divide: Licensing and Recidivism, James Madison Institute, at p. 2 https://www.jamesmadison.org/wp-content/uploads/2019/04/PolicyBrief_LicensingRecidivism_v02.pdf

³ Ibid

⁴ Doug Hamilton and Susan K. Urahn, Collateral Cost: Incarceration's Effect on Economic Mobility, Pew Charitable Trusts at p. 4 https://www.pewtrusts.org/-/media/legacy/uploadedfiles/pcs_assets/2010/collateralcosts1pdf.pdf

⁵ Division of Insurance Agent and Agency Services, Applicants with Criminal Histories, <https://myfloridacfo.com/Division/Agents/Licensure/General/PriorCrimHist.htm>

⁶ Larry Craddock, "Good Moral Character" as a Licensing Standard, Journal of the National Association of Administrative Law Judiciary, <http://digitalcommons.pepperdine.edu/cgi/viewcontent.cgi?article=1117&context=naalj>

⁷ Florida Senate <https://www.flsenate.gov/Session/Bill/2019/7125>

⁸ Christopher Uggen, Ryan Larson, & Sarah Shannon, 6 Million Lost Voters: State-Level Estimates of Felony Disenfranchisement, 2016, The Sentencing Project (2016), <https://www.sentencingproject.org/wp-content/uploads/2016/10/6-Million-Lost-Voters.pdf>.

⁹ Doug Hamilton and Susan K. Urahn, Collateral Cost: Incarceration's Effect on Economic Mobility, Pew Charitable Trusts at p. 4 https://www.pewtrusts.org/-/media/legacy/uploadedfiles/pcs_assets/2010/collateralcosts1pdf.pdf

¹⁰ Nastasi, Staley

¹¹ Florida Department of Corrections, 2017-2018 Annual Report, at p. 8 http://www.dc.state.fl.us/pub/annual/1718/FDC_AR2017-18.pdf