

National Blueprint for *Reentry*



Model policies to promote the successful reentry of individuals with criminal records through employment and education.

Legal Action Center
National H.I.R.E. Network
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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.

Established by the Legal Action Center, the **National H.I.R.E. Network's** mission is to increase the number and quality of job opportunities available to people with criminal records by improving employment practices and public policies, and changing public opinion.

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CONTENTS

Executive Summary	2
Introduction	6
Education Background and Recommendations	9
Employment Background and Recommendations	13
CONCLUSION	17
APPENDIX A	21
State and local model policies	
APPENDIX B	23
PowerPoint: “Becoming a Powerful Advocate in Washington, DC: Mastering the Federal Advocacy Process”	

EXECUTIVE SUMMARY

The National HIRE Network, in conjunction with the National Reentry Consortium¹, presents this *National Blueprint for Reentry*, a comprehensive plan for developing a national policy agenda to improve employment and educational opportunities for people with criminal records. Each year, millions of individuals cycle through jail systems while the number of individuals being released into communities from state and federal prisons is steadily creeping up to nearly a million people per year. It was estimated that in the year 2008, approximately 700,000 individuals would reenter communities from prisons around the nation. Most of these individuals will need assistance connecting to jobs, increasing their education, or accessing other essential social services in order to successfully reintegrate into society and improve their lives. However, even if they find some assistance within their communities, most will encounter a daunting array of counterproductive and debilitating legal and practical barriers, including state and federal laws and policies that hinder their ability to qualify for a job or enter a higher educational program—further preventing their ability to become tax-paying citizens and inhibiting their ability to care for themselves and their families.

The National Blueprint for Reentry offers legislative and executive policy recommendations for the United States to reinforce its commitment to giving people a second chance, restoring families and communities, and decreasing the recidivism rates of people with criminal histories by increasing employment and higher education opportunities within prisons and in the communities.

Research shows that there are two key factors that can be attributed to the successful reintegration of people with criminal histories: their ability to work and earn an adequate living wage and their attainment of a higher education. Although empirical studies document the positive impact employment and education have on reducing recidivism rates of people with criminal histories, there still remain many policies and practices that serve as barriers to achieving these goals. For example, many college programs that existed in prison systems across the nation essentially disappeared when federal legislation was passed to take away Pell Grant eligibility from people in prison. Additionally, more and more barriers to occupational licenses and jobs have been legislated to bar people with criminal

records from thousands of jobs without consideration of how old or serious their convictions. As a result, many people are deadlocked in a cycle of incarceration because, although they have paid their debt to society by serving the sentence imposed under the law, they continue to experience life-long “invisible punishments” such as living with the stigma of having a criminal record, statutory barriers to occupational licensing and employment, and increasingly more than ever before, limited access to post-secondary educational opportunities.² The *National Blueprint for Reentry* offers legislative and executive policy recommendations for the United States to reinforce its commitment to giving people a second chance, restoring families and communities, and decreasing the recidivism rates of people with criminal histories by increasing employment and higher education opportunities within prisons and in the communities.

The good news is the United States has begun to reevaluate its sentencing policies and develop more rational and cost effective strategies to reverse the misguided and counterproductive policies of the past, which have led to the United States having the highest incarceration rate in the world. Some states and localities have taken the initiative to try to address the problems of reentry by implementing new employment and education focused initiatives and creating legislation to assist individuals with criminal records with reintegration (See Appendix A of full report).

¹ The National Advocacy Consortium is composed of several national, state, and local organizations that work in various aspects of reentry—workforce development, criminal justice, addiction and mental health treatment, and education.

² Mauer, Marc and Chesney-Lind, Meda. Eds. *Invisible Punishment: The Collateral Consequences of Mass Incarceration (2002)*.

There is increasing support for policy reform in the area of reentry. In April 2008, the Second Chance Act was signed into law to authorize federal, state, and local grant programs to fund education, employment, and alcohol and drug treatment services for people reintegrating into communities from prison. Moreover, in August 2008, Congress amended the Higher Education Act to authorize grant programs that support higher education programs in prison. The passage of this legislation marks the beginning of what we believe to be the new design of America's blueprint for reentry.

The nation as a whole is at a pivotal point as a new administration and new Congress will take over in 2009. They will have the opportunity to continue the progress that has been made to reduce incarceration rates and increase the public's safety by enacting model policies that increase education and employment opportunities for individuals with criminal histories.

The National Reentry Consortium offers the following recommendations that may be accomplished by legislative and/or administrative policy reform:

RECOMMENDATIONS: EDUCATION

- Fully fund new grant programs for higher education programs within prisons contained in the Higher Education Amendments Act of 2007.
- Restore Pell Grants for in-prison higher educational university/college and vocational programs.
- Repeal the drug felony ban in the Higher Education Act.
- Remove the question about drug-related convictions from the Free Application for Federal Student Aid (FAFSA) that is available to students applying for financial aid for the first time.
- Require universities/colleges that receive federal funding to employ fair admission policies and prohibit blanket exclusions of students with criminal histories.
- Encourage state and federal prisons to develop educational and training programs that are tied to high growth labor markets and industries.

RECOMMENDATIONS: EMPLOYMENT

- Create a federal human rights standard that encourages employers to hire qualified applicants with criminal histories and prohibits flat bans against hiring qualified individuals with criminal histories.
- Prohibit employers and other non-law enforcement agencies from inquiring about or using information about arrests that did not lead to conviction or missing dispositions on criminal record reports issued by the Federal Bureau of Investigation or other criminal justice reporting agencies.
- Enact a federal standard for employers based on recommendations outlined in the Equal Employment Opportunity Commission guidance on the use of background checks for employment purposes when screening applicants with criminal records.
- Require all current and future legislation that authorizes the disqualification of individuals with criminal records to include a waiver/appeal process whereby the applicant can challenge inaccuracies in criminal record reports, present evidence of

rehabilitation and other mitigating information relevant to their criminal history and rehabilitation.

- Require all current and future legislation that authorizes the use of criminal background checks for employment related purposes to include a provision that designates an independent body, rather than individual employers, to make fitness determinations.
- Increase and improve employer incentives for hiring qualified individuals with criminal histories.
- Implement a federal Justice Reinvestment program that ensures any corrections savings are reinvested into funding streams that support reentry and community-driven crime prevention programs.
- Change the federal employment standard for how old a record has to be for consideration. The policy should be amended to include a graduated period of consideration of the criminal record based upon the severity of the individual's criminal history. Consideration of a criminal record beyond 7 years should be discouraged or prohibited.
- Require the federal Office of Personnel Management to report to Congress annually on its employment policies for people with criminal records.

Joint Education and Employment Recommendations:

- Ensure annual appropriations that adequately fund all of the appropriate agencies that support education and employment services for incarcerated and reentering individuals including but not limited to Department of Justice, Department of Labor, Department of Education, Health and Human Services, SAMHSA, and the Veterans Administration.
- Require all federally funded reentry programs to collect relevant data that measure their effectiveness in serving a diverse array of individuals with criminal histories (i.e. violent/nonviolent, youth/adult, male/female).

**Education and employment
are pathways out of poverty
and can lead to
strengthening families and
communities.**

INTRODUCTION

Significant momentum is building to reduce the barriers facing people with criminal records, and there is bi-partisan support for shifting the focus of criminal justice policy to assisting the formerly incarcerated. Recognizing that there has been a shift in public support for reentry and the new opportunity to conduct public education on Capitol Hill, the National H.I.R.E. Network (HIRE) implemented its National Advocacy Project to promote model policies to reduce employment and education barriers facing individuals with criminal histories. In March 2008, HIRE began its public education activities to inform stakeholders about the federal legislative process and federal advocacy in a 90 minute webinar (see Appendix B for the PowerPoint presentation). In April 2008, HIRE convened a meeting of national and local practitioners and advocates that work in various areas of reentry (now known as the National Reentry Consortium) to develop an outline of recommendations regarding a national reentry policy reform agenda that focuses on education and employment.

This *National Blueprint for Reentry (Blueprint)* provides the framework from which the new president and members of Congress can begin to lead the nation in promoting fair and effective policies and practices that will further help the revolving door of recidivism by employment and higher help includes changing the people who have criminal histories associated with having a criminal government has done successfully stigmatized populations such as recipients, and high school drop

Without significant public policy reforms in the areas of employment and education, people with criminal records will continue to have difficulties providing for themselves and their families and becoming productive citizens.

people with criminal histories close increasing their access to educational opportunities. This public's negative perception of and reducing the stigma record something the federal in the past for other highly war veterans, former welfare outs.

Some criminal justice and reentry undermine our nation's and opportunity by creating unfair and counterproductive roadblocks to virtually all basic necessities of life, particularly to employment and higher education for many individuals with criminal records, many of whom come from communities of color. These roadblocks work against hundreds of thousands of individuals who try to fulfill society's obligation and expectation that they rebuild their lives, reconnect to and support their families, and become productive members of their communities.

policies diminish public safety and commitment to justice, fairness,

We know that each individual's journey in reforming their lives is very different depending upon the unique circumstances and experiences that may have contributed to their involvement in the criminal justice system. However, what is most common among people attempting to successfully reenter their communities after contact with the criminal justice system is the difficulty they face in obtaining employment and pursuing a professional career. Without significant public policy reforms in the areas of employment and education, people with criminal records will continue to have difficulties providing for themselves and their families and becoming productive citizens. When people are unable to obtain stable employment and work to increase their earning potential, they are more likely to have future contact with the criminal justice system and thus compromise public safety. Legal restrictions, licensing requirements, occupational bars, inadvertent and deliberate employment

discrimination practices, and the cultural stigma associated with having a criminal record have resulted in the exclusion of many people with criminal records – many of whom come from economically distressed communities of color – from obtaining employment and other necessities of life.

We hope, with your help, to devise and implement a long-term strategy to reform reentry policies related to employment and education of people with criminal histories. The *Blueprint* may serve as a platform from which reentry advocates can speak with a unified voice on Capitol Hill and in their respective communities. The National H.I.R.E. Network realizes that addressing reentry issues requires a multi-faceted approach. We also know there is not one answer that solves the enormous struggles facing people with criminal histories. However, education and employment are pathways out of poverty and can lead to strengthening families and communities. The education and employment focused recommendations described in the *Blueprint* have been vetted by national and local practitioners and advocates who are part of a National Advocacy Consortium that is committed to educating the nation about effective model employment and education policies for people with criminal records and the need to adequately fund these programs and supportive federal agencies.

It is imperative that we support the successful reintegration of the millions of individuals with criminal histories who are committed to changing their lives through education and employment; it will help improve the economic condition and public safety of the country and will help strengthen families and communities. Please share these recommendations with federal and state elected officials. Ask them to commit to helping to support the reforms that are needed in their states and in our nation. Disseminate the content of this *Blueprint* and serve as an advocate for justice, fairness, and opportunity. Your voice must be heard and your participation is necessary.

Change does not necessarily assure progress, but progress...requires change.

Education is essential to change, for education creates both new wants and the ability to satisfy them.

--Henry Steele Commanger

EDUCATION

In today's competitive job market, higher educational attainment influences successful employment outcomes, particularly when the lack of a college degree is coupled with the stigma of a conviction record. According to the U.S. Bureau of Labor Statistics, "employers view the ability to earn an academic credential as an indicator of assets – such as organizational skills and aptitude."¹ Furthermore, because of its ability to expand access to quality employment opportunities, build moral character, and encourage personal and social change, advanced educational opportunities, when combined with a host of other reentry support services, has been proven to be one of the most effective form of crime prevention.

In addition to its practical function as a credential in the job market, higher education has been documented to "strengthen people's conscience as they confront moral dilemma" in life.² A research brief on education reported that participation in higher education lowered recidivism by 15% and 13% for people who earned an associate's or bachelor's degree, respectively.³ Furthermore, as detailed in a 2001 study, *The Impact of College in a Maximum-Security Prison*, recidivism studies have demonstrated repeatedly that people who receive a post-secondary education while in prison fare better when they rejoin society than those who do not.⁴ It is also understood that education, in general, may be a contributing factor to individuals having stronger family ties, healthier living habits, and developed social skills.⁵

Higher education programs also yield a cost-savings to correctional systems and to society at large. The Correctional Education Association, in its study on recidivism in three State correctional systems, calculated that educational programs experience a "return [of] at least \$2 for every \$1 spent in terms of saving in cell space on those who do not return to the system." The researchers also concluded that "as a matter of policy it would seem that education should be emphasized as both a rehabilitative as well as crime reduction tool."⁶ Therefore, Congress and our new president should commit to removing higher education barriers by making advanced educational programs more accessible within prison systems and in the community.

RECOMMENDATIONS: EDUCATION

■ Fully fund new grant programs for higher education programs within prisons.

- ✚ Understanding how important it is to ensure individuals obtain college educations and the impact a post-secondary education may have on a formerly incarcerated individual's success at becoming a productive member of society, the federal government should provide adequate funding to support higher education programs in prison. The signing of Public Law 110-315 in August 2008 amended the Higher Education Act to require the Secretary of Education to establish a program to fund State correctional education agencies to help eligible incarcerated people acquire educational and job skills. This is a first step in ensuring incarcerated individuals have the opportunity to increase their education and become more marketable upon their release.

■ **Restore Pell Grants for in-prison higher educational college and vocational programs.**

✚ In 1994, Congress eliminated Pell Grant eligibility for people who are incarcerated. Allowing people in prison access to Pell Grants was viewed as taking money away from law-abiding citizens, despite the fact that prison-based higher education accounted for 1/10 of 1% of the Pell Grants' annual budget.⁷ Most post-secondary higher education programs in prisons closed when Congress eliminated Pell Grant eligibility for people in prison. Before 1995, there were approximately 350 college-degree programs inside state prisons in the United States. By 2005, there were about a dozen, and now there are only about eight to ten programs left that are privately funded and even these are very skeletal compared to college programs that were in operation at the height of Pell Grant eligibility for inmates.

■ **Repeal the drug felony ban of the Higher Education Act.**

✚ In 1998, the Higher Education Act was amended to prohibit anyone with a drug conviction from receiving federal financial aid for post-secondary education. Although the law was amended in 2005 to only bar individuals convicted of a drug related offense while receiving financial aid, full repeal of this barrier is necessary. No one should be ineligible to receive education assistance that is income-based because of a conviction record; education should be encouraged as an effective means of reducing recidivism and promoting successful reentry, not discouraged.

■ **Remove the question about drug-related arrests and convictions from the Free Application for Federal Student Aid (FAFSA) that is available to all students applying for financial for the first time.**

✚ Since the Higher Education Act's 2005 amendment only prohibits individuals who have been convicted of a drug offense while receiving financial aid from receiving aid, applications for new financial aid applicants should not ask the question about convictions. This practice continues to serve as a deterrent for those individuals who may not understand the new law and its applicability.

■ **Require universities/colleges that receive federal funding to invoke fair admission policies and prohibit blanket exclusions of students with criminal histories.**

✚ In 2006, the Center for Community Alternatives (CCA) and the National H.I.R.E. Network (HIRE) conducted an audit study in two states to analyze the admission policies of public and private post-secondary educational institutions. They concluded in "Closing the Doors to Higher Education: Another Collateral Consequence of a Criminal Conviction" (2008), that there is a growing practice by colleges and universities to consider criminal record information and deny admission of applicants who have a criminal history regardless of whether there is evidentiary risk to the student participating in campus life.⁸ Such exclusions may have a

disparate impact on students of color based on statistics that show that the criminal justice system is over represented by people of color across the nation.

Despite the lack of evidence that students with criminal records commit crimes on campus at a rate higher than other students, a few high profile crimes and concern about institutional liability have led to admission policies that now require prospective applicants to disclose their criminal records and even their secondary school disciplinary history.⁹ It is critical that we do not discourage anyone from increasing their education. Forcing an individual to disclose his/her criminal record on an admission's application can and does act as a deterrent to individuals who are trying to move beyond their criminal history and improve their lives and character.

■ **Encourage state and federal in-prison educational and training programs be tied to high growth labor markets and industries and criminal record barrier analysis should be done before a program is designed and offered.**

- ✚ Job training programs should be developed and matched to promote skills for jobs that are available in the regional labor market and those that are in high growth sectors. Conducting labor market analysis that includes a review of statutory barriers is cost-effective and is an efficient use of job training resources. For example, a facility may train people in horticulture when the majority of the individuals may return to urban metropolitan areas where there may be a very limited number of jobs available in floral design and landscaping. Additionally, in some states, people in prison may be trained for work in industries that may be nonexistent in their region. A facility may also train incarcerated individuals in barbering or cosmetology, yet state law may prohibit someone with a felony from being licensed. Labor forecasting and legal barrier analysis are cost effective and sensible practices to ensure incarcerated individuals are prepared to compete in the labor market, are employable, and are less likely to recidivate.

Employment is nature's
physician, and is
essential happiness.

--Claudius Galen (Galenus)

EMPLOYMENT

According to the Crime & Justice Policy Institute, “employment fills a vital need for most individuals; it provides income, social connection, and feelings of societal contribution and self worth.”¹⁰ Employment is identified as a reliable predictor of a person’s ability to successfully reenter society after having contact with the criminal justice system, and remain law-abiding.¹¹ A recent study in Chicago showed that those who are unable to get a job are three times more likely to return to prison than those who find steady employment.¹² Unfortunately, that same study showed that 60 percent of formerly incarcerated individuals were still unemployed one year after their release from prison. While we know employment is a key factor to successful reentry, we have not done enough to reduce barriers to employment for people with criminal histories. These barriers include but are not limited to: federal and state statutory bars, flat bans by employers, unfair hiring and employment practices, and increased use and inaccuracies of criminal background checks.

Numerous federal and state laws disqualify people from jobs and licenses based on their criminal record. After 9/11, the federal government implemented background screening practices in the transportation and other industries, and many qualified workers with years of service in those industries were threatened with losing their jobs because of past criminal records. The federal transportation industry reached a compromise with unions and advocates, and producing flexible regulatory screening practices that only allowed convictions from the last seven to ten years to be considered and provided a waiver process where disqualified workers could overcome the ban if they could show proof of rehabilitation and other supporting evidence. In other industries, however, some federal agencies have employment and licensing policies that arbitrarily exclude individuals with criminal records from consideration without consideration of other factors beyond the fact that the individual has a criminal history. Very often, decisions to deny employment to applicants with criminal records are made without consideration of the relationship between the criminal record and the duties of the job, how old or the seriousness of the convictions, and without consideration of an individual’s post-conviction rehabilitation.

Moreover, many private employers are more reluctant to hire people with criminal records than workers from virtually any other disadvantaged or stigmatized group, because employers view criminal records as a signal of liability and/or risks.¹³ As a result, many employers have flat bans against hiring people with criminal records, regardless of how old or minor their offense(s). Some employers even disqualify applicants based on arrest records even if the person was never convicted.

The U.S. Equal Employment Opportunity Commission (“EEOC”) has held that it is unlawful under Title VII of the Civil Rights Act of 1964, in the absence of a justifying business necessity, for employers to exclude individuals from employment on the basis of their conviction records because that practice has an adverse impact on Blacks and Hispanics in light of statistics showing that they are convicted at a rate disproportionately greater than their representation in the population.¹⁴ However, this law is rarely enforced, and many employers have policies that are in violation of Title VII.

Furthermore, the increased reliance on criminal records checks as a screening mechanism since 9/11 makes it much more difficult for the millions of Americans who have a criminal record to find employment.¹⁵ A member survey conducted by the Society for Human Resource Management in 2003 revealed that 80% of its organizations conduct criminal background checks, up from 51% in a 1996 survey.¹⁶ ChoicePoint, one of the leading consumer background companies, conducted approximately 3.3 million background checks in 2002 alone, which was a 30% increase in one year.¹⁷ While the number of criminal background checks has grown, the number of persons being denied jobs based upon inaccurate criminal records has also risen. Though employers have legitimate concerns about hiring job applicants with criminal records, employers should receive guidance on how to consider a criminal record to ensure that qualified applicants are not unfairly denied. Although a job applicant may be highly qualified, a conviction history may make the applicant appear to be more of a liability rather than an asset.

All of these factors, taken together, make it more difficult for people with criminal records to overcome the stigma of a criminal record. These laws and practices have created an environment in which even a highly-motivated and skilled person with a criminal record cannot obtain employment and provide for themselves and their families, and as a result they are more likely to re-enter the revolving doors of the criminal justice system yet again. The Justice Policy Institute (JPI) determined in its study, *Employment, Wages and Public Policy (2007)* that significant investments in creating employment opportunities for people with criminal records can have a positive impact on public safety.¹⁸ JPI determined that unemployment and wage earnings in communities both relate to crime trends and public safety. When people are able to obtain steady employment and begin to rebuild their lives after receiving a criminal record, they are able to become contributing members of society and public safety is enhanced.

Recommendations: Employment

- **Create federal human rights standard that encourages employers to hire qualified applicants with criminal histories and prohibits flat bans against hiring qualified individuals with criminal histories.**

- ✚ The majority of states allow employers – both public and private – and occupational licensing agencies to disqualify applicants with any kind of criminal record, regardless of how serious the criminal history or how long ago it occurred, or without having to consider the applicant’s work history, qualifications, or personal circumstances in relation to the job or license being sought. Most states even allow employers to deny employment to applicants who have been arrested but never actually convicted of a crime or non-criminal offense.¹⁹ Congress should take the lead in identifying these practices as unjust, unfair, and inhumane because of its discriminatory nature.

- **Prohibit employers and other non-law enforcement agencies from inquiring about or using information about arrests that did not lead to conviction or missing dispositions on criminal record reports issued by the Federal Bureau of Investigation (FBI).**

✚ Despite the fact that the “presumption of innocence in favor of the accused is the undoubted law, axiomatic and elementary, and its enforcement lies at the foundation of the administration of our criminal law,” most states do not have legislation that prohibits the use of arrest records in employment, housing and other decisions. In the absence of state legislation regulating such access, employers may use this information as a bar to employment, and housing authorities and landlords may deny housing. Thus, persons with records of arrests that never led to conviction can be branded with the same debilitating stigma that often harms people with past convictions, though these individuals have not been convicted of a crime. Furthermore, incomplete and erroneous FBI records are not beneficial to employers who cannot make informed decisions using this information and these significantly penalize workers who may not have a conviction record. Indeed, as described in a recent analysis of state criminal repository data conducted for the National Association of Professional Background Screeners, “serious problems remain in the process to link dispositional information to the proper case and charge.”²⁰

■ **Increase and improve employer incentives for hiring qualified individuals with criminal histories.**

✚ Currently there are only two federal incentive programs available to employers who hire individuals with criminal histories, the Work Opportunity Tax Credit (WOTC) and the Federal Bonding Program. Under the WOTC program, employers who hire low-income individuals with criminal records can reduce their federal income tax liability by up to \$2,400 per qualified new worker. The Federal Bonding Program provides individual fidelity bonds of \$5,000 to employers at no cost for six months insuring employers against employee dishonesty or theft for job applicants with criminal records. Congress should increase the WOTC tax credit for individuals with criminal records to match the tax credit available for individuals who qualify as Long-term Family Assistance recipients. There is a \$6600 difference between the two credits.

■ **Implement a federal Justice Reinvestment program that ensures any corrections savings are reinvested into funding streams that support reentry and community-driven crime prevention programs.**

✚ The success our nation achieves in reducing the recidivism rates of justice-involved individuals will yield cost-savings within the criminal justice system. Those savings should be diverted to the communities where these individuals return and to communities that are struggling to reduce crime rates. Communities that are already economically distressed and that lack resources to support crime prevention programs are struggling from both sides of the criminal justice system. Individuals who are convicted, a disproportionate number of them young black males, are taken from their community and then returned to the same community that does not have adequate resources to meet their needs and to help them remain crime free. Faith and community based programs are in

dire need of funding to continue providing services in the community that supports these individuals' efforts to remain crime free. A reinvestment of funds saved by reducing recidivism rates in communities makes economic sense.

- **Change the federal employment standard for how old a record has to be for consideration. Criminal record policies that bar applicants with criminal histories from employment should be amended not only to include a requirement for individualized determinations but also to include a graduated period of time for consideration of the criminal record, based upon the severity of the individual's criminal history. Consideration of a criminal record should not be permitted beyond 7 years after completion of sentence.**

- ✚ Assessing all applicants on individual bases serves the best interests of employers, applicants and the public. However, it may be determined that using a matrix or categorical rules to screen applicants is preferable. In such cases where categorical bans are considered, there should be time limits based on the severity of the criminal history and how old the conviction record is. In the study, *Scarlet Letter and Recidivism: Does an Old Criminal Record Predict Future Offending (2007)*, researchers note that their findings "suggests that after a given period of remaining crime free it may be prudent to wash away the brand of "offender" and open up more legitimate opportunities to this population."²¹

- **Require the federal Office of Personnel Management (OPM) to report to Congress annually its employment policies for people with criminal records. It should report the number of individuals who have applied for positions who had a criminal record, the number of individuals approved or denied, the types of jobs they applied for or are working in, and if denied, whether or not a denial for the position was based on direct risk or questionable good moral character.**

- ✚ On June 10, 2008, at a hearing before the House Oversight and Government Reform Subcommittee on the Federal Workforce, subcommittee Chairman Danny K. Davis, D-Ill stated, "The fact is that we as a country and employer continue to fall short in our attempt to eliminate barriers to employment for ex-offenders." He further stated that, "Aside from select branches of the U.S. military, there is very little evidence that the federal government is availing itself as a legitimate source of employment for ex-offenders."²² If the federal government expects private businesses to hire from this population, it must first be willing to set the example and do the same. OPM should report the number of individuals who have applied for positions who had a criminal record, the number of individuals approved or denied, and the types of jobs they applied for or are working in, and if denied, whether or not a denial for the position was based on direct risk or questionable good moral standing.

CONCLUSION

Most people would agree that people with criminal histories should be able to rebuild their lives after the completion of the court-imposed sentence, but many jurisdictions, including the federal government, have not figured out how to help people achieve this goal. While the Second Chance Act was a monumental step in the right direction, there is still more work that needs to be done. Many federal laws and practices hinder educational and employment opportunities for persons with criminal histories, and Congress can create more programs that assist people with criminal records and increase funding to local communities to serve the needs of people exiting the criminal justice system.

When a person with a criminal record is able to rebuild his or her life through employment and education, the impact goes beyond that individual. The family becomes stronger and healthier when the individual is a productive member of the family, and the community is stronger and safer when there are more contributing members of the society. Effective reentry policies benefit us all. We cannot afford to exclude qualified people with criminal records from our workforce and institutions of higher learning, because they are a valuable component that enriches the fabric of our society. Hopefully, America will continue in the right direction of ensuring that America remains the land of “Second Chance.”

We hope this *National Blueprint for Reentry* will foster a new dialogue and spur action to eliminate the myriad of barriers facing people with criminal records. The *Blueprint* is intended to be a tool to educate policy makers about the education and employment obstacles facing people with criminal records, and encourage policy reform in these areas. As stated earlier, we realize that addressing the underlying issues that contribute to recidivism are quite complex, but we are certain that education and employment are pathways out of the cycle of poverty and lack of opportunity that feeds recidivism. When a person is able to successfully exit the criminal justice system and become a productive member of society, communities are safer and public safety is truly achieved.

ENDNOTES

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- 2 Charles Ubah, Robert L. Robinson, Jr. "A Grounded Look at the Debate Over Prison-Based Education: Optimistic Theory Versus Pessimistic Worldview." *The Prison Journal*, Vol. 83, No. 2, 115-129. (2003).
- 3 "Education as Crime Prevention: Providing education to prisoners." *Open Society Institute Criminal Justice Initiative*. Research Brief. Occasional Paper Series, September 2007. Vol. 2. See http://www.prisonpolicy.org/scans/research_brief_2.pdf.
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- 10 Jennifer Fahey, Cheryl Roberts, Len Engel. Crime & Justice Institute. "Employment of Ex-Offenders: Employer Perspectives." (October 31, 2006)
- 11 ABA Commission on Effective Criminal Sanctions, *Second Chances in the Criminal Justice System: Alternatives to Incarceration and Reentry Strategies* at 27. (2007).
- 12 Id.; citing *Rebuilding Lives. Restoring Hope. Strengthening Communities: Breaking the Cycle of Incarceration and Building Brighter Futures in Chicago*. Final Report of the Mayoral Policy Caucus on Prisoner Reentry at 15 (2006).
- 13 Harry J. Holzer, Steven Raphael and Michael A. Stoll. "How willing are employers to hire ex-offenders." *Focus*, Vol. 23, No. 2, Summer 2004, at 41. See <http://www.irp.wisc.edu/publications/focus/pdfs/foc232h.pdf>.

- 14 EEOC Policy Statement on the Issue of Conviction Records under Title VII of the Civil Rights Act of 1964, available at <http://www.eeoc.gov/policy/docs/convict1.html>.
- 15 Over 71 million criminal history records were in the criminal history files of the State criminal history repositories. Survey of State Criminal History Information Systems, 2003 at 2, Bureau of Justice Statistics, available at <http://www.ojp.usdoj.gov/bjs/pub/pdf/sschis03.pdf>.
- 16 Evren Esen, SHRM Workplace Violence Survey, Jan. 2004, at 19.
- 17 SEARCH, The National Consortium for Justice Information and Statistics, Report of the National Task Force on the Commercial Sale of Criminal Justice Record Information (2005), available at <http://www.search.org/files/pdf/RNTFCSCJRI.pdf>.
- 18 Available at http://www.justicepolicy.org/images/upload/07_10_REP_EmploymentAndPublicSafety_AC.pdf.
- 19 See Legal Action Center's After Prison Advocacy Toolkits. Available at http://www.lac.org/toolkits/arrests/arrest_inquiries.htm#unfair.
- 20 Press Release from NAPBS, August 19, 2005: Study Finds FBI Criminal Database Search Ineffective for Employment Background Checks. See <http://www.napbs.com/images/pdf/FBI%20Criminal%20Database%20Press%20Release%208-22-05.pdf>.
- 21 See <http://www.jjay.cuny.edu/centersinstitutes/pri/events/032406Desistance/ScarletLetter.pdf>.
- 22 Statement of Chairman Danny K. Davis at the Subcommittee on Federal Workforce and Postal Service, and the District of Columbia Hearing, June 10, 2008. See <http://federalworkforce.oversight.house.gov/documents/20080610165214.pdf>.

Appendices

APPENDIX A

State and Local Policy Initiatives

Many state and local leaders have efforts underway to reverse counterproductive policies and practices that hinder successful reintegration of individuals returning to their communities from prisons and jails. The National Governors' Association reported that "in fiscal 2007, states spent \$49 billion on corrections."¹ It was these soaring costs within corrections' budgets that forced Governors across the country to include reentry as a core part of their gubernatorial agenda. In addition, Mayors across the nation have committed to addressing the needs of this population as an important step to decreasing crime rates and improving the economic conditions of residents in their communities. In February 2008, 150 mayors, city leaders, funders, academics and practitioners from more than 20 cities gathered for the *Mayors Summit on Reentry and Employment* to share effective strategies for connecting formerly incarcerated individuals to work.² The conference participants discussed various issues of reentry and analyzed policies and initiatives that effectively addressed: (1) saving tax-payers' money; (2) the hidden costs of incarceration and recidivism; (3) public safety; and, (4) community benefits.

However, it was Legal Action Center's After Prison: Roadblocks to Reentry 50-State Report Card, which grades each state on whether its laws and policies help or hurt those seeking reentry, sparked a dialogue among advocates and policymakers about policy reforms they could implement to improve the success of those returning to communities after incarceration.³ The report catalogues legal barriers each state imposes and its on-line advocacy resource, Advocacy Toolkits to Combat Legal Barriers Facing Individuals with Criminal Records, identifies states with model policies in 12 critical areas that affect reentry and offers tools that advocates can use to seek reforms in those areas.⁴

Some policies and practices states and localities have in place to address employment of individuals with criminal records are:

- Sealing or expungement of arrests that did not lead to conviction or resulted in minor or no longer relevant convictions.
- ✚ As many as 64 million Americans have arrest records, many of which never resulted in conviction. In many states there is nothing the individual can do to prevent employers, housing authorities and others from obtaining their criminal records and using them to deny them opportunities, even if the arrest never led to conviction or the conviction is old or minor. The practice of keeping individual's records available to the public indefinitely perpetuates the stigma that exists for individuals with criminal histories who may have changed their lives because of maturity and education.

¹ National Governors Association. "Improving Sentencing and Corrections Policy." See <http://www.nga.org/portal/site/nga/menuitem.1b7ae943ae381e6cfcdbcbeeb501010a0/?vgnextoid=f7b31c3343fda110VgnVCM1000001a01010aRCRD&vgnnextfmt=print>.

² See http://www.ppv.org/ppv/initiative.asp?section_id=0&initiative_id=44.

³ See <http://www.lac.org/roadblocks-to-reentry/>.

⁴ See Legal Action Center's After Prison Advocacy Toolkits. Available at http://www.lac.org/toolkits/arrests/arrest_inquiries.htm#unfair.

- Fair hiring standards that require employers to make individualized determinations about a job applicant's specific qualifications.
 - ✚ More and more employers are conducting criminal background checks on job applicants, which can make it much more difficult for the millions of Americans with criminal records to find employment and become productive, law-abiding members of society. Most states allow employers to refuse to hire people with criminal records; not only individuals who have been convicted -- even if they have paid their debt to society and demonstrated their ability to work without risk to the public -- but also those who were arrested but never convicted. Although no one questions the legitimate concerns of employers who do not want to hire someone with a conviction record that clearly demonstrates a threat to public safety or who otherwise has a conviction history directly related to a specific job, policies that encourage employers to adopt broad sweeping exclusions (i.e. not hiring or considering anyone with any type of criminal history) simply lock out and eliminate many qualified, rehabilitated individuals from the job market.

- Expanding and strengthening a range of federal, state, and local initiatives that have demonstrated success in increasing the employment opportunities available to people with criminal records.
 - ✚ One such policy initiative called "Ban the Box" aims to eliminate criminal history questions from standard employment applications. The campaign was initiated by an advocacy group of formerly incarcerated individuals who believed that employers immediately eliminated from consideration anyone who has a criminal history record.⁵ In fact, a study conducted by Holzer, Rafael, and Stoll learned that "over 70 percent of employers who checked for criminal background did so before hiring, that is, before most ex- offenders had any chance to demonstrate their ability to successfully hold the jobs for which they were applying."⁶ Many cities have recently passed laws eliminating the question about criminal history records from applications for municipal jobs.⁷

As these individuals seek employment or housing and work to become productive members of society they will not only need to overcome the stigma associated with having a criminal record – even after they have completed their sentence and fully paid their debt to society – they will often encounter federal and state laws and policies that make successful reentry much more difficult. Certificates of rehabilitation are an essential resource states can offer to support reentry – and thus promote public safety – by lifting statutory bars to jobs, licenses or other necessities such as housing that result from a conviction history. Certificates may be used to provide a way for qualified people with criminal records to demonstrate rehabilitation or a commitment to rehabilitation. However, only seven states currently have laws authorizing certificates of rehabilitation or other similar means of removing legal barriers arising from a criminal record separate and apart from seeking a governor pardon, which are rarely granted in many states. The most recent state to pass its certificate law is Iowa.

⁵ All of Us or None, Ban the Box Campaign. See <http://www.allofusornone.org/campaigns/ban-the-box>.

⁶ Harry J. Holzer, Steven Raphael and Michael A. Stoll. "How willing are employers to hire ex-offenders." *Focus*, Vol. 23, No. 2, Summer 2004, at 41. See <http://www.irp.wisc.edu/publications/focus/pdfs/foc232h.pdf>.

⁷ See National Employment Law Project, "Major U.S. Cities Adopt New Hiring Policies Removing Unfair Barriers to Employment of People with Criminal Records." Available at <http://www.nelp.org/page/-/SCLP/citypolicies.cfm.htm>.

APPENDIX B

Becoming a Powerful Advocate in Washington, DC: Mastering the Federal Advocacy Process



National H.I.R.E. Network
Webinar
Friday, March 7, 2008

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Helping Individuals with criminal records Reenter through Employment

- Promotes model policies that increase employment and educational opportunities for people with criminal records
- Provides technical support to advocates around the country working on these issues
- Serves as a clearinghouse for information for formerly incarcerated people, practitioners, advocates, and policy makers
- Conducts local, state and federal advocacy

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What we'll discuss

- Federal advocacy
 - ✿ What, Where, Why?
 - ✿ Myths v. Reality
- Congress: The House and the Senate
- Congressional structure: The Committee system
- Shaping policy: How a federal bill becomes law
- Come to D.C.— Meet with your Members of Congress
- Federal advocacy at home—continuing the work
- Our case study: The Second Chance Act

The Second Chance Act (H.R. 1593/S. 1060)

- Would provide grants to states, local areas and community-based organizations to provide services to help reentering individuals as they transition into the community
- Contains provisions for education, employment, drug addiction treatment, housing and other supportive services
- Would require grant applicants to conduct a review of state and federal barriers

Federal Advocacy

- **What is it?**
Educating and working with your federal officials – members of Congress and their staff members – on issues that are important to you and the people you care about.
- **Where is it done?**
In Washington, D.C. and/or at the home District/State offices.
- **Why is it important?**
 - I. *Policy decisions in Congress do affect **YOU** and your community.*
 - II. ***YOU** are a **Constituent**, which means that you voted to authorize your Congress member to represent you and act on your behalf in Congress.*
 - III. *Therefore, you have the **POWER** to influence the elected official's decisions.*

Federal Advocacy: Myths v. Reality

- **Myth:** The federal advocacy process in Washington, D.C. is dramatically different from the process in your State.
- **Reality:** Most State legislatures are structured similarly to the House and the Senate in Washington. Although the scale is larger in DC, the process is largely the same.

Federal Advocacy: Myths v. Reality

- **Myth:** Your Members of Congress and their staff members won't listen to you, because you are not powerful.



- **Reality:** You do have power— Reelection!
You are their constituents and determine whether they will remain in office. Members of Congress are far from home and often happy to see people from back home. You are the experts!



Federal Advocacy: Myths v. Reality

- **Myth:** People working for certain organizations (registered non-profits) are not allowed to do advocacy.
- **Reality:** Most policy advocacy is not lobbying. Education does not equal advocacy. Even non-profits are able to do a certain amount of advocacy without violating IRS rules.

What is the difference between lobbying and policy advocacy?

- *Advocacy*: Speaking on behalf of, pleading or arguing in favor of something, such as a cause, idea or policy.
- *Lobbying*: Conducting activities aimed at influencing public officials, especially members of a legislative body on legislation.
- Lobbying always involves advocacy, but advocacy does not necessarily involve lobbying.

What types of advocacy activities CAN non-profits do?

- Non-profits can:
 - Educate the public on issues and encourage participation in the political process
 - Educate candidates on their issues
 - Participate in nonpartisan forums, invite all candidates to meetings or events
 - Encourage people to register to vote, work on behalf of a ballot measure and take part in other general lobbying/advocacy activities

Congress: The U.S. House of Representatives



- **435 Members:** Each State has a certain number of Members in the House according to number of people living in your state
 - Least populous States, seven including DE, VT and WY, have 1 Member of Congress representing the entire state; States with many people have several Congressional Representatives (CA: 53, NY: 29, TX: 32)
- Members represent a geographical district in their State
- Elected to two-year terms; entire body up for reelection every two years
- No term limits
- **Leadership:** Members of the majority party (Democrat or Republican) determine legislative priorities, schedule for House floor votes

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United States House of Representatives, 110th Congress, 2nd Session - Microsoft Internet Explorer

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Committees' Web sites (A-Z)

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Legislative Resources

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- Committees
- Leadership
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RESOURCES

- Speaker of the House
- Chief Administrative Officer
- Clerk of the House
- Educational Resources
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- House Directors
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- Kids in the House
- Legislative Archive
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LEGISLATIVE BRANCH AGENCIES

- Architect of the Capitol
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[Learn about how laws are made and how laws are enacted.](#)



Congressman
Danny K. Davis
7th District - Illinois

Welcome!

- Biography
- Committees
- Constituent Services
- Contact Information
- District Information
- Legislation
- for kids

Today is Friday, February 29, 2008. The 110th Congress began work on January 4, 2007. The House is meeting in regular session. Click on "Contact Information" for a list of summer/early fall Townhall meetings with Congressman Davis.

This page last updated: 09/12/2007

Quick Links!



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Read about the war in Iraq

CBC CONGRESSIONAL BLACK CAUCUS MEMBER

HOT! Find out about Congressman Davis' 2nd Chance Act for Ex-Offenders

Send an e-mail Message to Congressman Danny K. Davis (7th District residents only)

Congress: The U.S. Senate

- 100 Senators, two for each State
- All U.S. Senators represent the people of the entire State
- Elected to six-year terms; 1/3 of the Senate is up for reelection every two years
- No term limits
- Majority leadership determines legislative priorities, Senate floor schedule

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Public Disclosure

The new Lobbying Disclosure Act guidance and research information can be accessed from the [Public Disclosure RSS](#).

This Week in Senate History

March 5, 1827

To allow all members of each party to sit together in the chamber, the Senate began the practice of moving desks according to party division rather than keeping an even number of desks on each side of the center aisle. [More](#)

A U.S. Senate Tradition: Washington's Farewell Address

One of the Senate's most enduring traditions is the annual reading of President George Washington's [1796 Farewell Address](#) by a current member of the U. S. Senate. This tradition began on [February 27, 1867](#), as a morale-boosting gesture during the darkest days of the Civil War. The reading of the address became an annual event in 1893.

Since 1900, the reading of the address has been followed by the senator [inscribing his or her name](#), along with brief remarks in a leather-bound book maintained by the secretary of the Senate. Early entries in the notebook were typically brief explanations of the practice, accompanied by signature or date. In more recent years, entries have grown more elaborate and have included personal stories or comments on contemporary politics and policy. This year, the address will be read by Senator Mark L. Pryor on February 25, 2008.

For more information on Senate traditions, visit the Virtual Reference Desk's [Traditions](#) page.

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2008 SESSION SCHEDULE

SCHEDULED HEARINGS

ACTIVE LEGISLATION

VOICES

Floor Schedule

Monday, Mar 3, 2008

2:00 p.m.: Convene and begin a period of morning business.

2:30 p.m.: Resume consideration of the motion to proceed to [S. 2063](#), the Consumer Product Safety Commission bill.

Previous Meeting

Friday, Feb 29, 2008

The Senate convened at 10:00 a.m. and adjourned at 2:16 p.m. No [executive votes](#) were taken.

[Daily Digest](#) (latest issue)

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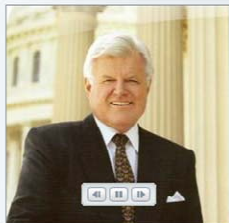
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KENNEDY REACTION TO STATE OF THE UNION ADDRESS

After hearing the President's speech Monday night, Americans must be more convinced than ever that it's time for change. They've heard seven long years of broken promises from...

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[Contact Senator Kennedy](#)

THE WAR IN IRAQ

The War in Iraq



Senator Kennedy has been a leader in Congress against the war in Iraq. Time and again, he has been the first to challenge the Administration and chart a new course for Iraq, and current events have proved him right all too often.

Research

Respond

Facts about The War in Iraq

- The United States has been in Iraq longer than World War II.
- 100 civilians are being killed every day in Iraq. (New York Times, 7/19/06)
- According to a recent UN report citing data from the Baghdad Morgue and Iraq Health Ministry, nearly 6,000 Iraqi civilians were killed in May and June alone, and an additional 6,600 were killed in July and August. The report states that about 24,000 Iraqi civilians

Legislative Agenda

- [» Working for Comprehensive Immigration Reform](#)
- [» Retirement Security for American Workers](#)
- [» Transforming Health Care](#)
- [» Real Security in a Changing World](#)
- [» Modernizing Education and Making College More Affordable](#)
- [» Achieving Energy Independence and Protecting the Environment](#)
- [» An Economy that Works for All Americans](#)

Congressional structure: The Committee system

- House and Senate Committees:
Provides a structure to review legislation according to topic.

Example: The Second Chance Act was referred to the House and Senate Judiciary Committees, which have jurisdiction over criminal justice-related legislation.

Different Types of Committees:

- ✿ Authorizing Committees – make decisions about which federal programs to establish, to allow to continue or to eliminate

Example: The House Judiciary Committee could authorize a Department of Justice grant program for reentry services.

- ✿ Appropriating Committees - votes on whether to fund certain laws that already have been passed.

Example: The House Appropriations Committee would decide whether to provide funding for a reentry program approved by Congress, and how much money should be given to the program.

Key Congressional Committees

Funding

- House and Senate Budget Committees
- House and Senate Appropriations Committees

Criminal Justice Policy

- House and Senate Judiciary Committees

Key Congressional Committees (cont'd)

Employment and Education Policy

- House Education and Labor Committee
- Senate Health, Education, Labor and Pensions (HELP) Committee

Health Policy

- House Energy and Commerce Committee
- Senate Health, Education, Labor and Pensions (HELP) Committee

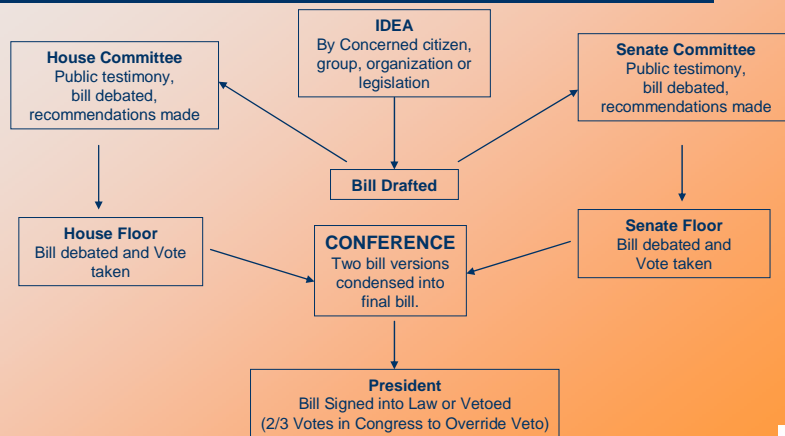
How are Congress Members Selected for the Committees?

- Seniority (how long the congress member has been in office)
- Regional representation
- Relationship with party leadership
- Issue areas

Committee Leadership

- Chairs- lead each Committee; each Chair is a member of the Majority party (which is the party with the most members)
- Ranking Members are the individuals from the Minority party who serve in the Committee leadership

How a Bill Becomes a Federal Law



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Shaping Policy: How a Federal Bill Becomes Law

- A bill becomes law when...
 - ✿ It's passed by the House and the Senate and signed into law by the President
- BUT...What happens first?**
- The bill is introduced in either the House or Senate or both
- It's then referred to one or more Committees with jurisdiction over the issue areas in the bill
- Committees decide whether or not to consider the bill—this is where most bills die
- Subcommittee and Committee review—Called “mark-up” sessions



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Shaping Policy: How a Federal Bill Becomes Law (*cont'd*)

- Once a bill is approved by the Committees it was referred to, it can be reviewed by the full House or Senate
- Floor debate and consideration— approval by both the House and the Senate

Path of The Second Chance Act (H.R. 1593) through the House

INTRODUCED:

- March 20, 2007

REFERRED TO COMMITTEE:

- March 20, 2007,
- Referred to the House Judiciary Subcommittee on Crime, Terrorism, and Homeland Security

Path of The Second Chance Act (H.R. 1593) through the House (*cont'd*)

COMMITTEE HEARINGS HELD:

- March 20, 2007

MARK-UP SESSION HELD:

- March 28, 2007, legislation approved

VOTE IN THE HOUSE:

- November 13, 2007, passed by a 347 to 62 vote

Conference Process

- **WHEN?** After the House and Senate pass different versions of the same bill, the legislation must go through the conference process to resolve the differences.
- **What happens during Conference?** The selected members of House and Senate (conferees) will sit down and compromise to settle the differences between the two versions of legislation.
- If the conferees come to agreement, the House and the Senate go back and pass identical legislation for it to become law.



President's Role

- To become law, the legislation passed by both the House and the Senate must also be approved by the President
- The President has the power of the veto
- Congress can override a presidential veto with a 2/3 vote by both the House and the Senate



Final Step: Appropriations



- Appropriating funds for the programs authorized.
- The House and Senate Appropriations Committees must decide whether to appropriate funding to authorized programs and how much funding they should receive.

Shaping Policy: How a Federal Bill Becomes Law (*cont'd*)

A bill is more likely become law if it has...

- Bi-partisan sponsors—strong Democratic and Republican support
- Co-sponsors/supporters serving on the Committees the bill is referred to
- A small number of Committees it has been referred to—the less Committees, the higher the likelihood the bill will move forward
- Support of a broad coalition of organizations with members around the country—voices from back home

Supporters of the Second Chance Act

- Large number of bi-partisan Members serving on the House Judiciary Committee (22) co-sponsored H.R. 1593, including the Chairman and the Ranking Member
- Several bi-partisan Senators on the Senate Judiciary Committee (9) were co-sponsors of S. 1060, including the Chairman and the Ranking Member

Come to D.C.—Meet with Your Members of Congress

- Make appointments ahead of time with staff working on your issue areas
- Bring local statistics, information about your organization and work in their home District/State
- Importance of having a clear “ask”
- Offer to serve as a resource to the Member and his/her staff
- Follow-up: Thank the Member/staff for their time and use as opportunity to provide additional information or answers to questions

Continue the Work Back Home

- Develop a relationship with the Member and his/her staff both in DC and locally
- Set up program site visits
- Send local information about news and events
- Continue to serve as a resource and educate the office about your work
- Educate and train others—create an army of effective advocates!

Next Steps: Get Involved Now!

- Find out who is your representative and make an appointment to meet
- Participate in or organize a DC Advocacy Day
- Learn about your Congressional membership:
<http://www.house.gov>, <http://www.senate.gov>
- Learn about bills pending in Congress:
<http://thomas.loc.gov>
- Sign up for alerts and e-publications at:
www.hirenetwork.org

Contact Information and Questions

National H.I.R.E. Network: Visit our website at
<http://www.hirenetwork.org>, or contact:

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 - April Frazier, Deputy Director
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- Legal Action Center:
- Gabrielle de la Gueronniere, Deputy Director of National Policy
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