

REPORT FROM PUBLIC INTEREST LAW CENTER

Employment after Reentry: Know Your Rights

By *Claudia De Palma, Staff Attorney*

It is often said that a steady job is the best defense against recidivism: according to one study, two years after release, people who were employed were twice as likely to have avoided arrest as their unemployed peers (Mark T. Berg & Beth M. Huebner, "Reentry and the Ties that Bind," 28 Justice Quarterly 382 (2011)).

But getting hired with a criminal record can be challenging. More than 90 percent of employers run background checks on at least some job applicants, and many companies believe that they can't or shouldn't hire someone who has been convicted of a crime. As a result, 75 percent of returning citizens are still searching for a job a year after their release (National Employment Law Project, "Reentry and Employment for the Formerly Incarcerated and the Role of American Trades Unions," web, 2016), and 27 percent remain unemployed long after they have repaid their debt to society and tried to move on with their lives (Prison Policy, "Out of Prison & Out of Work," web, 2018).

Employer discrimination is often against the law, and it's important for job seekers with convictions to know their legal rights so that they can better advocate for themselves during the job search process.

Under Pennsylvania's Criminal History Record Information Act (CHRIA), it is illegal for employers to categorically refuse to hire someone only because he or she has been convicted of a crime. Instead, when an individual with a record applies for a job, the employer is required to make a case-by-case decision about whether that applicant's particular criminal history affects his or her ability to do that particular job. This means the employer should consider the nature of the offense and whether it is actually related to the kinds of responsibilities the individual would have as an employee. For example, if a job applicant was convicted of a crime involving stealing, this may be relevant for a job handling money, but probably not for a job answering phones. If there is no connection between the conviction and the job, employers cannot use applicants' pasts against them.

Employers should, however, take into account any evidence that the job seeker has turned things around. Work history, training, certifications, references, and other accomplishments that demonstrate rehabilitation can help show that a past conviction isn't going to get in the way of the applicant's ability to succeed in the workplace. If the employer still decides to deny a job based (even in part) on criminal history information, the applicant has a right to receive an explanation for the decision in writing, including the results of their background check.

CHRIA protects returning citizens' right to a second chance. Individuals whose rights are violated can sue for money damages and for a court order telling the employer to stop violating the law. CHRIA also serves as an important reminder to employers, job seekers, and the community at large that a person's sentence should end when they come home.

REPORT FROM FAMM

Probation Reform Advocacy Day

On September 24, more than 100 advocates across the Commonwealth came together in Harrisburg to rally for probation reform. Advocates, family members, and directly impacted people met with lawmakers, shared their stories, and urged lawmakers to pass SB 14 and HB 1555 this year. Thank you for spreading the word about the advocacy day to your loved ones. The day would not have been successful if it weren't for their support and advocacy. We'll continue to keep you updated on the progress of SB 14 and HB 1555.

Life Without Parole Reform Lobby Day

On October 23, hundreds of advocates from across the Commonwealth rallied together to support parole eligibility for Pennsylvanians serving mandatory life without parole sentences. The focus of the rally was redemption and community healing, and highlighted the stories of dual victims and directly impacted folks who were calling on lawmakers to pass SB 942 and HB 135 this session. We will be sure to update you on these two bills as they progress through the legislative process.

REPORT FROM NICOLE SLOANE, ESQ.

Obtaining Effective Council

By *Nicole Sloane, Criminal Defense Attorney*

Office Secretary: "Nicole, a family member of one of your clients is on the phone."

Me: "Hmmm. I don't recognize the name. Do I represent him?"

Secretary: "She said you do."

Me: "Okay, put her through."

Caller: "Hi, my family member didn't get a fair trial, his attorney was ineffective and I don't know how to help him. I told your secretary that he was your client so she would put my call through. I was desperate to talk to an attorney who might be able to help."

I get these calls once or twice every week. The specific words may differ but each time I hear the same desperation in the caller's voice. They feel frustrated, scared, defeated and hopeless. This is