

House Bill 1874: To create job opportunities for people who have completed a prison sentence

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Key Findings

1. Occupational licenses are a significant barrier for people with criminal records, preventing them from finding jobs after leaving prison.
2. Currently, people with criminal records are prohibited from obtaining licenses in a number of job categories.
3. House Bill 1874 would allow state agencies to consider several factors including the nature of the offense, age at the time of the crime, and time since the offense.
4. Considering these factors can open more opportunities for people who have served their time to begin new careers and reduce recidivism.

Introduction

While much of criminal justice reform has been focused on reducing penalties, less attention has been paid to helping those who have completed a prison sentence and are looking for an opportunity to find a career and build a new life.

Policymakers have placed many career off limits to people with criminal records because state licenses prohibit or restrict those who have served their time. This is beginning to change.

Last year, legislators unanimously reformed the way Washington's licensing agencies determine whether someone with a past conviction is eligible for a professional license. House Bill 1399 required the state to

determine eligibility prior to receiving training rather than at the time of licensing after time and money had already been spent.¹

House Bill 1874 would build on that good start.² When considering whether a person is qualified for an occupational license, the proposed legislation would require an agency to consider several factors, including the nature of the past offense, the relationship of the offense to the work, and other factors. A more comprehensive look at the application and criminal record would maintain safety protections while opening avenues to work for those seeking to move beyond their criminal past.

Occupational licenses make rehabilitation difficult

Occupational licenses restrictions can be a significant obstacle for those with a criminal conviction who are looking for work. ASU researcher Stephen Slivinski found that occupational licenses make it difficult for ex-prisoners to find jobs when they are released and are trying to start a new career.

Slivinski noted that "Successful entry into the labor force has been shown to greatly increase the chances that a [former] prisoner will not recidivate. Yet government-imposed barriers to reintegration into the labor force – particularly occupational licensing requirements – can be among the most pernicious barriers faced by ex-prisoners seeking to enter the workforce." He calls

1 "HB 1399, reducing barriers to professional licensure for individuals with previous criminal convictions; adding a new chapter to Title 18 RCW; and providing an effective date," Washington State Legislature, introduced January 27, 2021, at <http://lawfilesex.leg.wa.gov/biennium/2021-22/Pdf/Bills/House%20Bills/1399.pdf?q=20210202144951>.

2 "HB 1874, reducing barriers to professional licensure for individuals with previous arrests or criminal convictions," Washington State Legislature, introduced January 11, 2022, at <https://lawfilesex.leg.wa.gov/biennium/2021-22/Pdf/Bills/House%20Bills/1874.pdf?q=20220114092809>.

removing occupational license barriers the “missing piece of criminal justice reform.”³

As the Obama Administration noted in its 2015 analysis of occupational licenses, “This [license barriers] renders a great number of individuals – as many as one in three Americans has some form of criminal record (either for an arrest or a conviction) – ineligible for a large share of jobs, in turn perpetuating unstable economic situations for these individuals.”⁴

The report went on to note, “Laws restricting licensing opportunities for workers with criminal records have a disproportionate impact on Black and Hispanic workers. Many of these individuals have criminal histories which should not automatically disqualify them from work in a licensed profession.”

HB 1874 would reduce those barriers by considering the circumstances of a conviction and its relationship to the license.

Expanding opportunities for workers and potential employers

The proposed legislation would expand the factors that can be considered by licensing agencies when determining whether someone with a criminal conviction is eligible for a license. As the legislative bill analysis notes, a licensing agency, “may disqualify an individual if it determines the individual’s criminal conviction is related to the occupation or profession” unless they have been granted a

Certificate of Restoration of Opportunity from a judge.⁵

Rather than a simple determination that a conviction is related to a profession, HB 1874 would allow licensing agencies to consider other factors, including:

- The nature and seriousness of the offense;
- The relationship of the offense to the ability and capacity to perform the duties of the profession;
- The age of the person at the time of the offense;
- The amount of time since the offense occurred;
- Other evidence of treatment.

By including these factors, an agency could determine that a past conviction was sufficiently small or distant in time to allow someone to begin training for a license. Agencies may still determine that an applicant is not eligible for a license, in which case the agency would provide a written explanation of the denial and describe any steps that may be taken to remedy the disqualification.

The bill would also prevent a juvenile adjudication or a sealed conviction from being used in the determination. These acknowledge the value of a vacated criminal record by protecting applicants who have had their record sealed, expunged, or pardoned. It would also prohibit licensing authorities from disqualifying an applicant on the basis of juvenile adjudications, wisely recognizing that current professional licensing laws can unfairly burden people who may have a juvenile adjudication on their record but who

3 “Turning Shackles into Bootstraps: Why Occupational Licensing Reform Is the Missing Piece of Criminal Justice Reform,” Slivinski, Stephen, Center for the Study of Economic Liberty at Arizona State University, November 7, 2016, <https://cseel.asu.edu/sites/default/files/2019-09/csel-policy-report-2016-01-turning-shackles-into-bootstraps.pdf>.

4 “Occupational licensing: A framework for policymakers,” The U.S. Department of the Treasury, Office of Economic Policy, the Council of Economic Advisers, and the Department of Labor, July 2015, page 35, at https://obamawhitehouse.archives.gov/sites/default/files/docs/licensing_report_final_nonembargo.pdf.

5 “Bill Analysis, Consumer Protection and Business Committee: HB 1874,” Washington State House of Representatives Office of Program Research, accessed January 16, 2022, at <https://lawfilesexternal.wa.gov/biennium/2021-22/Pdf/Bill%20Reports/House/1874%20HBA%20CPB%2022.pdf?q=20220116124958>.

are working hard to move beyond the mistakes of their youth.⁶

self-sufficiency for people who have re-entered society.

The bill's considerations are designed to prevent people with a criminal history in an occupation from resuming their previous criminal activity while allowing those who have a low risk of re-offending to begin a new career that reduces the likelihood of recidivism.

Ultimately, the state's determination does not guarantee that a license will ultimately be earned, nor that the applicant will receive a job in a chosen industry. The legislation would provide employers with more opportunities to judge the fitness and risk of those with past criminal records, rather than having state agencies make that determination prematurely.

Conclusion

Allowing Washington's agencies to consider a more complete picture of past criminal convictions is a simple and compassionate reform that would create job opportunities for formerly convicted people that are looking for a new start. Existing rules can make it difficult for people to find jobs even decades after they finished serving a prison sentence.⁷

Potential employers would still have the ability to make an independent hiring decision. However, the additional leeway in the legislation would provide employers the opportunity to give former convicts a second chance.

As legislators consider criminal justice reform, they should remove barriers for those who have already served their time and are looking to put a criminal past behind them. HB 1874 would serve the public interest by expanding those opportunities and is an important step in helping create

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6 "HB 1874: Joint letter of the Washington Policy Center and Columbia Legal Services," Washington Policy Center and Columbia Legal Services, February 1, 2022, <https://www.washingtonpolicy.org/publications/detail/reduce-unfair-job-barriers-for-people-with-past-criminal-records>.

7 "When Does My Sentence End?" What's Next Washington, June 20, 2021, <https://www.youtube.com/watch?v=RO-WVRCSZaw&t=73s>.