

# Eliminating Barriers to Work for Utah's Ex-Offenders



## SUMMARY

Nearly a third of American adults are arrested by the age of twenty-three. This record and its consequences will follow these people for life. Such consequences remain present even if an offender has paid their dues to society, is qualified for the job, and has proven they will not reoffend.

The difficulty ex-offenders experience finding employment is harmful to communities, as the ability to secure gainful employment is an important predictor of an ex-offender's successful

reentry into society and distance from crime. The harder it is to find employment, the more recidivism increases, and community safety suffers as individuals may return to criminal activities out of desperation.

State governments have struggled to address this growing issue. Instead of making it easier for this population to find work, and thus have a chance at bettering society, state governments have allowed barriers to employment for this group to persist.

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Utah's communities are safer and more prosperous when ex-offenders can find gainful employment.

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## The Problem Illustrated

Partaja Spann-Taylor's trouble finding employment began after a series of incarcerations during the early 2000s.<sup>1</sup> Following her eventual release, Spann-Taylor tried to enroll in a program to become a certified nursing assistant. She was rejected because of stringent occupational licensing regulations that apply to ex-offenders. Upon this rejection and subsequent similar rejections, she began work as a waitress while pursuing her associate degree and then a bachelor's degree in social work.

After graduating and receiving a job offer, Spann-Taylor once again faced employment hardship as a consequence of her conviction. Her initial job offer was rescinded after her employer ran a background check. It would then be half a decade before Spann-Taylor secured a job outside of waitressing where she could apply her hard-earned education.

Individuals like Partaja Spann-Taylor are part of an often neglected population of formerly convicted and incarcerated people trying to find work in an economy dictated by stringent government regulation.

## Extent of the Problem

With 1.9 million people in either jail or prison, the United States has the highest incarceration rate and largest prison population in the world.<sup>2</sup> Not only is the prison population high in the United States but so are recidivism levels. It is projected that 1 in 4 people who go to jail will be arrested again within the same year.<sup>3</sup>

Not included in the population of currently incarcerated individuals are the millions of ex-offenders that must live with the stigmas and consequences associated with having a record.

according to an analysis of IRS data by the Brookings Institution, earning an income that puts one below the poverty line is a reality for most ex-offenders.<sup>5</sup>



When looking at employment rates, it is easy to see how those with records are facing an uphill battle. For those that have been incarcerated, individuals can expect an unemployment rate that is close to five times higher than the overall unemployment rate.<sup>4</sup> Additionally,

Lucius Couloute, a policy analyst with the Prison Policy Initiative and Daniel Kopf, an economics reporter for Quartz write, "Formerly incarcerated people want to work. Their high unemployment rate reflects public will, policy, and practice — not differences in aspirations."<sup>6</sup>

Within Utah, similar statistics are evident. The state has seen its prison population grow by 22 percent in the last decade and has seen recidivism rates of around 46 percent.<sup>7</sup> Each year, at least 32,000 different people are booked into local jails in Utah.<sup>8</sup> These offenders are subject to face the exact same types of employment outcomes that citizens across the broader United States are also facing.

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## Barriers to Success in the Labor Market

### Biased Employer Attitudes

In a study, pairs of applicants from varying racial groups sent out nearly identical job applications to the same job posting.<sup>9</sup> The only difference in job applications is that one individual had a criminal record while the other did not. The outcome of this experiment indicated that a criminal record decreases callbacks from potential employers and that employers often associate those with criminal records with absenteeism/tardiness, drug/alcohol issues, and poor interpersonal skills.<sup>10</sup> The implications of this experiment come to life with the fact that just a small number of employers, 12.5 percent, take applications from ex-offenders.<sup>11</sup>

It's challenging to blame private employers for letting implicit biases affect employment outcomes for ex-offenders. Many times hiring managers are unaware of what it truly means to be an ex-offender and how these individuals perform in a corporate setting. Employers typically are just trying to avoid hiring individuals who might commit crimes or endanger patrons' safety. State governments on the other hand should be providing a model to private enterprises on how to handle such matters.

Unfortunately, governments have neglected to educate and assist business leaders in addressing these potent biases around a problem created by the government itself. Instead, they have not only allowed them to maintain existence but also become exacerbated.

### Occupational Licensing

Across the United States, nearly 30 percent of the workforce needs an occupational license to legally practice their profession.<sup>12</sup>

An occupational license is essentially a government permission slip that allows a person to legally perform various occupations. Those seeking licensure for an occupation, on average, must surrender nearly a year of earnings to obtain education or experience requirements, pass an exam, and pay more than \$260 in fees.<sup>13</sup> Such a steep price tag acts as an automatic disqualification for many ex-offenders as these individuals often don't have an income that allows them to afford the necessary fees or the flexibility needed to obtain the required education.

Obtaining an occupational license can be extremely beneficial to individuals' economic standing. Individuals that obtain an occupational license earn nearly seven dollars more an hour than unlicensed professionals.<sup>14</sup> This group also had longer job tenure and lower incidences of being subjected

to part-time work than those without an occupational license.<sup>15</sup>

With the advantages that licensure carries, it is an unfortunate reality that states place stringent laws that discourage the licensure of ex-offenders.

Across the country, there are over 16,000 occupation licensing limitations for ex-offenders, and an additional 9,000 restrictions specify a "mandatory disqualification," meaning that licensing agencies are required to reject the license application.<sup>16</sup> When discussing these restrictions, it is worth mentioning that states oddly impose more restrictions for those found guilty of misdemeanors and substance abuse crimes than for those found guilty of violent or sexual offenses.<sup>17</sup>

### Education and Experience

Today, ex-offenders are over three times less likely to have a high school or general educational development (GED) diploma.<sup>18</sup> This same group is also eight times less likely to have an associate or bachelor's degree.<sup>19</sup>





This is troubling as 44 percent of jobs will require a four-year degree,<sup>20</sup> occupations requiring a higher level of job preparation have grown by 68 percent,<sup>21</sup> and in central-city labor markets, fewer than 5 percent of unskilled jobs (i.e., those that do not require college degrees) require no high school diploma, work experience, or other relevant skills.<sup>22</sup>

Education barriers become especially important when looking at occupational licensure. Obtaining an occupational license in the U.S. often necessitates obtaining some amount of education. In fact, only

**When governments step aside, a more free market can operate, inequality drops, and ex-offenders have more chances and more resources to enter the job market.**

7 percent of people without a high school diploma hold an occupational license, compared with 14 percent of high school graduates, 24 percent of people with some college or an associate degree, and 34 percent of bachelor's or advanced-degree holders.<sup>23</sup>

Like with education, when individuals are incarcerated, they often return to society with a deficiency of skills when compared to what employers seek.

When behind bars, they are stripped by the state of their ability to maintain the up-to-date and employable knowledge needed to secure work in an increasingly competitive job market.

## Stable Housing

In some urban centers, as many as 30-50 percent of parolees are estimated to be homeless.<sup>24</sup> Despite millions of dollars appropriated to address homelessness, the state's homeless population has continued to increase.

This rising homelessness has coincided with the average single-family home increasing in price by more than 23 percent from a year ago<sup>25</sup> and 10-15 percent increases in rent during 2022.<sup>26</sup> Housing prices have skyrocketed so much that nearly

70 percent of households cannot afford a now average-priced home.<sup>27</sup>

Without the ability to secure stable housing, it is challenging for many formerly incarcerated individuals to find a job. If you have ever filled out a job application, you know that it is often required that you have and provide a current address. When one is unable to do so, employers may question the applicant's ability to execute their work in a professional manner or may discard the application entirely.

## Background checks

Nearly 90 percent of employers utilize some form of a background check when reviewing job applications.<sup>28</sup> If

an individual is an ex-offender, these background checks can be damning and can disqualify an applicant from a job before they are even given a shot to interview or demonstrate their character to a potential employer.

This practice of applying blanket judgments based on background checks is problematic. Background checks cannot adequately encapsulate who an individual is in the present. They do not take into account personality or if an individual has reformed since their offense.

This is not to say that criminal background checks serve no purpose. They give employers a tool — albeit an imperfect one — for helping assess risk to their employees, customers, assets, and reputations when making hiring decisions. What is damaging about this tool is its almost blind reliance on it when evaluating applicants for jobs.

## The Cost of These Barriers

### Job Shortages

The large population of ex-offenders being left out of the job market is deeply troubling as it's exacerbating a large-scale labor shortage within the state. As stores have become plastered with help wanted signs, over 65 percent of Utahns have become concerned about the state's labor shortage.<sup>29</sup>

When labor shortages occur, the economy suffers. Within Utah, an inability to fill high-demand jobs is leaving consumers facing long wait lines for basic services and leaving businesses without the workforce necessary to grow. While

waiting for a basic service may seem inconsequential, it grows in importance when extrapolated to industries like healthcare. Just imagine having to sit on a long waitlist while in pain for a basic surgery or see your mental health deteriorate as you wait for your antidepressants.

When individuals are blocked from entering the workforce, consumers are left with fewer options. Ultimately, a decrease in consumer choices raises prices for goods and services as it stifles competition. Decreases in competition allow higher prices to be charged without consequence as consumers will have a harder time having their needs met elsewhere.

Having the thousands of ex-offenders be able to enter industries where attracting workers has become difficult could almost immediately

remedy the labor shortage as these highly motivated workers would be willing to immediately step in and serve their communities.

### Higher Inflation

As of March 2022, consumer prices have increased 8.5 percent compared to last year.<sup>30</sup> Both federal and state governments, despite efforts, have struggled to ease the burden of these rising prices.

Some of this inability can be attributed to the state government stifling ex-offenders from entering the job market. If ex-offenders could more easily enter the job market, there would be a greater supply of workers. This new supply of workers would reduce economic protectionism and could slow down the recent increases of prices on goods and services via increased competition. Such

competition leads to price reductions as businesses and service providers try to avoid losing customers. Price reductions decrease inflation and put more money into the pockets of Utahns.

### High State Spending and Broader Economic Costs

Nationally, licensing may cost the economy between \$183.9 and \$197.3 billion in misallocated resources, between 1.8 and 1.9 million jobs, and between \$6.2 and \$7.1 billion in lost output each year.<sup>31</sup> Occupational licensing barriers, in total, have resulted in 19,665 jobs lost in Utah, \$87.9 million in lost economic output, and \$1.9 billion in misallocated resources within Utah.<sup>32</sup>

These economic consequences are felt by consumers through higher prices, fewer jobs, and reduced economic activity. These costs are substantial. Given that licensing rarely improves outcomes for consumers, it seems likely that eliminating licensing burdens for ex-offenders and replacing them with less restrictive alternatives would translate into higher employment, higher economic output, and a more efficient and equitable allocation of resources.

Projected increases in prison populations due to high levels of recidivism and over-policing of minor offenses are projected to cost Utah more than \$250 million each year.<sup>33</sup> Curbing recidivism rates, an outcome of allowing ex-offenders to easily find gainful employment is projected to be able to save taxpayers \$500 million over twenty years.<sup>34</sup> To keep taxpayers' hard-earned money in



their pockets so they may spend it how they most deem appropriate, ex-offenders need to be able to participate in the workforce. Such participation can clearly be expected to reduce tax bills and the economic burden placed on the rest of the community.

## Safety

The economic and social implications of limited labor market opportunities for incarcerated individuals after their release can also be viewed through an analysis of recidivism rates. When recidivism is high, communities may suffer.

When rates of this occurrence are high, it is possible for communities to experience rises in crime rates and thus decreased safety for residents. Unfortunately, the effects of high recidivism rates are known well in Utah. In the state, nearly 46 percent of inmates return to jail within three years.<sup>35</sup>

In a justice system that reduces crime, rehabilitation, not punishment, must be pursued. When the state is unable to rehabilitate inmates, economic and social inequalities are reinforced. The United Nations Office on Drugs and Crime writes, “The rehabilitation of offenders and their successful social reintegration into society should... be among the basic objectives of criminal justice systems.”<sup>36</sup>

## What Has Already Been Done

Utah has taken significant steps to help ex-offenders enter the job market. The most impactful steps center around the idea that government regulation is decreasing this group’s ability to find stable employment. When governments step aside, a more



free market can operate, inequality drops, and ex-offenders have more chances and more resources to enter the job market.

## Occupational Licensing

Within the last ten years, Utah has joined over thirty states in reforming occupational licensing laws in ways that make it easier for ex-offenders to find work. Seven notable changes include:

1. Allowing ex-offenders to petition licensing boards to see if their record would disqualify them from licensure before embarking on the process of seeking licensure.<sup>37</sup>
2. Generally, prohibiting the denial of a license for an individual with a criminal record without first giving individualized consideration to the applicant and their conviction.<sup>38</sup>
3. Requiring licensing bodies to provide an explanation for the reason a conviction was deemed as disqualifying.<sup>39</sup>
4. Making it more clear how convictions are factored into awarding of various licenses.<sup>40</sup>
5. Amending “reasonable relationship” to read “substantial relationship.”<sup>41</sup>

6. Creating criminal history matrices that are individually tailored to professions that offer exact guidance for which charges have an impact on the approval of a license based on how long it has been since the individual was charged.
7. Removing most good moral character and moral turpitude requirements and working on legislation to remove the final remaining language around these requirements.<sup>42</sup>

## Records

In 2019, Utah’s legislators unanimously passed Utah’s Clean Slate Act.<sup>43</sup> This law automatically clears old and minor criminal records for those who have not reoffended. Later this year, this law will take effect and make Utah the second state in the country to implement this program. Utah law also allows individuals with expunged records the right to deny the existence of their conviction during most lines of questioning related to searching for and obtaining a job.



## Policy Recommendations

### Occupational Licensing

- Finalize the banning of good moral character and moral turpitude language.
- Continue to lower the length of time licensing boards can consider various convictions.
- Ban licensing boards from using pleas of nolo contendere, pleas of guilty or nolo contendere held in abeyance, dismissed charges, and charges without a known disposition to deny those seeking a license.
- Create a petition process where citizens can challenge restrictive licensing requirements.
- Reduce various individual licensing requirements (e.g., education, fees, and experience).
- Broadly prohibit consideration of lower-level offenses.

### Housing

- Establish zoning laws that increase access to affordable housing, innovative housing solutions, and housing that is in close proximity to the jobs of ex-offenders.

### Criminalization and Drug Use

- Stop penalizing individuals for non-violent drug offenses.
- Place increased limits on government employers using drug testing in the hiring process.

### Education

- Further implement both public and private education programs into the state's criminal justice system. Such education programs can allow individuals to obtain high school diplomas, college degrees, or trade certificates.

## Endnotes

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3. Alexi Jones and Wendy Sawyer, "Arrest, Release, Repeat: How Police and Jails Are Misused to Respond to Social Problems," Prison Policy Initiative, August 2019, <https://www.prisonpolicy.org/reports/repeatarrests.html>.
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6. Couloute, "Out of Prison."
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8. "Utah Profile," Prison Policy Initiative, accessed December 1, 2022, <https://www.prisonpolicy.org/profiles/UT.html>.
9. Devah Pager, Bart Bonikowski, and Bruce Western, "Discrimination in a Low-Wage Labor Market," *American Sociological Review* 74, no. 5 (October 1, 2009), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2915472/>.
10. Ibid.

*For the remainder of the endnotes, please visit [Libertas.org/PB-exoffenders](https://libertas.org/PB-exoffenders)*

PUBLIC POLICY BRIEF

# Eliminating Barriers to Work for Utah's Ex-Offenders



FREQUENT  
RECURRENCE  
===== TO =====  
FUNDAMENTAL  
PRINCIPLES IS  
ESSENTIAL  
===== TO =====  
THE SECURITY  
===== OF =====  
INDIVIDUAL  
RIGHTS

UTAH CONSTITUTION  
ARTICLE I, SEC 27