Legal Consequences of Incarceration for Reentry

Debbie Mukamal
April 2003
Inquiries and Consideration of Arrest Records by Employers

- **38** states (including New Jersey) *permit* public and private employers and occupational licensing agencies to ask about and rely upon arrests.

- **2** states limit public employers and occupational licensing agencies but not private employers.

- **1** state limits public employers but not private employers or occupational licensing agencies.

- **9** states *prohibit* any use of arrests by employers.
Standards Governing the Relevance of Conviction Records by Employers

- Occupational Licensing Agencies: 19
- Public Employers: 36
- Private Employers: 45

- States with No Standards
- States Requiring Individualized Determinations

Legend:
- States with No Standards
- States Requiring Individualized Determinations

Note: The numbers indicate the percentage of states in each category.
State Responses to Federal Drug Felon Ban on TANF and Food Stamps

- Opted out of ban: 10
- Adopted ban: 19
- Modification by requiring treatment: 11
- Modification in other ways: 8
- Eliminated ban on Food Stamps and modified ban on TANF: 2
Federal Ban on Educational Assistance for Drug Offenders

- Makes students convicted of drug-related offenses ineligible for any grant, loan or work assistance.
- Length of suspension depends on type and frequency of offense(s).
- Student can resume eligibility by completion of drug treatment or if conviction is reversed.
- Congress is considering proposals to repeal or limit this provision.
Access to Criminal Records

- Arrest Records: 40 for State seals/expunges, 10 for State does not seal/expunge
- Adult Conviction Records: 16 for State seals/expunges, 34 for State does not seal/expunge
Availability of Criminal Records on the Internet

- **14** states put *all* conviction records on the internet.
- **6** states (including New Jersey) make available records of those who are *currently serving criminal justice sentences*.
- **8** states make available records of those who are *currently incarcerated*.
- **22** states *do not* have records on the internet.
Federal WIA Reauthorization

- Encourage states to allocate 15% statewide activity funding to provide services for “hard to serve” populations including people with criminal records.

- Congressman Davis recently introduced amendment to House WIA bill to include “ex-offender” as special population.

- Provide financial rewards to states that employ “hard to serve” populations.

- Encourage states to include reentry representative on local boards.

- Maintain and increase funds for correctional education programs.
Opportunities for State and Local Policy Advocacy within WIA Reauthorization

- Include representative on state and local WIBs with familiarity of reentry issues.

- Governor can specify that programs with experience and proven track record working with people with criminal records constitute some reasonable share of eligible providers of training services.

- Governor can choose localities with high concentrations of people with criminal records to receive Youth Discretionary Allocation funds.

- Use funding allotted for statewide activities to target localities with highest concentrations of people with criminal records & devote services for hard-to-serve populations, including people with criminal records.
Opportunities for State and Local Policy Advocacy within TANF Reauthorization

- Coordinate drug treatment with work preparation programs and allow approved treatment modalities to count toward state’s work requirement goals. (Section 407)

- Opt out or modify drug felony ban (Section 115)