Bill Analysis 2020 Regular Session

SPONSOR: Representative Andrea Romero, Senator Mark Moores   **SHORT TITLE:** Criminal Records Considered for Employment

SYNOPSIS OF BILL: Limits the type of criminal records that may be considered by state employment and licensing boards, including non-convictions, expunged records, juvenile adjudications, or convictions not directly related to the duties or responsibilities of the employment or license sought. HB325 requires licensing authorities to promulgate rules that limit the type of convictions that will serve as a barrier to licensure and provide reasonable time limits for applicability of a potential disqualifying conviction. Requires licensing authorities to not use vague language such as "moral turpitude" or "good character." If the employment or licensing authority intends to disqualify an applicant based on criminal history, HB325 requires notice to the applicant and an opportunity to challenge the determination. HB325 also contains reporting requirements in order to ascertain how many people with criminal convictions are applying for state employment or licensure and how many people are being licensed or denied based on criminal history.

STRENGTHS: More than 70 million people with a record in the United States either face significant barriers when seeking a license to work, which is now required for one in four jobs, including many good-paying jobs that are in high demand in healthcare and other industries, or—even worse—they are automatically disqualified, sometimes for life.

Policies that make it easier for people with records to work strengthen the economy, improve public safety, help employers find good workers, and advance racial and social justice. Fair chance licensing reforms are critical to realizing these benefits, and policy makers of all political stripes have spoken out in favor of these commonsense policies.

Nationwide, there are approximately 27,000 state occupational licensing restrictions. Each state has an average of fifty-six occupational licenses and forty-three business licensing laws with mandatory restrictions for people with felony convictions. These barriers put many good paying jobs out of reach for the more than 600,000 people who are released from incarceration every year.[1]

ADDITIONAL INFO: According to the Annie E. Casey Foundation, one in ten New Mexico children has a parent who is or has been incarcerated, one of the highest rates in the country.[2] In a state where outcomes for children are some of the lowest in the United States, removing barriers to good jobs is an issue that impacts entire families and communities. Black, Native, and Hispanic people are overrepresented in New Mexico's criminal legal system; by removing barriers to licensure and good jobs, HB325 will have a positive racial justice impact for communities that are disproportionately impacted by the criminal legal system.[3]

Safer	Apolitical	Fiscally-Responsible	Evidence Based	Grade
Access to better jobs, such as jobs that require occupational licenses is an important step for increasing employment and earnings possibilities for people with criminal records. Not only do these opportunities increase the chance of success for people with records, they create a safer environment for whole families and communities.	Fair Chance Licensing has broad, bipartisan support. In 2019, legislatures adopted fair chance licensing reforms in at least nine states: Arkansas, Iowa, Maryland, Mississippi, Oklahoma, Nevada, North Carolina, Texas, and Utah.	Other than promulgating rules, HB325 has little to no fiscal impact on the employment and licensing boards tasked with creating new rules. For people with criminal records and employers, this legislation could have a dramatic positive fiscal impact by expanding the talent pool in New Mexico.	There are several studies documenting the significant positive impact on hiring of people with records in the public and private sector. For example, a 2019 study found the policy increases employment by 4 percent in the nation's most criminalized neighborhoods (i.e., neighborhoods with the highest concentrations of people with records).[4] Another major study found that ban-the-box policies increase public employment for people with records by 30 percent.[5] These findings are consistent with data reported by jurisdictions such as Washington, D.C.; Durham, North Carolina; and other communities that have adopted ban-the-box policies.	A

1 National Employment Law Project, Fair Chance Licensing Reform: Opening Pathways for People with Records to Join Licensed Professions (December 2019), https://s27147.pcdn.co/wp-content/uploads/FairChanceLicensing-v4-2019.pdf

2 Annie E. Casey Foundation, Children With Incarcerated Parents, A Shared Sentence: The Devastating Toll of Parental Incarceration on Kids, Families and Communities (April 2016), https://www.aecf.org/resources/a-shared-sentence/

3 ACLU of New Mexico Blueprint for Smart Justice (September 2018), https://www.aclu-nm.org/en/publications/blueprint-smart-justice-new-mexico.

4 Daniel Shoag, Stan Veuger, "'Ban the Box' Measures Help High Crime Neighborhoods" (American Enterprise Institute Economics Working Paper 2016-08, updated March 2019). (http://www.aei.org/publication/banning-the-box-consequences-of-bans-on-criminal-record-screening-in-employment-applications/).

5 Terry-Ann Craigie, "Ban the Box, Convictions and Public Sector Employment" (SSRN: January 27, 2017) (https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2906893).