

Reentry Ad Hoc Committee
Quarterly Update
May 24, 2023

Committee Recommendations:

Employer Immunity for Hiring Returning Citizens

The Governor, the Auditor General, the Secretary of Labor and Industry, and other leaders have noted that criminal history records impose significant adverse impacts on the breadth, depth and diversity of Pennsylvania's workforce and on the Commonwealth's efforts to make Pennsylvania's workforce globally competitive. Workforce development agencies across the Commonwealth report that it is difficult for well-qualified candidates to find employment appropriate for their skills, education and training simply because of their past history of involvement with the criminal justice system. "Ban the box" laws that punish employers for considering criminal record histories when they shouldn't, and tax incentives for hiring returning citizens, have proven to be ineffective. Employers report that they are reluctant to hire qualified candidates with a criminal history record due to a lack of clarity regarding the employer's risk of liability for such hire and the possibility of having to defend themselves in lawsuit for having made such hire.

Pennsylvania has enacted "Good Samaritan laws" in a variety of settings to protect from lawsuits and liability individuals who volunteer to help others in times of need. In particular, the General Assembly has provided immunity for any organization or individual that is involved in supervising or administering any restitution or community service program approved by the court of common pleas or the Department of Corrections (42 Pa.C.S. § 8340), and for any employer who discloses information about a current or former employee's job performance to a prospective employer of the current or former employee, upon request of the prospective employer or the current or former employee (42 Pa.C.S. § 8340.1). This same immunity should be extended to any employer providing economic opportunity to someone with a criminal record who is qualified for the work.

Recommendation 1:

The Workforce Development Board urges the Governor to consider supporting legislation providing immunity from civil liability for any claim or adverse inference arising out of the decision by an employer to train, employ, promote, contract with, or otherwise engages in its work an individual with a criminal history record, so long as that those activities are not specifically prohibited by a condition of parole, probation, release, regulation, or contract.