



How to reduce recidivism and the labor shortage in one fell swoop

By Christopher Bates | Monday, October 4, 2021

Right now, across the country, there are millions of job openings. As the nation emerges from COVID-19 and activity picks up across virtually every sector of the economy, many employers are struggling to find workers to keep up with increased demand. Earlier this month, the U.S. Department of Labor reported that unfilled job openings had risen to a record high. I recently passed a “Help Wanted” sign in my neighborhood that included an eye-catching postscript — “severely.”

At the same time, millions of Americans are looking for work. Although one might think it should be easy to find a job in the current market, that’s not necessarily the case for everyone. One population in particular that perennially struggles with finding employment is formerly incarcerated individuals. Research has repeatedly shown that one of the strongest determinants of whether an individual leaving prison will successfully reenter society and avoid reoffending is whether the person is able to find a job following release.

Unfortunately, barriers abound for formerly incarcerated individuals seeking work. Many employers are wary of hiring individuals with a criminal record. Many formerly incarcerated individuals, in turn, lack the requisite education or training for many types of jobs.

But even when a formerly incarcerated individual has the necessary skills, and an employer is interested in hiring the person, there is yet another barrier that can place the job out of reach — occupational licensing requirements. These are limitations imposed by statute or by a state or local licensing board that require any person working in a particular field to meet certain education, training, or other requirements.

Licensing requirements for some jobs makes obvious sense. Emergency medical technicians, for example, provide emergency medical care in life-or-death situations. Ensuring they have adequate training and experience is a no-brainer. All fifty states require EMTs to be licensed.

Licensing requirements for many other jobs, however, are much harder to justify. Thirty-seven states require hair shampooers to have a license. Ten license furniture upholsterers. [One state — Louisiana — even requires florists to have a license](#). Why it should be necessary for workers in these fields to pass a state licensing exam, or satisfy certain education or training requirements, rather than simply persuade their employer or customer that they’re up to the job is unclear. The mere existence of such restrictions constricts the labor market and makes it more difficult for formerly incarcerated individuals to find stable employment.

Even more problematic, many licensing boards disqualify individuals with a criminal conviction from eligibility altogether. Disqualification may be automatic in the event of any conviction, or certain types of convictions, or it may be left to the discretion of the licensing board. Even when a criminal conviction is not express grounds for disqualification, many licensing boards require applicants to prove “good character” and consider a criminal conviction to be evidence of the contrary.

The result is that many formerly incarcerated individuals find themselves shut out of employment opportunities for which they are otherwise fully qualified and in which they may even have extensive experience.

Californian [Amika Mota](#), for example, spent two and a half years of a seven-year sentence working as a firefighter through a prison work program. But she was unable to get a job as a firefighter following release because her criminal conviction made it too difficult to get a license.

Pennsylvanian [Amanda Spillane](#) spent twelve months and \$6,000 to attend cosmetology school following a two-year prison sentence for drug-related offenses and even lined up a job at a salon. But she was denied a license by the state cosmetology board for lack of “good character.”

[Robert Lewis](#) thought it would be easy to find a job as an insurance salesman after he completed his sentence, given that he had previously sold insurance after graduating from college and later worked as a car salesman. But because he had a felony conviction on his record, he was ineligible to return to his former line of work. The reason: Illinois law prevents individuals with a felony conviction from obtaining a license to sell insurance.

These sorts of outcomes are not only unfair — they’re perverse. Finding a job is a key component of successful reentry following incarceration. Yet state laws and licensing boards are making it *more*, not less, difficult for formerly incarcerated individuals with relevant skills and training (or a desire to acquire such skills and training) to obtain employment following release. Add to that the current labor shortage and the fact that many employers are in desperate need of additional workers, and such restrictions become exceedingly difficult to justify (at least where the restriction lacks a clear connection to public safety).

Fortunately, a number of states have made strides in recent years towards paring back or even eliminating unnecessary, counterproductive occupational licensing requirements that restrict job opportunities for formerly incarcerated individuals. [Kansas](#), for example, passed a law that prohibits licensing boards from disqualifying applicants based on “non-specific terms, such as moral turpitude or good character.” [Indiana](#) requires that any disqualifying offense be “specifically and directly related to the duties and responsibilities of the occupation or profession for which the individual is applying.” Indiana’s law also prohibits licensing boards from using an offense more than five years old as a basis for disqualification, with certain exceptions (such as violent offenses and sex crimes). These sorts of laws are a good start, and should be followed as models by other states.

Another idea that has merit is creating a process for individuals with a criminal history to petition a licensing board for a determination on whether the individual’s history is disqualifying *before* the individual invests time and money obtaining training and education for the position. [Utah](#) recently enacted a law to do just that. More broadly, states should eliminate occupational licensing requirements that have no evident consumer benefit or public safety purpose and that serve instead only to protect established industry participants.

All of us have an interest in ensuring that employers are able to find workers to fill jobs and that formerly incarcerated individuals are able to find work so they can successfully reintegrate into society. Reforming occupational licensing laws that work at cross-purposes with those goals is a timely, worthwhile project that will help our economy, our criminal justice population, and our country as a whole.



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