

Reducing Recidivism by Expanding Access to Occupational Licenses

Testimony on Senate Bill 626
Senate Committee on Judiciary and Public Safety
January 16, 2018

Thank you Chair Wanggaard and members of the Senate Committee on Judiciary and Public Safety for hearing Senate Bill 626. As many of you already know, obtaining an occupational license is now a fact of life for many in order to enter the job market. Currently, one in four workers require some sort of credential to work in the United States. This is a massive increase compared to 1950 when only one in twenty workers needed an occupational license to work.

While occupational licenses do help protect the health, safety, and welfare of consumers, in certain instances licenses also create barriers that restrict the pool of individuals who are able to work in those professions. In many cases, these barriers disproportionately harm low-wage workers by barring access to higher paying jobs. They also harm consumers by raising prices for products and services. One way licenses restrict access is by banning those with a history of criminal convictions from applying.

When one in three adults in the United States has some sort of criminal record, the consequences of an excessively penalizing licensure regulatory system can be great. Overbroad bans leave little hope for individuals with criminal records, especially felons, to get a license. These bans often stay in place without regard for how long ago the offense took place, if the individual has paid their debt to society, and ability to show rehabilitation. Allowing formerly incarcerated individuals to receive an individualized look by a licensing entity to determine whether or not they truly present health, safety, or welfare risks to consumers would mean lower cost products and services for consumers, a lower recidivism rate, and a fairer licensure system.

Before addressing the many benefits of this bill, it is important to take note of what it will not do. Ex-offenders who were convicted of violent crimes are exempt from these reforms. Further, this bill does not affect the ability of an employer to hire or fire individuals.

This bill will help Wisconsin solve its skilled workforce problem, reduce recidivism rates, and make goods and services cheaper for consumers by enacting the following reforms. Applicants will receive an individualized review of their application and reasons for denial in writing. Further, an individual with a criminal record should be able to petition a licensing agency at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining a license. This bill gives the applicant the opportunity to present evidence that they have been rehabilitated. The ability to use arrest records, without a subsequent conviction, as grounds to deny or revoke a license will be pared back. Non-violent juvenile offenses will not be counted when determining if the applicant is eligible to receive a license. Expanding access to occupational licenses for non-violent ex-offenders will help reduce recidivism and boost our workforce moving Wisconsin forward.

I want to thank my colleague, Representative Petryk for his leadership on this issue and thank you committee members for taking the time to hear this bill. I urge you to support SB 626.



Warren Petryk

State Representative • 93rd Assembly District

Date: January 16, 2018

To: Members of the Senate Committee on Judiciary and Public Safety

From: Representative Petryk

Re: Testimony regarding Senate Bill 626

Good Morning Chairman Wanggaard and members of the committee. I appreciate this opportunity to submit written testimony in favor of Senate Bill 626.

Senate Bill 626 makes various changes to the fair employment law with respect to the ability of state and local governmental agencies to deny a license to an individual based on the individual's arrest or conviction record. The changes in the bill to the fair employment law apply only to licensing by licensing agencies, and do not otherwise affect the law as it applies to decisions about whether to employ an individual based on his or her arrest or conviction record.

I am proud to co-author this piece of legislation with Senator Darling, as we know that stable employment keeps people out of incarceration. As the Chair of the Workforce Development Committee, my focus is on creating opportunities for people to get back to work. This legislation will offer people with criminal records aid and opportunity to secure meaningful employment that will change their troubled path, which we know reduces the likelihood of recidivism.

The fiscal estimate released by the Wisconsin Department of Safety and Professional Services states that the department can absorb any costs related to this legislation within the agency's budget.

I humbly ask for your support on this very important piece of legislation. Thank you for your kind attention.

Thank you

A handwritten signature in black ink, appearing to read 'Warren Petryk', written over a circular scribble.

Warren Petryk
State Representative
93rd Assembly District



Twitter icon
SolutionsProject
SolutionsProject.org

To: Chairperson Van Wanggaard
Members, Senate Committee on Judiciary and Public Safety

From: Rebecca Hogan, The Hamilton Consulting Group

Date: January 16, 2018

RE: **Testimony in Support of Senate Bill 626 Relating to:
Discrimination Based on Arrest or Conviction Record
Under the Fair Employment Law.**

Thank you for the opportunity to testify on Wisconsin's efforts to promote work. My name is Rebecca Hogan, and I am a lobbyist with the Hamilton Consulting Group. I am here today on behalf of Opportunity Solutions Project. Opportunity Solutions Project is a nonprofit, nonpartisan advocacy organization that seeks to improve lives by advocating for public policies based on the principles of free enterprise, individual liberty, and a limited, accountable government. My client and I appreciate the opportunity to testify today in support of Senate Bill 626. This legislation will decrease occupational licensing barriers for those with criminal records and allow them to reenter the workforce.

The Importance of Work

It is estimated that one out of three American adults have a criminal record. That statistic transitions to 1.5 million Wisconsin residents having some sort of conviction. Given that roughly 95 percent of arrests are for nonviolent, nonsexual offenses, most of the state's ex-offenders pose little to no risk to public safety and should face minimal barriers when seeking work.

Just as not having a job is the main predictor of how likely someone is to be in poverty, not being able to get a job is the clearest indicator of how likely someone is to re-offend or end up back in jail. The sooner a newly-released person finds a job, the less likely they are to re-offend.

Occupational licensing laws pose unnecessary, and often insurmountable, barriers to work for many people with records. An occupational license is essentially a government permission slip required to work in a certain profession. Today, around 20 percent of Wisconsin workers require a state occupational license to work in the 250 occupations licensed by the state.

Nationwide, there are about 30,000 licensing restrictions for those with criminal records. Thousands of these restrictions are blanket bans, or laws allowing ex-offenders to be denied licensure solely because of having any felony or misdemeanor record. Many are also mandatory bans, which require licensing boards to deny licensure regardless of mitigating circumstances—and many of these bans are permanent. To make matters worse, ambiguous language, such as requirements for "moral turpitude" or "good character" gives licensing boards further discretion to deny ex-offenders the ability to work.

Of the 40 states—including Wisconsin—that have overarching laws governing how licensing boards can grant licenses, half have virtually no restrictions on how these agencies can consider criminal records. This means that many licensing agencies can consider old convictions,

convictions that are unrelated to the occupation, minor infractions, and even arrests not resulting in conviction. Wisconsin does have some guidelines licensing boards must follow, but there is room for improvement.

With these restrictions, it is no wonder why those with records struggle to find work, especially formerly incarcerated individuals. There are 40,000 individuals currently incarcerated in Wisconsin, and over 95 percent of these prisoners will be released back into the general population. Yet a year after release, 60 percent of formerly incarcerated individuals in the United States are still unemployed.

The Benefits of Senate Bill 626

To help fix this problem, Senate Bill 626 requires Wisconsin's licensing boards to perform individualized reviews if they wish to deny an applicant based solely on a criminal conviction. During this review, applicants can submit evidence to show that they have been rehabilitated. After the review, the licensing board must state the reasons for denial in writing if that decision is reached. And importantly, since individuals should not permanently be defined by their past, most juvenile offenses will not count towards a licensing eligibility determination.

Only pending charges for crimes against life and bodily security and certain crimes against children can lead to a denial of a license. For other crimes to lead to a denial of a license, there must be a conviction and the crime must be substantially related to performing that occupation safely.

Additionally, those with records can petition a licensing board to get a determination if their convictions will disqualify them from receiving licensure. Considering that the average training for Wisconsin's low- to moderate-income licensed occupations is over 200 days, getting this information is critical for someone who is about to invest time and money completing government-required training.

It is important to note that nothing in this legislation applies to private employers, who already face hiring guidelines from the Equal Employment Opportunity Commission (EEOC). These guidelines strictly regulate how employers handle criminal background checks so that ex-offenders do not face undue discrimination. For example, private employers are expressly forbidden from automatically denying applicants because of their criminal records. SB 626 ensures that government does not get to ignore the rules that it forces the private sector to follow.

Rather than relying on blanket bans from receiving a license for applicants with any felony or misdemeanor, Wisconsin's boards will have to make clear which specific criminal convictions will lead to a denied license. This standard prohibits licensing boards' use of non-specific terms like "moral turpitude" and "good character," along with consideration of most arrests that are not followed by a conviction. This bill will help Wisconsin residents with criminal records to no longer face unjustified government created bans on work.

Effects of Public Safety

Licensing agencies' restrictions for those with criminal records have had tragic effects on good people like Alma Brown. For almost a decade, Brown operated a childcare facility. But in 2009, a change of law in Wisconsin allowed licensing boards to automatically and permanently ban anyone with a fraud-related conviction from having a license to work at childcare a childcare facility. This change caused Brown's childcare license to be revoked.

In the 1980s, Brown fraudulently accepted food stamps. Though she claimed she was unemployed, she had worked a temporary job at a department store around Christmas. Thankfully, she had long since moved on, found work, and become self-sufficient. But her decades of lawful conduct and honest work were suddenly invalidated when the Wisconsin Department of Children and Families took away her license.

Similarly, Wisconsin resident Sonja Blake lost her childcare license because of a three decades old paperwork error that resulted in a \$294 overpayment in public assistance. Blake was given a lifetime ban on working in her occupation because of a mistake that was completely unrelated to her ability to care for children safely.

Proponents of these broad licensing restrictions argue they are necessary to protect public safety, and it is true that individuals with certain criminal backgrounds should not be allowed to work in some professions. But given that most people with records pose no danger to the public, many of the licensing restrictions faced by ex-offenders reach well beyond what is necessary. For example, besides Wisconsin's restrictions on child care providers, any applicant with an arrest record is ineligible to become registered as an architect, landscape architect, or engineer.

Research has shown that broad licensing prohibitions against ex-offenders endanger the public more than they protect it. An Arizona State University study found that from 1997 to 2007, states with the most burdensome licensing requirements for ex-offenders saw a nine percent increase in recidivism rates—conversely, states with the least burdensome requirements for ex-offenders saw a decrease in recidivism rates of over four percent.

Considering the significant impact employment has on reducing recidivism rates, policymakers should be making it less difficult for formerly incarcerated individuals and those with criminal records to find work. After someone commits a crime, they face two options. They can find a job and substantially lower their likelihood of reoffending, or they can face government dependence and a higher likelihood of committing another crime. Since incarceration costs over \$80 billion a year in the United States, any reform that lowers recidivism helps taxpayers.

Finding work is vital for those with criminal records to rebuild their lives. Work keeps ex-offenders out of poverty, allows them to gain valuable skills and experience, moves them off welfare, and helps them avoid reoffending—and it is possible to accomplish all of this while still protecting public safety. Even those who are tough on crime should want the thousands of Wisconsin residents who leave incarceration each year to work and become independent instead of remaining a drain on society. It is time for Wisconsin to promote public safety and work by giving those with records a fresh start.

Thank you for your time and consideration.