



H.R. 1924/S. 2502, The Kenneth P. Thompson Begin Again Act

THE PROBLEM

More than 78 million Americans have a criminal record.¹ They face a significant uphill battle to restoring their family, reputation, and financial future. These individuals confront more than 44,000 legal barriers on account of their criminal record – more than 1,000 of them existing in federal laws and regulations alone.² These barriers significantly contribute to almost half of the individuals exiting our federal justice system being rearrested within just five years.³

Examples of the barriers faced by those with a criminal record:

- **Employment:** More than 50% of individuals previously incarcerated will struggle to secure employment and even those with employment will see a 52 percent reduction in their average annual earnings.⁴
- **Housing:** Those who were previously incarcerated are 10 times more likely to experience homelessness and there are a number of federal policies and laws that prevent individuals from access certain housing assistance programs.⁵
- **Education:** Both state and federal policies limit access to education for those with a criminal record even though almost half of those incarcerated in the federal system have never graduated high school and 95% do not have a college degree.⁶
- **Civic and Community Engagement:** Those with a criminal record may also face a variety of barriers to engaging with their community such as no longer being able to vote, serving as a juror, or volunteering at local nonprofits or schools.⁷

¹ Federal Bureau of Investigations, *NGI Monthly Fact Sheets*, Federal Bureau of Investigations (November 2020), <https://www.fbi.gov/file-repository/ngi-monthly-fact-sheet/view>.

² CSG Justice Center, *National Inventory of Collateral Consequences of Conviction*, CSG Justice Center (2020), <https://niccc.csjusticecenter.org/database/results/>.

³ Kim Steven Hunt & Robert Dumville, *Recidivism Among Federal Offenders: A Comprehensive Overview*, United States Sentencing Commission (March 2016), https://www.uscc.gov/sites/default/files/pdf/research-and-publications/research-publications/2016/recidivism_overview.pdf.

⁴ Terry-Ann Craigie, et al., *Conviction, Imprisonment, and Lost Earnings: How Involvement with the Criminal Justice System Deepens Inequality*, Brennan Center for Justice (September 2020), https://www.brennancenter.org/sites/default/files/2020-09/EconomicImpactReport_pdf.pdf; Adam Looney & Nicholas Turner, *Work and opportunity before and after incarceration*, The Brookings Institution (2018), https://www.brookings.edu/wp-content/uploads/2018/03/es_20180314_looneyincarceration_final.pdf.

⁵ Lucius Couloute, *Nowhere to Go: Homelessness among formerly incarcerated people*, Prison Policy Initiative (2018), <https://www.prisonpolicy.org/reports/housing.html>; Maggie McCarty, et al., *Drug Testing and Crime-Related Restrictions in TANF, SNAP, and Housing Assistance*, Congressional Research Service (2016), <https://fas.org/sgp/crs/misc/R42394.pdf>.

⁶ Leah Bacon, et al., *Laying the Groundwork: How States Can Improve Access to Continued Education for People in the Criminal Justice System*, Justice Center (2020), <https://csjusticecenter.org/publications/laying-the-groundwork/>; United States Sentencing Commission, *Table 10: Education Of Federal Offenders By Type Of Crime*, United States Sentencing Commission (2020), <https://www.uscc.gov/sites/default/files/pdf/research-and-publications/annual-reports-and-sourcebooks/2020/Table10.pdf>.

⁷ Ginger Jackson-Gleich, *Rigging the jury: How each state reduces jury diversity by excluding people with criminal records*, Prison Policy Initiative (2021), <https://www.prisonpolicy.org/reports/juryexclusion.html>; National Conference of State Legislatures, *Felon Voting Rights*, National Conference of State Legislatures (2021), <https://www.ncsl.org/research/elections-and-campaigns/felon-voting-rights.aspx>.

THE SOLUTION

Research consistently reveals that access to meaningful employment is essential to preventing future crime.⁸ Access to housing has also been found to be equally important for successful reentry. Housing instability increases someone's risk of recidivism, results in higher substance use, and frustrates their ability to secure employment or additional education.⁹ By ensuring individuals with a criminal record have the opportunity for a true second chance, we can improve public safety, strengthen families, and grow our economy.

Federal law currently provides one of the most limited expungement mechanisms in the country – limiting relief to individuals convicted of certain low-level drug crimes who were under 21 years of age at the time they were arrested.¹⁰ The Kenneth P. Thompson Begin Again Act is a positive step towards helping some individuals with a criminal record overcome the barriers to restoration they face every day. It will eliminate the age limitation of 21 years old and allow *any* first-time simple possession offense to be eligible for expungement regardless of the individual's age. This process will not expunge any nonpublic records which could be helpful to the Department of Justice and federal courts in any subsequent federal criminal proceedings.

This reform would align federal law with policies adopted in many states and a growing body of research supporting the positive benefits of expungement for public safety and our local economies.¹¹ In 2020 alone, more than 35 reforms were adopted in 20 states to expungement and sealing laws.¹² These include states like Georgia, Nebraska, North Carolina, and West Virginia.¹³ Adopting the Begin Again Act would position the federal system as an example for states that have not yet reformed their laws in a similar manner as the First Step Act has spurred state reforms across the country.

⁸ Sarah Lageson & Christopher Uggen, *How Work Affects Crime—And Crime Affects Work—Over The Life Course* in HANDBOOK OF LIFE-COURSE CRIMINOLOGY (Chris L. Gibson & Marvin D. Krohn eds., 2013); Nicole Niebuhr & Erin A. Orrick, *Impact of Employment Satisfaction and Stress on Time to Recidivism*, 5 Corrections 170 (2020); John M. Nally, et al., *Post-Release Recidivism and Employment among Different Types of Released Offenders: A 5-Year follow-up Study in the United States*, 9 Int'l J. Crim. Just. Sci. 16 (2014); Kevin Schnepel, *Do post-prison job opportunities reduce recidivism?*, IZA (2017), <https://wol.iiza.org/uploads/articles/399/pdfs/do-post-prison-job-opportunities-reduce-recidivism.pdf?v=1>.

⁹ Dina Chavira & Leonard Jason, *The Impact of Limited Housing Opportunities on Formerly Incarcerated People in the Context of Addiction Recovery*, 1 J. Addictive Behav. Therapy Rehabilitation 1 (2017); Breanne Pleggenkuhle, et al., *Solid Start: supportive housing, social support, and reentry transitions*, 39 J. Crime Just. 380 (2016); Faith E. Lutze, et al., *Homelessness and Reentry: A Multisite Outcome Evaluation of Washington State's Reentry Housing Program for High Risk Offenders*, 41 Crim. Just. Behav. 471 (2013); Benjamin Steiner, et al., *Examining the Effects of Residential Situations and Residential Mobility on Offender Recidivism*, 61 Crime Delinq. 375 (2011).

¹⁰ 18 U.S.C. § 3607

¹¹ J.J. Prescott & Sonja B. Starr, *Expungement of Criminal Convictions: An Empirical Study*, 133 Harv. L. Rev. 2460 (2020); Jeffrey Selbin, et al., *Unmarked? Criminal Record Clearing and Employment Outcomes*, 108 J. Crim. L. & Criminology (2018); Amy Shlosberg, et al., *Expungement and Post-exoneration Offending*, 104 J. Crim. L. & Criminology (2014); Margaret Colgate Love, *50-State Comparison: Expungement, Sealing & Other Record Relief*, Restoration of Rights Project (2020), <https://ccresourcecenter.org/state-restoration-profiles/50-state-comparison-judicial-expungement-sealing-and-set-aside/>.

¹² Margaret Love & David Schlusell, *The Reintegration Agenda During Pandemic: Criminal Record Reforms in 2020, Collateral Consequences Resource Center* (2021), <https://ccresourcecenter.org/2021/01/14/the-reintegration-agenda-during-pandemic-criminal-record-reforms-in-2020-2/>.

¹³ *Id.*