



Building on Kentucky’s Second Chance Licensing Law

Removing Barriers to Work

- **Second Chance Licensing** improves access to good-paying licensed jobs for Kentuckians with criminal records.
- **Senator Westerfield authored a [2017 law](#)** that implemented several best practices, and since then several other states have adopted additional reforms.
- As the Commonwealth focuses on economic recovery, these measures **strengthen employment opportunities, allow businesses to hire** from a broader talent pool, and **save taxpayer money** through reduced recidivism and incarceration.

Current Law

Sen. Whitney Westerfield was the architect of [Senate Bill 120 \(2017\)](#), which adopted Second Chance Licensing best practices. The reforms updated a 1978 law that contained overly broad licensing restrictions for Kentuckians with criminal records.

The current law contains the following best practices for reducing criminal record licensing barriers:

1. **Prohibits denial absent a direct relationship** between an offense and the licensed activity. However, there is a rebuttable presumption that Class A and Class B felonies are “connected” to every license sought.
2. **Requires individualized assessments based on relevant factors** to weigh the criminal record in light of the whole individual. Factors that must be considered includes:
 - (a) The nature and seriousness of the crime and the passage of time since its commission;
 - (b) The relationship of the crime to the purposes of regulating the position of public employment sought or the occupation for which the license is sought;
 - (c) The relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the position of employment or occupation.
3. **Eliminates** broad authorization to base denial of licensure on the **vague term ‘absence of good moral character.’**
4. **Requires notification of intent to deny** based on a criminal record, and the right to an in-person hearing prior to the board making a final decision.
5. **Requires written explanation of denials** including the grounds for denial, the right to an in-person hearing, the earliest date the person may reapply, and that evidence of rehabilitation may be considered upon reapplication.
6. **Provides a right to appeal denials due to criminal history.**

Additional Best Practices to Consider

Since 2017, several states have enacted additional Second Chance Licensing best practices that Kentucky may consider:

1. **Provide pre-application determinations** for prospective applicants to know whether their record is disqualifying *before* investing in the training and education required for a license.

19 states – AZ, AR, ID, IN, IA, MS, MO, NE, NH, NC, OH, OK, PA, TN, TX, UT, VT, WV, WI



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2. **Explicitly bar consideration of non-conviction dispositions and closed records**, including arrests not followed by conviction, juvenile adjudications, & pardoned/sealed/expunged records.

- *Arrests without convictions*. **14** states- CA, CO, CT, IL, IN, IA, KS, MI, MN, NM, OH, RI, TX, UT
- *Juvenile adjudications* **6** states. CA, IL, MN, NM, PA, RI¹
- *Pardoned/sealed/expunged records* **26** states – AZ, CA, CO, CT, GA, HI, IL, IN, IA, ME, MD, MI, MN, NH, NJ, NM, NY, NC, OH, OK, PA, RI, TN, WA, WV, WI.²

3. **Add evidence of rehabilitation to ‘relevant factors’ required in assessment**. Current law requires boards to notify rejected applicants that “evidence of rehabilitation may be considered upon reapplication.” Many states include “evidence of rehabilitation” as a specific factor that must be assessed as part of the initial decision to grant or reject an applicant based on criminal history.

4. **Limit consideration of older convictions** after a period of conviction-free years.

19 states – AZ, AR, AZ, CA, FL, HI, IL, IN, IA, KS, ME, MD, MA, ND, OH, RI, UT, WA, WV, WY

5. **Limit consideration of convictions for less serious offenses**, such as non-violent misdemeanors.

11 states - AZ, AR, CO, FL, KS, MI, MN, NH, NM, RI, TX

¹ Consideration of juvenile adjudications may be broadly limited under the general laws of other states, but the extent to which such limitations apply to licensure is frequently ambiguous.

² The laws of other states may broadly limit consideration of such records or limit access to them, but the extent to which these limitations apply to licensure is frequently ambiguous.