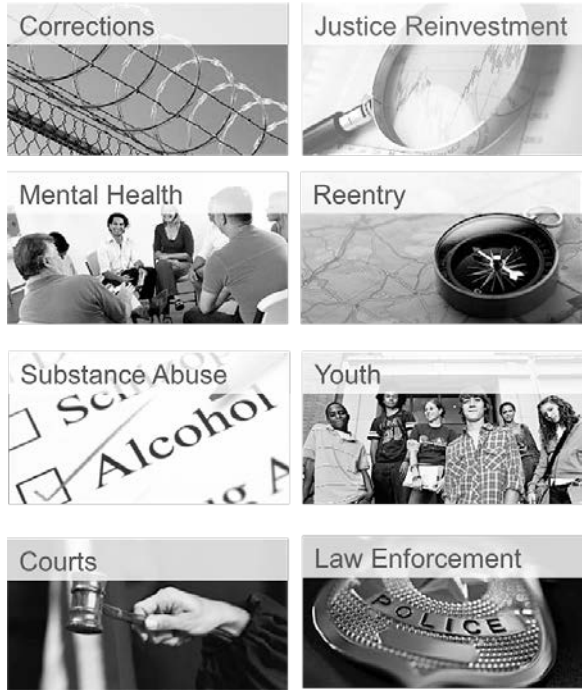


# Expanding Access to Licensure for Kentucky Workers with Criminal Histories

*Josh Gaines – Project Manager, Corrections and Reentry,  
Council of State Governments Justice Center*

# About the CSG Justice Center



**Justice Center**

THE COUNCIL OF STATE GOVERNMENTS

We are a national nonprofit, nonpartisan organization that combines the power of a membership association, serving state officials in all three branches of government, with policy and research expertise to develop strategies that increase public safety and strengthen communities

# Fair Chance Licensing Project

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Assist states in economic recovery

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Enhance good-paying job access

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Improve re-entry & public safety

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Provide businesses with qualified candidate pool

# Fair Chance Licensing Project

The screenshot shows a web browser window with the URL <https://csgjusticecenter.org/projects/fair-chance-licensing/>. The page header features the CSG Justice Center logo and the text "THE COUNCIL OF STATE GOVERNMENTS". The main content area has a dark blue background with a hexagonal pattern and the title "Fair Chance Licensing Project: States Expand Access to In-Demand Jobs". To the right of the title are four menu items: "THE ISSUE", "HOW STATES ARE EXPANDING ACCESS TO WORK", "STATE-BY-STATE LICENSING MAPS", and "VIEW OUR MAPS". Below the title, there is a paragraph of text: "Nearly one in four jobs in the U.S. require a government-issued license. Yet many people with a criminal record are prohibited from receiving occupational licenses or discouraged from seeking jobs in licensed fields. Barriers to work can have devastating effects on people with criminal records, but fair chance licensing legislation can reduce these barriers. View our maps to see which states are making changes." At the bottom of the page, there are three columns of text: "Hear firsthand accounts from people who have been prevented from getting occupational licenses due to their criminal records", "Hear from one state representative who is advancing fair chance licensing laws in his state", and "View our 14 fair chance licensing maps that show the strategies states are adopting to advance fair chance licensing".

Fair Chance Licensing Project: States Expand Access to In-Demand Jobs

THE ISSUE

HOW STATES ARE EXPANDING ACCESS TO WORK

STATE-BY-STATE LICENSING MAPS

Nearly one in four jobs in the U.S. require a government-issued license. Yet many people with a criminal record are prohibited from receiving occupational licenses or discouraged from seeking jobs in licensed fields. Barriers to work can have devastating effects on people with criminal records, but fair chance licensing legislation can reduce these barriers. View our maps to see which states are making changes.

Hear firsthand accounts from people who have been prevented from getting occupational licenses due to their criminal records

Hear from one state representative who is advancing fair chance licensing laws in his state

View our 14 fair chance licensing maps that show the strategies states are adopting to advance fair chance licensing

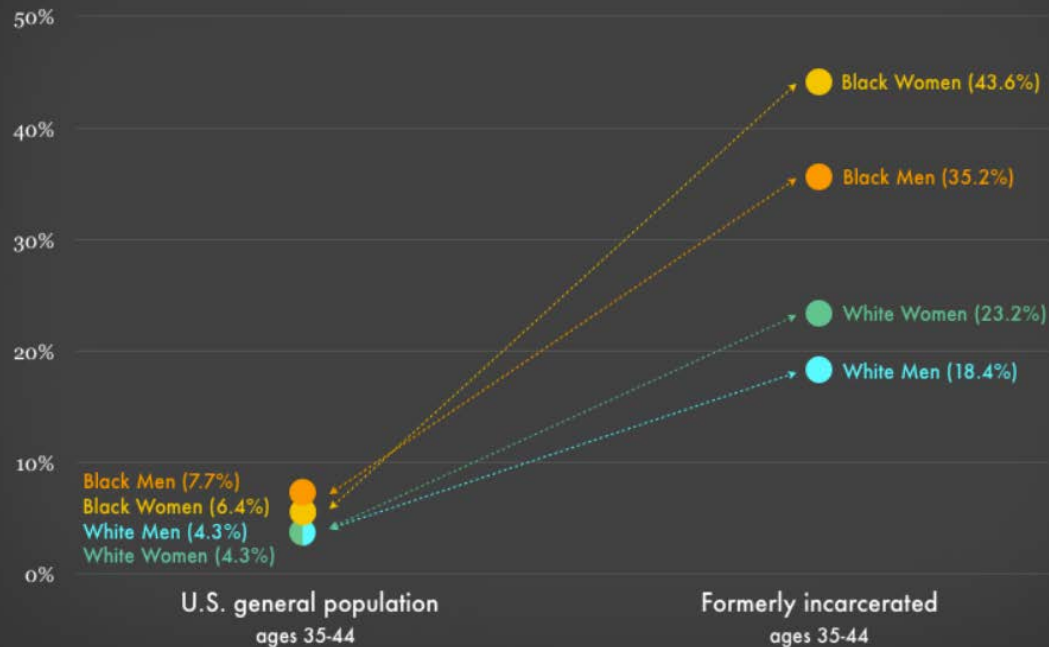
# Criminal history and economic mobility

- A 2022 analysis by the Prison Policy Initiative of U.S. Bureau of Justice Statistics data tracking the progress of a cohort of federal prisoners released in 2010 found:
  - **33% never found a job** in the 4 years after release.
  - **60% or more were jobless** at any given time in those 4 years.
  - For those looking for work, the **unemployment rate remained around 36%** during all 4 years.
- For those that found jobs, most were unstable, and **earnings were far below the U.S. median income.**
- A 2022 Rand Corp. study using data from 1997 to 2017 estimates that **46% of unemployed men have a conviction record** for a non-traffic offense by age 35.

# Criminal histories exaggerate existing racial disparities in joblessness

## The “prison penalty” in unemployment

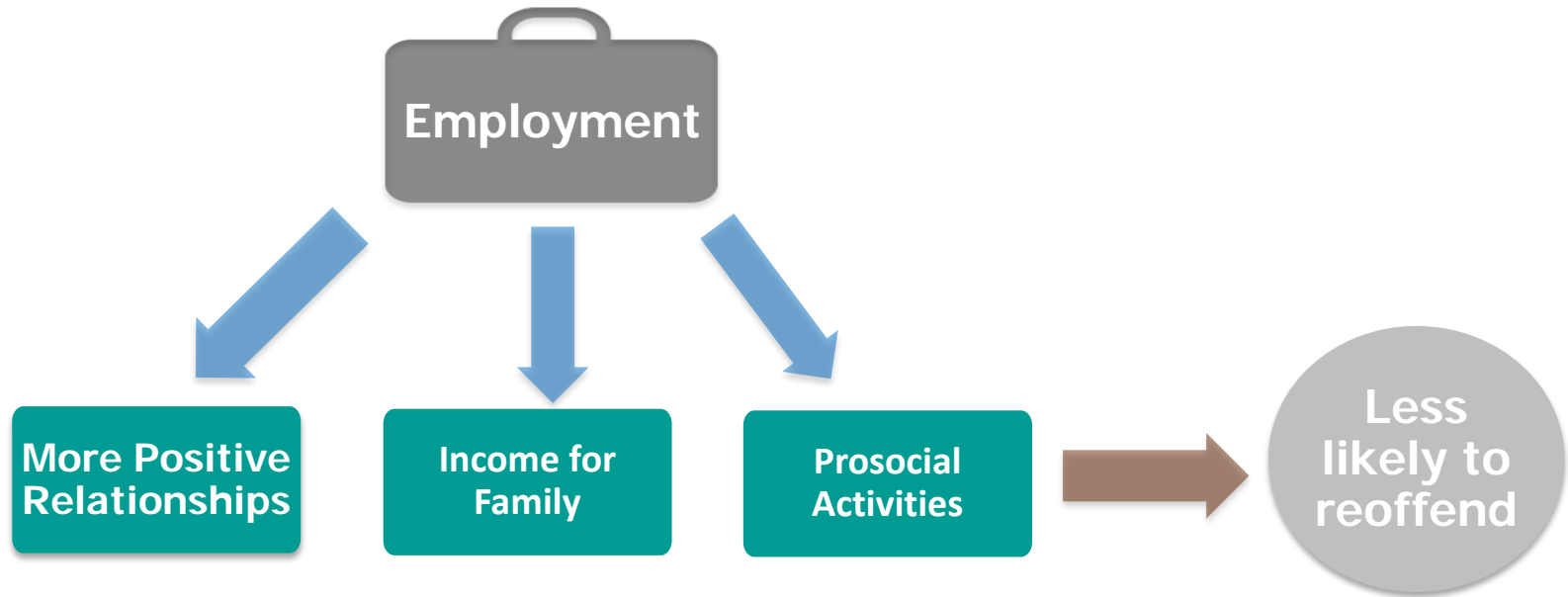
Unemployment among formerly incarcerated people is much higher than among the general public. This disparity is especially dramatic for formerly incarcerated Black people and women.



Sources & data notes: <https://www.prisonpolicy.org/reports/outofwork.html#methodology>

PRISON  
POLICY INITIATIVE

# Employment and public safety



# Why licensed work?

**~20%**

Percentage of Kentuckians that hold a license required to perform a particular occupation or profession (*Kleiner, 2018*)

**\$6.20**

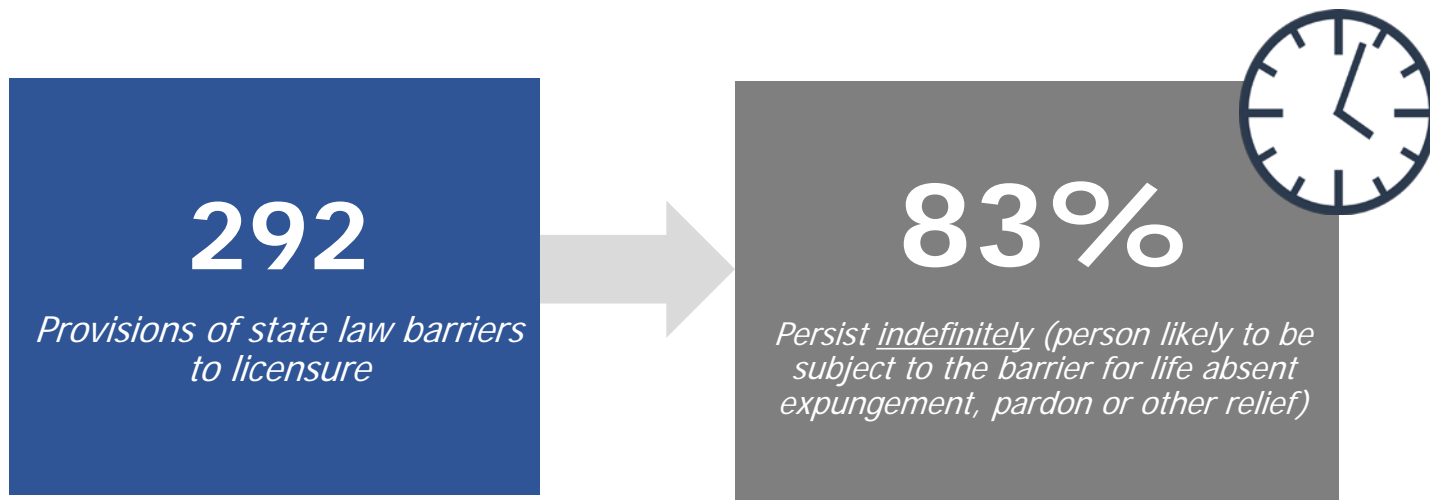
Hourly wage dollars that licensed workers earn over unlicensed workers (national median) (*Kleiner, 2018*)

**292**

Number of provisions of Kentucky statutes and regulations that create barriers to licensure for people with criminal histories (*CSG Justice Center, 2021*)



# Most licensing barriers persist indefinitely in Kentucky



Source: National Inventory of Collateral Consequences of Conviction, <https://niccc.nationalreentryresourcecenter.org/>



# Licensing barriers in Kentucky

KRS § 317A.140. Grounds for fine, reprimand, probation, suspension, revocation, or refusal to issue or renew license or permit (Cosmetologists)

(1) *The board **may refuse to issue or renew a license** or permit, or may suspend or revoke a license or permit, impose probationary conditions upon, impose an administrative fine, issue a written reprimand or admonishment, or take any combination of these actions regarding proof of any applicant's, permittee's, or licensee's:*

(a) **Conviction of a felony**, if in accordance with KRS Chapter 335B

....

# Discretionary barriers can deter qualified workers who pose no risk from entering licensed fields, even if they would NOT ultimately be disqualified

Should I pursue a cosmetology/barber license with a conviction?



- <https://www.cosmetology-license.com/kentucky/top-ten-cosmetology-schools-in-kentucky/>

# Mitigating licensing barriers and protecting public safety

**Over half of the states** have enacted broadly applicable fair chance licensing laws in one form or another.

**Recent reforms are based on three key principles:**

1. Licensing bodies should have the authority to deny applicants with past convictions that **directly relate to the tasks and duties** of a licensed activity such that licensure would create an **appreciable risk to public safety**
2. Workers should not be barred from licensure solely on the basis of a past conviction; instead, they should be given **individualized consideration** that accounts for their past and current circumstances and the unique nature of their criminal conduct
3. Licensing policies and practices involving determinations about the criminal history of applicants should be **transparent and consistently applied**.

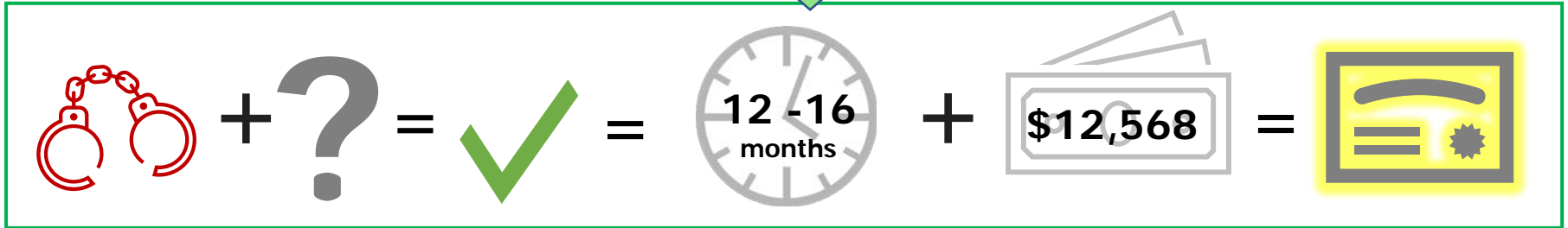
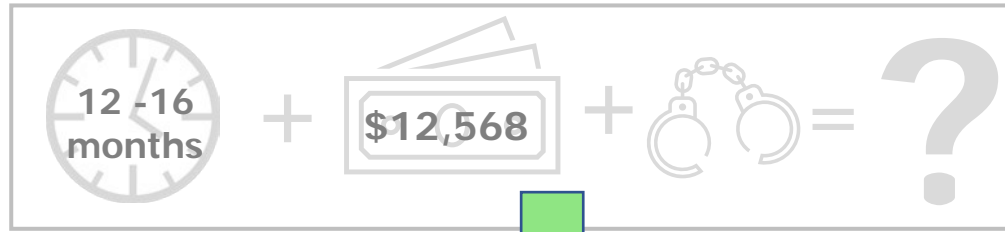
# Current state of fair chance licensing in Kentucky

*SB-120 (2017) (codified at Ky. Rev. Stat. Ann. §§ 335B.020-.070) adopted a number of significant national fair chance licensing best practices, including:*

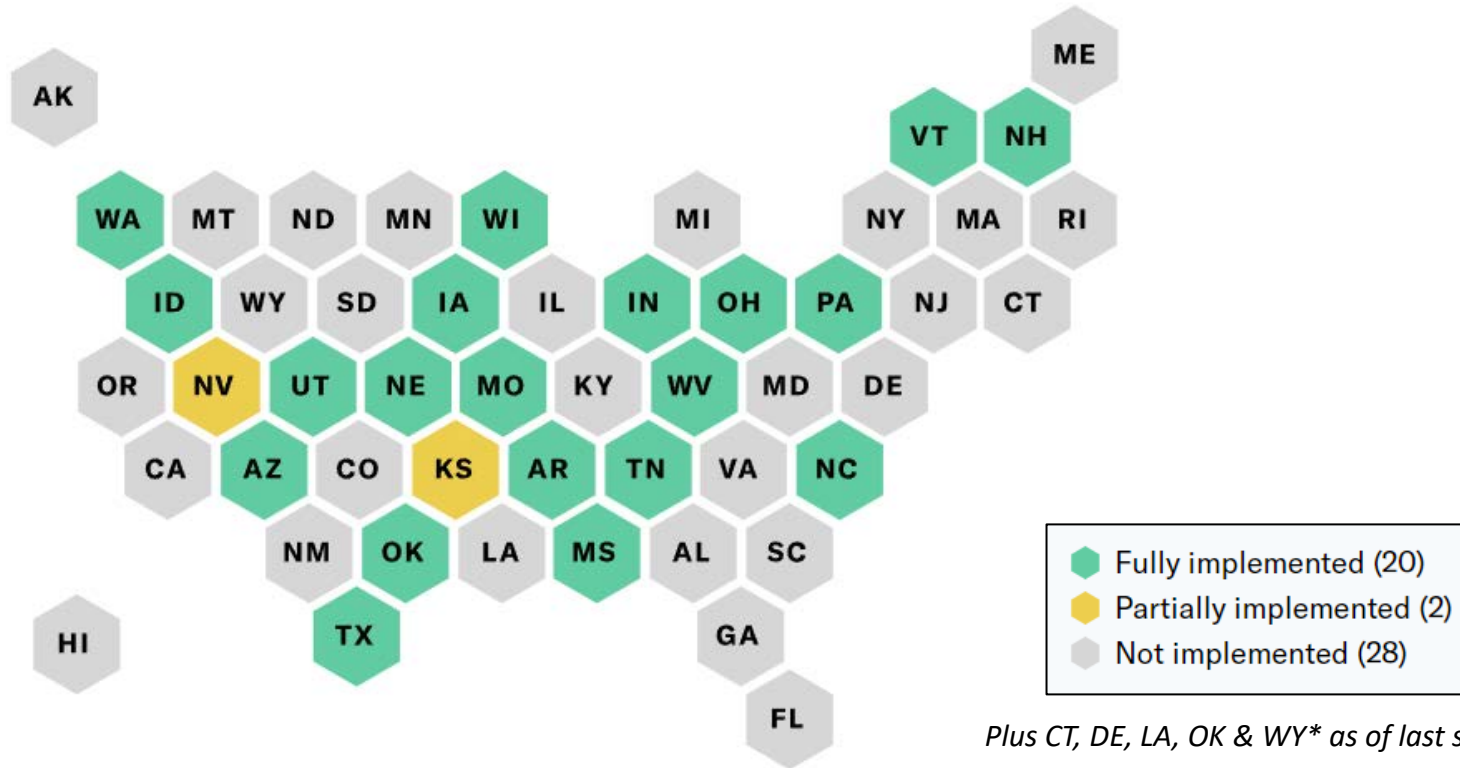
- ✓ Generally prohibiting denial absent a **direct relationship** between an offense and the licensed activity.
- ✓ Requiring **individualized consideration** based on the weighing of relevant factors including the nature and seriousness of the crime and the relationship of the crime to the ability, capacity, and fitness required to perform the duties of the occupation.
- ✓ Eliminating broad authorization to base denial of licensure on an “absence of **good moral character**,” a term that is overbroad and opens the door to arbitrary denials.
- ✓ Requiring **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.
- ✓ Requiring **written notice and explanation** of conviction-based denials and avenues for appeal/reconsideration

# Pre-application determination: Changing the calculus and reducing deterrence

Should I pursue a cosmetology/barber license with a conviction?



# National Practices – Pre-qualification



Plus CT, DE, LA, OK & WY\* as of last session

\*WY's policy is explicitly non-binding

# Broadly limit consideration of older convictions

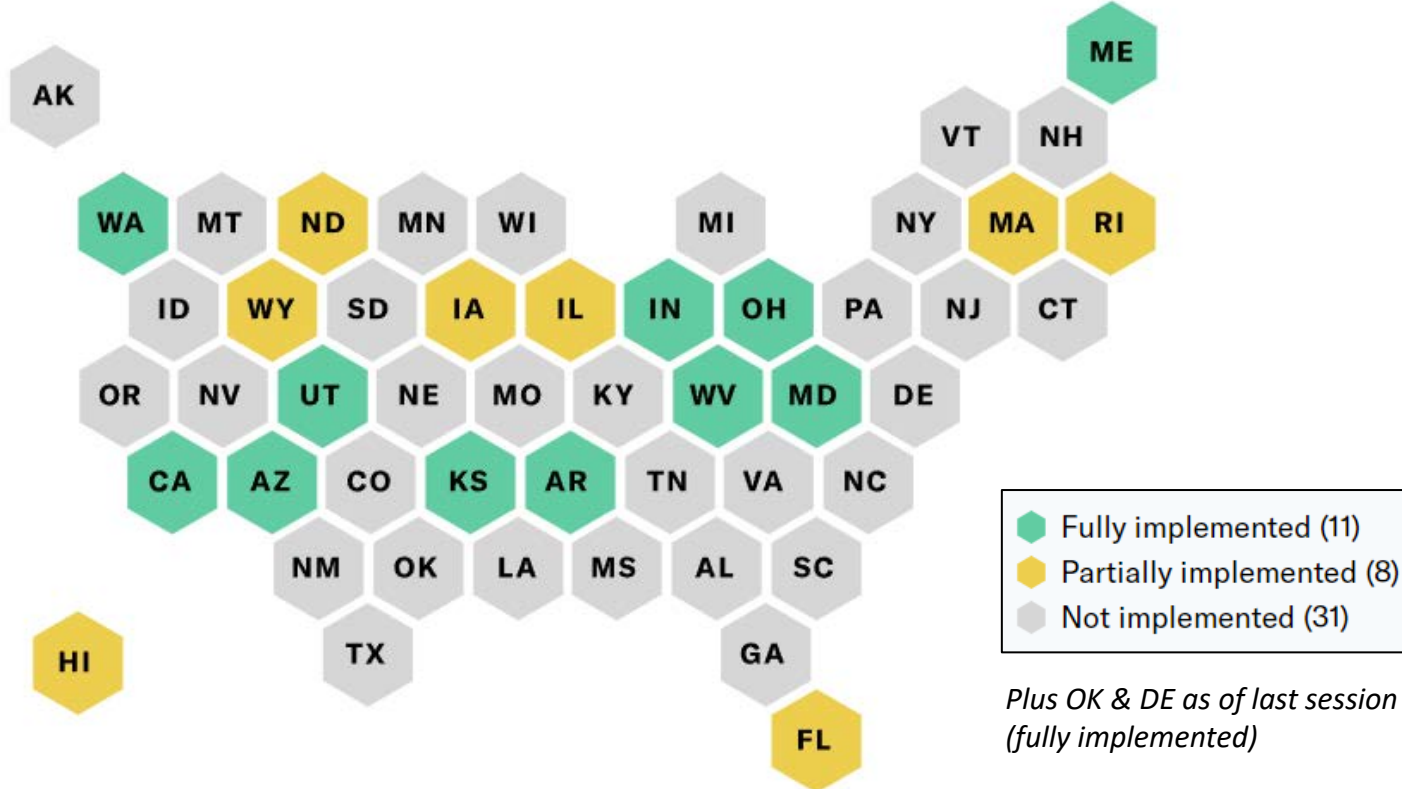
Reflects data that suggests that the risk of re-offense drops dramatically after just 4 years without justice involvement.

Ensures that convictions may not be considered at all after a person has remained conviction-free for a period of years (generally in the range of 3-to-10 years).





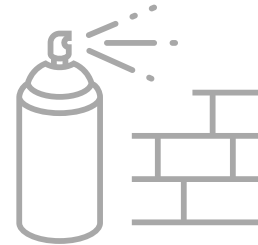
# National Practices – Older convictions



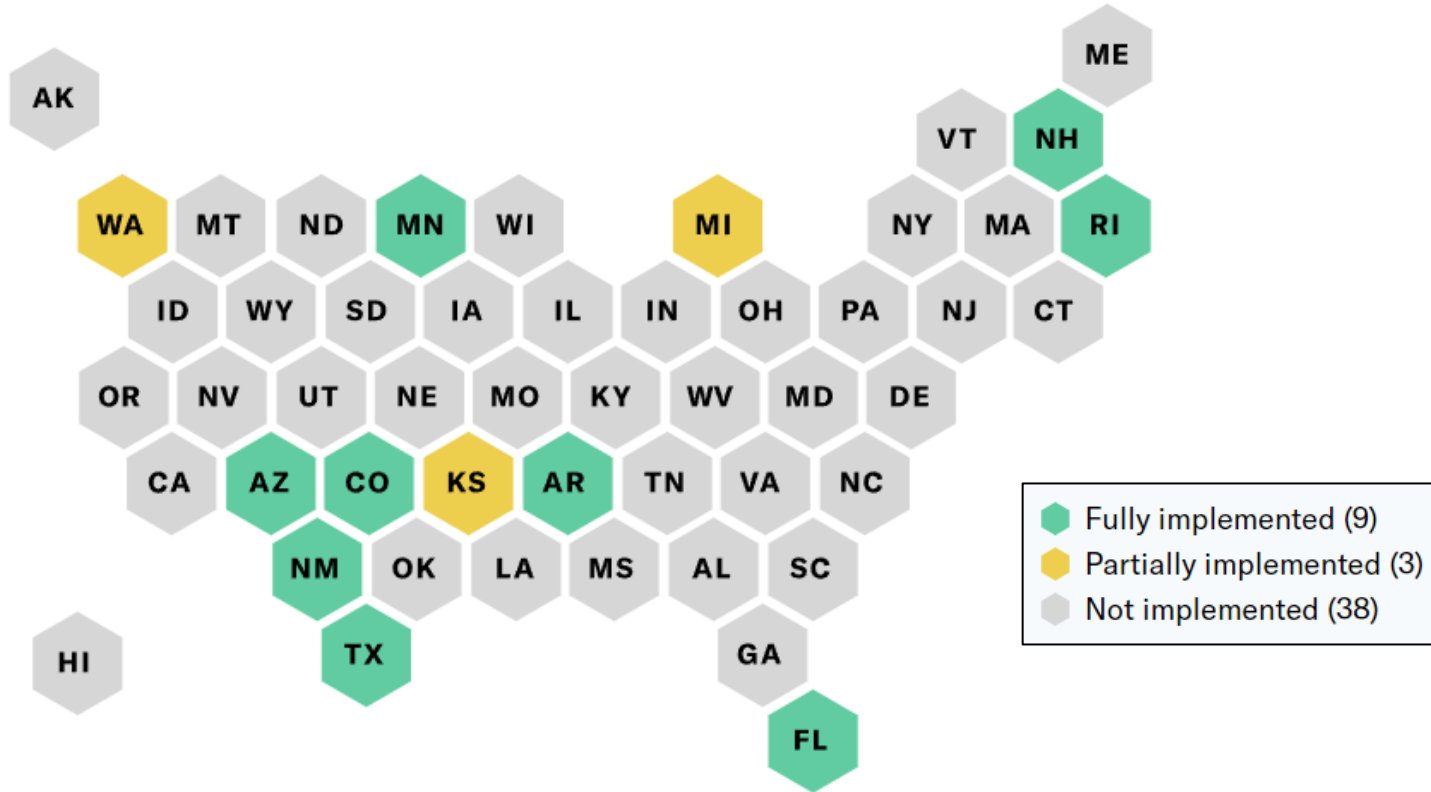
# Broadly limit consideration lower-level offenses

Many states have determined that certain lower-level offenses (such as non-violent misdemeanors) will never pose a risk to public safety in the context of licensed work and have broadly prohibited their consideration.

Eliminates the need for licensing bodies to evaluate convictions that would never be cause for concern



# National Practices – Low-level offenses



# Additional best practices

## Explicitly limit consideration of certain criminal records that are not relevant to public safety concerns

- Arrests not followed by conviction - **17** states (AZ, CA, CO, CT, DE, IL, IN, IA, KS, MI, MN, NM, OH, OK, RI, TX, UT)
- Juvenile adjudications – **9** states (AZ, CA, DE, IL, MN, NM, PA, RI, WA)
- Expunged/sealed/pardoned convictions – **27** states (AZ, CA, CO, CT, DE, GA, HI, IL, IN, IA, ME, MD, MI, MN, NH, NJ, NM, NY, NC, OH, OK, PA, RI, TN, WA, WV, WI)

## Increase transparency in the application process

- Publish online information that explains to applicants how criminal history is considered - **12** states (CA, FL, IL, OH, NC, PA, TX, UT, VT, WI, DE, OK)

## Add “evidence of rehabilitation” to the individualized factors that must be considered

- Consistent with the EEOC Guidance on criminal history consideration and the vast majority of other state fair chance licensing laws.

# THANK YOU

Questions, feedback, or concerns?

Please reach out directly:

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For more information, visit:

**Fair Chance Licensing Project**  
<https://csgjusticecenter.org/projects/fair-chance-licensing/>