



NHCSL

THE NATIONAL HISPANIC CAUCUS OF STATE LEGISLATORS

RESOLUTION

No. 2019-14

Reducing Recidivism Through Reintegration Policies

Reported to the Caucus by the NHCSL
Law and Criminal Justice Task Force
Del. Joseline Peña-Melnyk (MD), Chair

**Sponsored by Del. Joseline Peña-Melnyk (MD), Rep. Kerry Tipper (CO),
and Sen. Omar Aquino (IL)**

Unanimously ratified by the Caucus on December 5, 2019

1 **WHEREAS**, Hispanics are disproportionately imprisoned, with 1 in 6 Latino men
2 going to prison at some point in their lifetime, in contrast to 1 in 17 white men;¹
3 and,

4 **WHEREAS**, Latinas are also disproportionately imprisoned, with 1 in 45 Latinas
5 being incarcerated in their lifetime, compared to 1 in 111 white women;² and,

6 **WHEREAS**, in fact people of color generally make up 37 percent of the United States
7 population, but they make up 67 percent of our prison population;³ and,

¹ The Sentencing Project <https://www.sentencingproject.org/criminal-justice-facts/>

² Ibid

³ The Sentencing Project <https://www.sentencingproject.org/criminal-justice-facts/>

8 **WHEREAS**, Hispanics make up 18.1 percent of the United States population in
9 2019,⁴ yet Hispanics make up approximately 32 percent of the total federal prison
10 population;⁵ and,

11 **WHEREAS**, 1,054 out of every 100,000 Hispanic men in the United States were
12 incarcerated and 66 out of every 100,000 Hispanic women were incarcerated by the
13 end of 2017;⁶ and,

14 **WHEREAS**, for all race and ethnicities, an average of 68 percent of released
15 prisoners are arrested within three years, 79 percent are arrested within six years,
16 and 83 percent are arrested within nine years;⁷ and,

17 **WHEREAS**, the first year after being released from prison, Hispanics and blacks
18 have the highest recidivism rates at 47.3 percent and 46 percent respectively, as
19 compared to the white recidivism rate of 40.2 percent;⁸ and,

20 **WHEREAS**, approximately one third of working Americans have a criminal record,
21 which encompasses the most serious convicted felons, as well as arrests that did not
22 lead to any convictions at all;⁹ and,

23 **WHEREAS**, although expungement is an available option, it is difficult to accomplish
24 without a lawyer, which can be a costly obstacle for a former inmate trying to get
25 back on their feet;¹⁰ and,

26 **WHEREAS**, the unemployment rate for people with a criminal record is over 27
27 percent, a rate that is higher than the unemployment rate of the average American
28 in April 2019 at 3.6 percent and that of the Great Depression;¹¹ and,

29 **WHEREAS**, this situation creates a cycle in which the formerly-incarcerated
30 community cannot find a legal way to earn an income and thus resort to criminal
31 activity to support themselves and their families;¹² and,

32 **WHEREAS**, the Personal Responsibility and Work Opportunity Reconciliation Act of
33 1996 (PRWORA) gave states the discretion to make people who have been convicted

⁴ United States Census Population Estimates 2019
<https://www.census.gov/quickfacts/fact/table/US/PST045218>

⁵ Federal Justice Bureau Statistics <https://www.bjs.gov/content/pub/pdf/p17.pdf>

⁶ Ibid

⁷ Federal Justice Bureau Statistics 2018 Update on Prisoner Reform
<https://www.bjs.gov/content/pub/pdf/18upr9yfup0514.pdf>

⁸ Ibid

⁹ Friedman, Matthew. "Just Facts: As Many Americans Have Criminal Records As College Diplomas." *Brennan Center For Justice*. November, 17, 2015. <https://www.brennancenter.org/blog/just-facts-many-americans-have-criminal-records-college-diplomas>

¹⁰ "Never Been Convicted? Doesn't Mean You Don't Have a Criminal Record." *Innocence Project*. May 25, 2015.

¹¹ Coulete, Lucius, and Daniel Kopf. "Out of Prison & Out of Work: Unemployment among Formerly Incarcerated People." *Prison Policy Initiative*, July 2018. <https://www.prisonpolicy.org/reports/outofwork.html>

¹² Sterling, Eric. "Trump should reform criminal justice system to foster economic growth." *The Hill*. December 6, 2016. <https://thehill.com/blogs/pundits-blog/civil-rights/309072-trump-should-reform-criminal-justice-system-to-foster>

34 of drug crimes ineligible to receive any federally-funded benefits such as Temporary
35 Assistance for Needy Families (TANF) and Supplemental Nutrition Assistance
36 Program (SNAP);¹³ and,

37 **WHEREAS**, to this day Alaska, Mississippi, Georgia, Wyoming, South Carolina, and
38 West Virginia retain the full ban over food stamps in their respective states;¹⁴ and,

39 **WHEREAS**, to this day Alaska, Texas, Arizona, Nebraska, Missouri, Illinois,
40 Mississippi, Virginia, Delaware, Georgia, South Carolina, South Dakota, and West
41 Virginia retain a welfare ban over the formerly-incarcerated in their respective
42 states;¹⁵ and,

43 **WHEREAS**, newly-released individuals are already entering a society with a
44 shortage of 7.4 million affordable homes for those that are extremely impoverished
45 and their criminal record adds another barrier to securing stable housing;¹⁶ and,

46 **WHEREAS**, public housing organizations can freely evict people with criminal
47 records based on background screenings, as well as their families if they allow them
48 on their properties;¹⁷ and,

49 **WHEREAS**, these background screenings allow for discrimination without fair
50 chance of mitigation to support the individual’s case to be a worthy resident for
51 public housing;¹⁸ and,

52 **WHEREAS**, with all the stigma towards a criminal record, regardless of the crime,
53 people who were formerly incarcerated are ten times as likely to be homeless than
54 the general American population;¹⁹ and,

55 **WHEREAS**, in the formerly-incarcerated Hispanic population, approximately 200
56 out of 10,000 people are homeless, in comparison to approximately 1 in 150 for
57 their white counterpart and approximately 1 in 260 for their black counterpart;²⁰
58 and,

¹³ Mauer, Marc, and Virginia McCalmont. “A Lifetime of Punishment: The Impact of the Felony Drug Ban on Welfare Benefits.” *Prison Policy Initiative*. November 14, 2013.

¹⁴ The Marshall Project <https://www.themarshallproject.org/2016/02/04/six-states-where-felons-can-t-get-food-stamps>

¹⁵ Ibid

¹⁶ Weiss, Elayne. “Housing Access for People with Criminal Records.” National Low Income Housing Coalition. https://nlihc.org/sites/default/files/AG-2017/2017AG_Ch06-S06_Housing-Access-Criminal-Records.pdf

¹⁷ <https://citylimits.org/2015/06/02/nycha-questioned-on-policy-of-banning-arrested-residents/>

¹⁸ Weiss, Elayne. “Housing Access for People with Criminal Records.” National Low Income Housing Coalition. https://nlihc.org/sites/default/files/AG-2017/2017AG_Ch06-S06_Housing-Access-Criminal-Records.pdf

¹⁹ Coulete, Lucius. “Nowhere to Go: Homeless among formerly incarcerated people.” *Prison Policy Initiative*, August 2018. <https://www.prisonpolicy.org/reports/housing.html>

²⁰ Ibid

59 **WHEREAS**, grassroots organizations such as Ban the Box have rallied to remove the
60 question asking if the applicant has committed a felony from housing and job
61 applications;²¹ and,

62 **WHEREAS**, these grassroots efforts have only been successful in fourteen states:
63 California, Colorado, Connecticut, Hawaii, Illinois, Massachusetts, Minnesota, New
64 Jersey, New Mexico, Oregon, Rhode Island, Vermont, Washington, and the District of
65 Columbia,²² and partially in Maryland;²³ and,

66 **WHEREAS**, despite this progress in employment, Ban the Box policies have not yet
67 been widely applied to protect former inmates from housing discrimination on a
68 state and federal level;²⁴ and,

69 **WHEREAS**, the annual cost of maintaining federal prisoners for the fiscal year of
70 2015 amounted to \$31,977.65, approximately \$87.61 a day;²⁵ and,

71 **WHEREAS**, the annual cost of maintaining an inmate in a re-entry center for the fiscal
72 year of 2015 was \$26,082.90, approximately \$71.46 per day;²⁶ and,

73 **WHEREAS**, the federal government spends approximately 50 billion dollars in
74 housing assistance per year, which includes TANF and preferential tax treatments.²⁷

75 **WHEREAS**, former inmates can more efficiently contribute to this amount when
76 they are given the opportunity to pay taxes through jobs; and,

77 **THEREFORE, BE IT RESOLVED**, that the National Hispanic Caucus of State
78 Legislators recognizes the barriers that hinder opportunities for the formerly-
79 incarcerated persons from successfully reintegrating into society, creating a cycle
80 that largely leads to recidivism; and,

81 **BE IT FURTHER RESOLVED**, that the National Hispanic Caucus of State Legislators
82 urges federal, state, and local policymakers to enact policies to remove these
83 systemic legal barriers that inhibit the formerly incarcerated from opportunities to
84 better themselves and their families; and,

²¹ Ban the Box Campaign <http://bantheboxcampaign.org/about/>

²² Society for Human Resource Management <https://www.shrm.org/resourcesandtools/legal-and-compliance/state-and-local-updates/xperthr/pages/ban-the-box-laws-by-state-and-municipality.aspx>

²³ Maryland SB 4, passed in 2013, bans the box as to public employment only.
<http://www.esrcheck.com/wordpress/2013/05/07/maryland-becomes-latest-state-to-ban-the-box-asking-questions-about-criminal-history-from-job-applications/>. The Maryland General Assembly is in the process of overriding the Governor's veto of HB 994, a bill that would employ Ban the Box policies extending to any company employing 15 or more employees.

²⁴ Evans, Linda. "Ban the Box in Housing, Education, and Voting." Legal Services for Prisoners with Children. 2016. http://criticalresistance.org/wp-content/uploads/2014/04/B2B2_Final.pdf

²⁵ <https://www.govinfo.gov/content/pkg/FR-2016-07-19/pdf/2016-17040.pdf>

²⁶ Ibid

²⁷ Congressional Budget Office 2015 Report <https://www.cbo.gov/publication/50782>

85 **BE IT FURTHER RESOLVED**, that the National Hispanic Caucus of State Legislators
86 urges federal, state, and local policymakers to work towards legislation that reduces
87 the discrimination of the formerly incarcerated by employers, federal aid programs,
88 and private landlords and mortgage providers; and,

89 **BE IT FURTHER RESOLVED**, that the National Hispanic Caucus of State Legislators
90 calls for state legislators to begin implementing similar legislation to the states
91 outlined above to Ban the Box in order to reduce employment discrimination
92 against former inmates; and,

93 **BE IT FURTHER RESOLVED**, that the National Hispanic Caucus of State Legislators
94 urges federal, state, and local legislators to implement policies that reduce public
95 housing restrictions on newly-released prisoners; and,

96 **BE IT FURTHER RESOLVED**, that the National Hispanic Caucus of State Legislators
97 calls on states and territories to restore full voting rights to persons who have
98 completed their felony sentences; and,

99 **BE IT FINALLY RESOLVED**, that the National Hispanic Caucus of State Legislators
100 calls on Congress to repeal the provision of the Personal Responsibility and Work
101 Opportunity Responsibility Act (PRWORA) that makes people convicted of drug
102 felonies ineligible to receive federal assistance.

103 THE NHCSL EXECUTIVE COMMITTEE UNANIMOUSLY AMENDED AND APPROVED
104 THIS RESOLUTION ON AUGUST 3, 2019 AT ITS SUMMER MEETING IN SANTA FE,
105 NM.

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107 THE NATIONAL HISPANIC CAUCUS OF STATE LEGISLATORS UNANIMOUSLY
108 RATIFIED THIS RESOLUTION ON DECEMBER 5, 2019, AT THE ANNUAL MEETING
109 IN SAN JUAN, PR.