



TESTIMONY IN SUPPORT OF HB0420:

Employers of Ex-Offender - Liability - Immunity

TO: Hon. Dereck Davis, Chair, and Members of the Economic Matters Committee

FROM: Korey T. Johnson, Esq., Senior Policy Research Analyst

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The Job Opportunities Task Force (JOTF) is an independent, nonprofit organization that advocates for better jobs, skills training, and wages for low-income workers and job seekers in Maryland, particularly individuals with a criminal background. We strongly support House Bill 420 as a means of encouraging the successful employment of individuals that have experienced incarceration.

An interaction with the criminal justice system can be both the cause and consequence of poverty for many Marylanders. Research shows that the events that take place in the first few weeks after release are critical to successful re-entry and preventing recidivism. With the rapidly expanding use of background checks, job seekers determined to be productive citizens are routinely excluded from consideration for jobs even for minor offenses that sometimes occurred decades ago. Many employers often refuse to hire applicants with criminal records; and, jobseekers with a criminal background apply for jobs for which they are well-qualified but do not have their applications even considered, even for a non-conviction record. The impact is particularly pronounced for black men.

Some state court systems – including Maryland – allow criminal record information to be posted online. This means an individual’s criminal history is no longer strictly used for law enforcement purposes or sentencing, but hiring decisions. To address this, JOTF has worked over the years to successfully advance policies in an effort to reduce the impact of incarceration on working families, including eliminating public access to certain criminal records. As a result of our efforts, many employers admit that they are interested and willing to hire individuals with a criminal record but are concerned about liability challenges. As such, JOTF has consistently advocated for policies that both ensure that mechanisms for relief are available for those workers with a criminal record and for employers seeking to hire workers with a criminal record.

House Bill 420 seeks to address this by establishing that an “employer” may not be held liable for negligently hiring or failing to adequately supervise an “employee” based on evidence that the employee has received probation before judgment for an offense or has been convicted of an offense if the employee meets specified criteria and performs specified types of work for the employer. This would ensure that those employers that are willing and interested in hiring workers with a criminal background are afforded the same protections as others.

JOTF JOB OPPORTUNITIES TASK FORCE

Advocating better skills, jobs, and incomes

The Job Opportunities Task Force is all too familiar with the far-reaching consequences of incarceration on low-income families, toiling to eliminate employment barriers for Marylanders struggling with a criminal record. For these reasons, we urge a favorable report of House Bill 420.