



February 29, 2018

Council of the District of Columbia
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Dear Councilmembers,

On behalf of the National Association of Criminal Defense Lawyers (NACDL), I write to urge you to support Council Bill B22-0523, the “Removing Barriers to Occupational Licenses Amendment Act of 2017.”

NACDL is the preeminent organization advancing the mission of the criminal defense bar to ensure justice and due process for persons accused of crime or wrongdoing. A professional bar association founded in 1958, NACDL’s many thousands of direct members in 28 countries – and 90 state, provincial and local affiliate organizations totaling up to 40,000 attorneys – including private criminal defense lawyers, public defenders, military defense counsel, law professors and judges committed to preserving fairness and promoting a rational and humane criminal justice system.

Council Bill B22-0523 would limit a licensing board’s consideration of criminal convictions to those directly relevant to the occupation for which the license is sought. The licensing board would also be prohibited from inquiring into or considering an applicant’s criminal history until after the applicant has been found to be qualified for the license sought. Additionally, the applicant would be given the opportunity to provide mitigating evidence regarding the circumstances of the offense.

Occupational licensing has expanded from covering 5 percent of the workforce in the 1950s to 30 percent today.¹ In DC, licenses are required to practice more than 70 occupations, including barber, athletic trainer, electrician, and many more.

In 2014 NACDL released a groundbreaking report on the impacts of collateral consequences on people with a criminal history entitled, “*Collateral Damage: America’s Failure to Forgive or Forget in the War on Crime – A Roadmap to Restore Rights and Status After Arrest or Conviction*,” which offers a set of recommendations for reform. The report was based, in part, on testimony from over 150 witnesses at hearings in Chicago, Miami, Cleveland, San Francisco, New York and Washington, DC. As discussed in the report, research has shown that the ability

¹ Goodnow, Natalie. “*Your barber faces stricter licensing requirements than an EMT.*” American Enterprise Institute (Washington, DC). January 27, 2015. Retrieved from: <http://www.aei.org/publication/barber-stricter-licensing-emt/>.

to earn a living is the best way to keep someone from committing another crime.² However, the excessive barriers confronting those with a criminal conviction make the task of being able to provide for oneself and family nearly impossible.

Nearly one out of three Americans has a criminal record, and as a result, faces a difficult road to becoming employed. Setting up impassable barriers for those with convictions is counterproductive and undermines public safety. Wayne Rawlins, a community justice and economic development consultant testified that “A person that can get a job, that can pay taxes, that can feel vested in the community is less likely to reoffend than someone that doesn’t.”³ The Center for the Study of Economic Liberty at Arizona State University recently conducted a study that explores the relationship between 3-year recidivism rates for new crimes and occupational licensing requirements that impact formerly incarcerated persons. In the 29 states where licensing boards outright rejected applications from people with criminal convictions, the recidivism rate rose by 9.4 percent.⁴

In addition to the public safety benefits of ensuring adequate employment, loosening the grip of collateral consequences also has an economic and cost savings benefit. According to a report by the American Civil Liberties Union, the gross national product is reduced between \$78 and \$87 billion dollars as a result of excluding formerly incarcerated persons from the workforce.⁵

It is our belief that punishment should end when the terms of a criminal sentence are fulfilled. For these reasons, NACDL urges you to support Council Bill B22-0523.

Sincerely,



Kyle O’Dowd
Associate Executive Director for Policy

² *Collateral Damage: America’s Failure to Forgive or Forget in the War on Crime – A Roadmap to Restore Rights and Status After Arrest or Conviction*. This publication is available online at: www.nacdl.org/restoration/roadmapreport.

³ Ibid.

⁴ Slivinski, Stephen (2016). *Turning Shackles into Bootstraps: Why Occupational Licensing Reform is the Missing Piece of Criminal Justice Reform*. Center for the Study of Economic Liberty at Arizona State University. November 7, 2016. Retrieved from: <https://assets.documentcloud.org/documents/3891114/CSEL-Policy-Report-2016-01-Turning-Shackles-Into.pdf>

⁵ Back to Business: How Hiring Formerly Incarcerated Job Seekers Benefits Your Company. American Civil Liberties Union Foundation, 2017. Retrieved from: <https://www.aclu.org/report/back-business-how-hiring-formerly-incarcerated-job-seekers-benefits-your-company>.