

## Second Chance Hiring (and Renting): Employer Liability Protections

### ISSUE:

Are there civil liability protections for businesses (and landlords) for hiring (or renting to) someone with a criminal record?

### SHORT ANSWER:

Yes. Georgia continues to expand protections for private sector entities that hire and/ or rent to someone with a criminal record.

### WHAT PROTECTIONS ARE AVAILABLE IF MY COMPANY IS SUED?

- A. Prohibiting use of employee's criminal history at trial (*see A below for details*).
- B. Creating a "rebuttable presumption of care" in hiring or renting to someone with a Certificate of Program & Treatment Completion (*see B below for details*).

### WHO QUALIFIES FOR THESE PROTECTIONS & HOW DO THE PROTECTIONS WORK?

- A. Criminal history of employee will not be admissible in trial for conduct of the employee if (new):
  - The criminal history has been restricted or sealed (aka "expunged"), or
  - The employee has been granted a pardon, or
  - The underlying charge did not lead to a conviction, or
  - The criminal history conduct is not relevant to the civil case conduct. (*OCGA 24-4-419*)
- B. Certificate of Program & Treatment Completion
  - What are they?
    - i. Issued by the Department of Corrections & by Probation (DCS)
    - ii. Issued to formerly incarcerated individuals and those on probation.
    - iii. They record and symbolize an individual's reentry efforts & accomplishments.
  - What impact do they have if my company is sued?
    - i. Creates a "rebuttable presumption of care" in hiring or renting to someone with a criminal record if the employee/ renter has been issued a *Certificate of Program & Treatment Completion*.
  - *See OCGA 51-1-54, 42-2-5.2, 42-3-2, 42-9-42*

### OTHER INCENTIVES AND PROTECTIONS FOR EMPLOYERS

#### Federal Work Opportunity Tax Credit (WOTC)

- Between \$1,200 and \$9,600 per employee.
- Employee with felony conviction and hired within one year of release.

#### Federal Bonding Program

- Bond issued by the Georgia Department of Labor.
- \$5,000 no-cost Employer liability bond for hiring people with a conviction.

**Want to learn more?** Contact Wade Askew at [Wade@GJP.org](mailto:Wade@GJP.org) or 404.827.0027 ext. 214

*For 35 years, Georgia Justice Project (GJP) has served Georgians impacted by the criminal legal system. GJP approaches social change in three ways: through legal and social services - including holistic criminal defense, early termination of probation, criminal record clearing, and other reentry services; by advocating for a better Georgia, resulting in 21 changes to Georgia law so far; and by educating communities statewide on criminal justice and reentry issues. These approaches help GJP achieve its goals to lower the number of Georgians under correctional control and reduce barriers to reentry.*