



Testimony of the Connecticut Business and Industry Association  
Before the Judiciary Committee  
March 9, 2020

**TESTIFYING IN SUPPORT OF HB 5019** - An Act Concerning Fair Futures Following Erasure of Criminal Records, and

**TESTIFYING ON SB 403** - An Act Concerning the Board of Paroles, Erasure of Criminal Records for Certain Misdemeanor and Felony Offenses and Prohibiting Discrimination Based on Erased Criminal History Record Information.

My name is Brian Corvo and I am Assistant Counsel for CBIA, the Connecticut Business and Industry Association.

Thank you for the opportunity to testify on the above-mentioned bills.

CBIA is Connecticut's largest business organization, with thousands of member companies, small and large, representing a diverse range of industries from across the state. Ninety-five percent of our member companies are small businesses, with less than 100 employees.

CBIA supports effective initiatives to help people with criminal records secure employment when returning to their communities.<sup>1</sup> CBIA is encouraged that this issue is a priority for the governor and legislature.

Addressing the impact of criminal records on employment is important. Justice reforms are accelerating the reentry of people with criminal records into their communities, increasing the number of job applicants with criminal backgrounds. As Connecticut's economy is slowly recovering, some industries need more qualified workers. When criminal records hinder people from employment, it is a missed opportunity for the state, for employers and for people. Effective reentry policies are an economic necessity and a social imperative.

CBIA supports the intent of these bills to stop criminal convictions from permanently disqualifying people from meaningful employment. CBIA also believes that constructive public policy needs to be balanced with reasonable protections and considerations for the valid concerns of employers. CBIA supports HB 5019 as it addresses the challenge to employment people with criminal records face and is a good starting point for similar policies.

## **1. CBIA SUPPORTS ESTABLISHING THE REENTRY EMPLOYMENT ADVISORY COMMITTEE**

Both bills provide for a reentry employment advisory committee to align education and job training programs offered by the Department of Correction with the needs of employers.<sup>2</sup> The committee would be composed of people from state agencies, business and industry associations, trade councils, education and human resources professionals. The composition of the committee is appropriate to accomplish the goal of employment for people who have a criminal record by making them well-qualified candidates for occupations that are in demand and helping employers hire from this population.

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<sup>1</sup> See attached for more information on CBIA's current efforts in supporting effective reentry employment initiatives.

<sup>2</sup> HB 5019 Sec.7 / SB 403 Sec. 9

**A. JOB QUALIFICATIONS MATTER TO EMPLOYERS**

Recent research shows that more employers are open to hiring people who have criminal records.<sup>3</sup> The top reason employers gave for extending job offers to applicants with criminal records was a desire to hire the best candidate for the job. Accordingly, ensuring that people return to their communities qualified to reenter the workforce is one of the most essential elements of effective reentry policy.

**B. APPROPRIATE COMMITTEE MEMBERSHIP COMPOSITION FOR THE TASK**

While more employers are open to hiring workers with criminal records, there is still uncertainty among some employers (that varies by industry) about hiring people with criminal records. The inclusion in the committee of representatives from associations representing business, construction, trades and human resources is important to prepare people to return to the workforce and to help employers identify and manage the real and perceived risks they have associated with hiring people who have criminal records. By putting those risks into perspective they can develop hiring practices that don't unnecessarily disqualify people with criminal records.

**2. HB 5019 IS A REASONABLE STARTING POINT FOR CLEAN SLATE LEGISLATION**

HB 5019 focuses on the classes and types of criminal convictions other states who have enacted similar "clean slate" legislation have focused on.<sup>4</sup> Two other states, Pennsylvania and Utah, passed similar bills with nearly unanimous, bi-paritsan support and the support of their business communities. Connecticut should be the third. CBIA, offers the following suggestion for improving HB 5019:

**A. INCORPORATE INDEMNITY PROVISIONS FOR EMPLOYERS**

When Pennsylvania passed its "clean slate" law, it provided immunity from liability to employers who hire an individual whose criminal record was sealed by that law. In the case of a claim of employee misconduct where the misconduct relates to the portion of the criminal history that was sealed, the employer is immune from such liability. HB 5019 should provide for the same level of protection. Similarly, where HB 403 (Sec. 37) provides limited protection to employers, the "rebuttable presumption" should be changed to "immunity."

**3. COMMENTS ON SB 403**

While CBIA generally supports the intent of the bill, CBIA is most concerned with:

**A. THE SCOPE OF MISDEMEANORS AND FELONIES ELIGIBLE FOR AUTOMATIC ERASURE**

SB 403 provides for automatic erasure of a wide range of misdemeanors and felonies.<sup>5</sup> From the perspective of employers, the nature of the offenses would be a significant factor in their hiring decisions.

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<sup>3</sup> See: <https://www.shrm.org/hr-today/trends-and-forecasting/research-and-surveys/Pages/Second-Chances.aspx> A summary of the study and a link to the study itself are available on this website. see also: <https://www.cbia.com/news/hr-safety/hiring-criminal-record/>

<sup>4</sup> HB 5019 provides for the erasure of C and D level misdemeanors (lowest level) and low level cannabis offenses and excludes certain crimes from erasure. (see Sec. 2)

<sup>5</sup> SB 403 provides for erasure of classified and unclassified misdemeanors (all levels) and C, D, and E felonies and unclassified felony offenses carrying an prison term of not more than 10 years and excludes certain crimes for erasure. (see Sec.3)

**B. SECTION 18 RE: EMPLOYERS INQUIRING ABOUT ERASED RECORDS**

Section 18 is somewhat confusing and we respectfully request clarification. Those provisions of the bill suggest that an employer would require a prospective employee to disclose erased criminal history information. If erased, pursuant to the other provisions of the bill, this seems unnecessary. Similarly, clarification is requested on how an employer can discriminate on the basis of erased criminal history.

**C. PROVISIONAL ERASURE**

CBIA notes that the concept of a “provisional erasure” process as described and outlined in Section 3 of the bill is interesting. In circumstances where appropriately granted, a person with a criminal record can file a petition for erasure of their record after a shorter period of time. Providing a mechanism like “provisional erasure” where people can erase records sooner will accelerate their access to meaningful employment.

CBIA thanks the Committee for its consideration of this testimony.

## **CBIA SUPPORT OF EFFECTIVE REENTRY PROGRAMS**

CBIA (along with other business entities and other non-profit organizations, including CT Legal Services and the ACLU) has been working with the CT Department of Corrections, to examine and identify barriers to employment for individuals who are reentering their communities with criminal records and find ways to eliminate those obstacles and open opportunities to meaningful employment.

See the link below for materials from our Nov. 15, 2019 Employment Conference on the topic: Maximize Your Talent Pool, Minimize Risk: Fair Chance Hiring Practices and Second Chance Initiatives.

<https://www.cbia.com/wp-content/uploads/2019/11/4-Maximizing-Your-Talent-Pool.pdf>

CBIA staff were recognized for their workforce efforts with returning citizens.

<https://www.cbia.com/news/workforce-development/cbia-workforce-development-recognition/>

One of the many steps we are actively taking is to develop guidance and training for employers on the recruitment, hiring and retention process for people with criminal records. As part of this effort, CBIA is using its unique position in the business community to help employers effectively apply individualized assessments to their hiring process and help employers recognize that they can meet their need for qualified workers by adopting practices and policies that put risk and liability in perspective and avoid rejecting good applicants who have criminal records and comply with applicable laws, regulations and guidelines.

CBIA generally supports effective reentry efforts and will continue to work with other parties on developing and implementing such initiatives.