



Governor's Re-entry Council, Steering Committee Minutes – Meeting #13 – July 8, 2009

Steering Committee Members Attending: Walt Beglau, Cindy D. Booth, Mark Cadotte, Ron Chase, Ginger Martin, Tom McClellan, Jerry Moore, Mark Royal, Nancy Sellers, Ross Shepard, Heidi Steward, Patrick Vance, Vicki Walker

Guests: Patty Katz, Paul Solomon, Eric Suing, Hank Harris, Doug Harclerod, Paul Hill, Robyn Cole, Doug Cooper, Chase Tedrow, Janet Carlson

Item	Discussion	Action
Welcome and Introductions		
Review of Minutes from the May 6, 2009 Meeting		Copies were distributed for review at a later date. Members are asked to send corrections/revisions to Denise Taylor.
Announcements and Updates from Members	<p>Heidi Steward reported that the DOC/DMV pilot program of taking inmates nearing release, who have the required documentation, to the DMV to apply for drivers licenses will end in August. The program will be evaluated to determine the next step. The Transition Coordinator positions that were authorized in the last session, as temporary positions have been permanently funded in the 09-11 budget.</p> <p>Robyn Cole, attending for Fariborz Pakseresht, announced that Colette Peters has been selected as Director for OYA beginning July 20th. Colette was DOC Inspector General and Assistant Director for Public Services Division before moving to Minnesota. Colette will join the Re-entry Council in her new role.</p> <p>Doug Cooper Mercy Corps International and ROAR, reported that the pilot project Transition Center, funded by United Way will open in mid-August. The center will coordinate services, with immediate services available, i.e.: food and temporary housing. They will offer orientation to navigate services available through non-profit organizations, primarily in the Portland Metropolitan area. There are some minimal paid services available.</p> <p>Ron Chase said the Sponsors, Inc. groundbreaking ceremony was held on May 30th. The actual construction begins next week. The facility will have 72 beds.</p>	

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	<p>Nancy Sellers reports that Steven Powers elected not to request reappointment as chairman for the Board of Parole and Post-Prison Supervision. His successor is scheduled to be announced by Governor Kulongoski tomorrow, July 9, 2009.</p> <p>Patty Katz reports that the State of Minnesota has removed from state, city and county employment application forms the question of whether the applicant has been convicted of a felony, except for those jobs designated by statute. The applicants will now be given the opportunity to answer the question in a face-to-face interview. Minnesota is the first state to make this change.</p> <p>Ginger Martin reviewed the four bills passed by the legislature that impact re-entry and transition. See attached summary.</p> <p>Mr. Chase asked how the Community Corrections budget fared in the Legislatively approved budget. Ms. Martin explained that there were a number of laws passed that affect sentencing; however, the funding available to Community Corrections is about the same as the last biennium. There is \$10 million that will come out to communities from Measure 57 for various types of intervention and treatment.</p> <p>Paul Solomon asked what the projection is for the number of releases each month because of the increased number of offenders accumulating earned time. Ms. Steward said that by mid-September the releases affected by the change will increase. We expect the releases to almost double in the first 2 months to about 700 releases per month and then return to the same rate as before.</p> <p>Janet Carlson asked what the next steps are for the 3 bills that Representative Cameron and she worked on that were passed. Ms Martin explained that most of what the 3 bills require, DOC was already doing or work is underway to add those not yet being done and will be completed prior to January 1, 2010 when the bills go into effect.</p>	 <p>Summary of Re-entry Bills Passed</p>
<ul style="list-style-type: none"> ▪ Steering Committee Purpose Statement 	<p>This statement (attached) was discussed at our last meeting and Ms. Martin wanted the committee to review it again before it is presented to the Re-entry Council for adoption. No additional changes were suggested.</p>	 <p>Steering Committee Purpose and Charge.</p>
<ul style="list-style-type: none"> ▪ Implementation Work: Updates <ul style="list-style-type: none"> ▪ a. Re-entry Services Sites 	<p>Since the legislative session ended just days prior to this meeting, Mr. Shepard briefly went through the legislative journey of SB 385. This bill would have established 3 re-entry service sites in Oregon, but died in committee because of the \$3 million fiscal impact. The Governor has since designated \$1.5 million in federal Byrne Grant money through the Criminal Justice Commission to fund</p>	 <p>7-8-09 Partnership Statement.pdf</p>

Item	Discussion	Action
	<p>establishment of pilot resource centers in Multnomah, Lane and Jackson/Klamath Counties in partnership with the US Department of Justice (US DOJ). Attending today's meeting are Eric Suing, US Probation and Doug Harclerod, former Lane County District Attorney who have been working with Judge Anne Aiken. Mr. Shepard distributed a statement of support that he would like the Steering Committee to recommend be adopted by the Re-entry Council. (Attached w/edits) Minor edits were suggested and adopted by this committee with the decision to present the statement to the Council.</p>	
<ul style="list-style-type: none"> ▪ b. Employment: WorkSource Oregon Sites Inside Prisons 	<p>Cindy Booth reported that the Employment Workgroup has been focusing on the inmates having access to employment search information inside prisons that mirrors what will be encountered outside prison. The Employment Implementation Workgroup will be taking on this task. The Employment Department (OED) has content filtering software that enables specific access by the general public to the WorkSource Oregon information through the OED website. DOC wants to use this same software to allow inmates to access the employment information through the OED website. There is a meeting scheduled with the DOC Information Technology Services, OED and the State Data Center to demonstrate the software and address any concerns DOC's ITS people have about it's capabilities and limitations.</p>	
<ul style="list-style-type: none"> ▪ c. Employment: Verification of Work Skills 	<p>Ms. Martin said a full report on this task will be presented at the September Steering Committee meeting. The workgroup is made up of representatives from Oregon Corrections Enterprises (OCE), DOC Transition and Release and Workforce Development's Work-based Education. Paul Hill offered to assist, as OED has software products that will provide the information needed on a document and will save the Implementation Workgroup "reinventing the wheel". A standard job application and interview process is nearly ready for use for inside prison work. This will provide a more true-to-life experience that can be carried out to the community. Job descriptions for all of the jobs in the prisons are now available for transition coordinators to assist inmates with completing their resumé with realistic skills. The greatest challenge remaining is developing a process to capture the soft skills along with the hard skills.</p>	
<p>d. Continuity of Care: appointment for community treatment at release</p>	<p>Ms. Martin explained that as we have improved processes inside prison to be better prepared to get information to community care providers, we discovered the providers have a myriad of procedures, timelines and wishes about referrals. Some have a process to accept a referral from a parole officer, but not from a mental health provider inside a prison. Our goal is to ensure an appointment is scheduled with a provider in the community prior to release. To that end, Ms. Martin met with Gina Nikkel, Executive Director of Association of Oregon Community Mental Health Programs (AOCMHP), who suggested the implementation workgroup attend their next meeting in September and talk with</p>	

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	<p>them about what we're trying do, why we're doing it, and some of the experiences we've had when contacting with their staff.</p> <p>The people we are talking about are seriously mentally ill and are people they would normally serve. A second suggestion is to electronically communicate with the members of the organization about some of the work we've been developing, the format and ways of sharing information we've developed and get feedback from them. In addition, we can explain what we have been told about their preferred referral process.</p>	
<ul style="list-style-type: none"> • e. Messaging 	<p>Ms. Booth is part of a small group formed after the January information session organized by Department of Housing and Community Services that explained how they were able to change public perception around working family housing. This group is developing a message for the re-entry effort as it applies to housing and employment, which are stabilizing factors often not in place at release. The goal is to find funding for focus groups and surveys to be conducted and to develop a toolkit to share with partner agencies (sheriff's offices, community corrections, non-profit organizations and others) to draw from when working on their public message about serving those returning to the community. The September meeting is a realistic expectation for a more detailed report. Lisa Smith and David Rogers had identified themselves as being interested in working on this effort. If anyone else is interested, they are encouraged to contact Cindy D. Booth. Doug Cooper, ROAR suggested Marion County St. Vincent de Paul, as a resource as they have been working on their messaging and may have insight to share. Walt Beglau suggested the Local Public Safety Coordinating Council (LPSCC) as a resource and Ms. Booth said LPSCC was identified as a target audience.</p>	
<ul style="list-style-type: none"> ▪ Housing 	<p>The Council approved the recommendation on transitional housing from the workgroup, which is now focusing on private market housing. How do we improve the process for offenders moving from transitional housing to permanent housing? One of the barriers are the myths surrounding renting to an offender. The workgroup is doing a survey to learn from landlords what the myths are that create barriers. Messaging will be developed to educate landlords about what is true when renting to an offender. Ms. Steward added that expanding rent guarantee programs has been discussed. The DOC's housing curriculum is a compilation of Ready to Rent, Marion County's Rent program and others. They are working to have this curriculum recognized as a rent guarantee program A large number of DOC inmates go through this program prior to release. A rent guarantee program would increase participation and the success rate.</p>	

<p>Implementation Work: Presentation on Continuity of Care: Discharge Planning and Information Sharing Process</p>	<p>Release Services Manager Hank Harris supervises the release counselors in institutions statewide. DOC to assists inmates who may qualify for Supplemental Security Income (SSI) and other mental health assistance prior to incarceration to apply for coverage when they are nearing release in order for the coverage to be active at release. The Transition and Release Unit at DOC is now working with the Department of Human Services, Social Security Administration, DOC's Behavioral Health Services Unit and Community Corrections staff to identify qualifying inmates. This will enable severely mentally ill inmates to continue their medication and care in the community. A three page referral form was developed for the BHS staff to complete to send to the release counselors on all inmates designated as MH 2 and MH 3. These designations are based on criteria developed and assigned by mental health care professionals. The release counselors receive a packet from BHS with the necessary signed release of information form and pertinent information to complete the application for the inmate. Mr. Harris said the form and the process have been well received by inmates, community corrections and BHS staff.</p> <p>Walt Beglau said this issue of those with serious mental illness having their care continued from inside to the community at release should be a high priority for the Council. This has a huge impact on public safety system wide. Mr. Chase added that maintaining/continuing benefits from SS, SSD and Medicaid provides more than mental health care benefits. It assures a person can pay for a place to live, which often means they can also find employment.</p> <p>Ms. Martin said it is time for the Council to know what progress has been made and some of the barriers encountered. We want to establish strong relationships with DHS because they are an important part of mental health care in the community. Ms. Martin will ask Dr. Goldberg to have someone from his staff attend the next Council meeting to discuss this topic.</p> <p>Ms. Martin said she is aware of new legislation in Texas that allows for more information sharing. Mr. Harris said to date release of information has not been an issue.</p>	
<p>Re-entry Barriers Examination of laws or administrative rules barring felons from certain occupations</p>	<p>Patty Katz from Partnership for Safety and Justice distributed 3 documents (attached) with information on occupation based barriers to employment related to state licensing procedures. An intern, Bob Basque, has done a comprehensive review of 23 occupations requiring licensing in Oregon. Ms. Katz then gave a real life example of a female offender who was initially doing well, ran into licensing for cosmetology barriers that she could not navigate and is currently not doing well. Ms. Martin said she and other DOC employees met with The Cosmetology Licensing Board and was told that each application is looked at individually and</p>	 <p>Employment Info Partnership for Safety</p>

	<p>that marking the box indicating you have been convicted of a felony does not eliminate you from consideration.</p> <p>Ms. Katz said she recently was contacted about the DOC policy on Ability to Pay Order. A woman who is in prison inherited \$120,000 from her mother. She was told the state is going to take \$110,000 to cover her cost of care while incarcerated. Ms. Steward said that the policy is driven by a statute that went into effect several years ago and this is the first person to be affected by the law. The policy only affects inheritance of \$55,000 and above. There is a review process and a mandatory amount that is reserved for release. Initially, the reserve amount was \$5,000; based on 3 months living expenses. However, after meeting with CURE and taking the current unemployment rate into consideration, a suggestion of 18 months living expenses is being considered.</p> <p>Police Chief Jerry Moore asked how you overcome the felony conviction with an employer. Ron Chase said what Sponsors, Inc. has done is search out employers who are willing to hire a person with a criminal history and then make sure they provide them with the best employees possible. They then see the benefit of hiring the person. Paul Solomon said a recent study published in USA Today found that after 7 years a convicted felon was no more likely to commit a crime than a person who had never been convicted. Having the question: "Have you ever been convicted of a felony?" removed from employment applications and moved to the face-to-face interview gives the person the chance to market their skills and explain how they have turned their life around. Ms. Steward said the transition classes address this very issue. The response taught is to state the crime of conviction and move directly to the changes they've made, classes they've taken, the programs completed and their plan for the future without criminal behavior. Commissioner Carlson said Marion County has done employer training on this topic.</p> <p>Paul Hill said if you take an Equal Employment Opportunity approach, you must ask: Is this question relevant to the job qualifications? If it is not, then it's unnecessary. Many jobs require a criminal history check, but after an offer of employment. That sequence of is extremely important. The same sequence is checks someone's legality to work. You cannot check on someone through the federal system until after you have offered them a job.</p> <p>Ms. Katz mentioned several cities and states that are changing their process in addressing this issue, Minnesota having been discussed earlier.</p>	
<p>Next Meeting : August 5, 2009</p>	<p>Ms. Martin said we will take a look at how Minnesota has implemented their law discussed earlier, as well as Multnomah County's change. She asked for suggestions for agenda items. Ms. Katz said Mr. Basque will be here to provide</p>	

	<p>information and answer questions on the licensing barriers and suggested Multnomah County Commissioner Ted Wheeler as a resource for support. WorkSource Oregon implementation will be presented. The committee needs to address any law changes we want to suggest to the Council. Work on new legislation begins soon. Also, bring any agenda items you want to include for the August Council meeting.</p>	
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Attachments on the following pages:

2009 Legislature: Status on Legislation Impacting Transition and Reentry

HB 2489 *Directs the Dept. of Transportation to work with the DOC to assist offenders in obtaining drivers license or identification card prior to release from a DOC institution.*

Signed into law 5-20-09. Effective 1-1-10.

HB 2490 *Requires DOC to provide documentation of programs, education, and work history to inmate at time of release.*

Signed into law 5-26-09. Effective 1-1-10.

HB 2623B *Authorizes DOC to grant 60-day reduction in time of incarceration to inmates who successfully complete educational or vocational program.*

Signed into law 6-26-09. Effective 1-1-10

SB 275A *Allows inmate with serious mental illness residing in public institution for 12 months or more to apply for medical assistance between 90 and 120 days prior to expected date of release and receive medical assistance upon release.*

Signed into law 6-18-09. Effective immediately.



Governor's Re-entry Council Re-entry Steering Committee

Purpose: To analyze and improve the effectiveness of re-entry from incarceration to community as it relates to statewide policy, practice or law; to identify and remove barriers to successful offender re-entry; and to make recommendations to the Governor's Re-entry Council on state level strategies to improve re-entry.

Charge:

- Conduct a thorough review of existing policies and practices that may need to be corrected
- Prioritize recommendations
- Identify strategies to improve re-entry
- Make specific recommendation for system improvement for consideration by the Council
- Establish implementation groups to work on operational aspects of system reform, the procedures and practices that will require change in the agencies involved in the re-entry process

Ground Rules:

1. Every member should participate (attend or send a representative)
2. Meetings should start and end on time
3. Decisions will be made by consensus when possible. If not possible, decisions will be made by majority vote with the ability to make a minority report to the Council.
4. Time should be set aside for public comment
5. The purpose, charge and priorities should be reviewed annually
6. Decisions should be tracked using a decision log on the web site

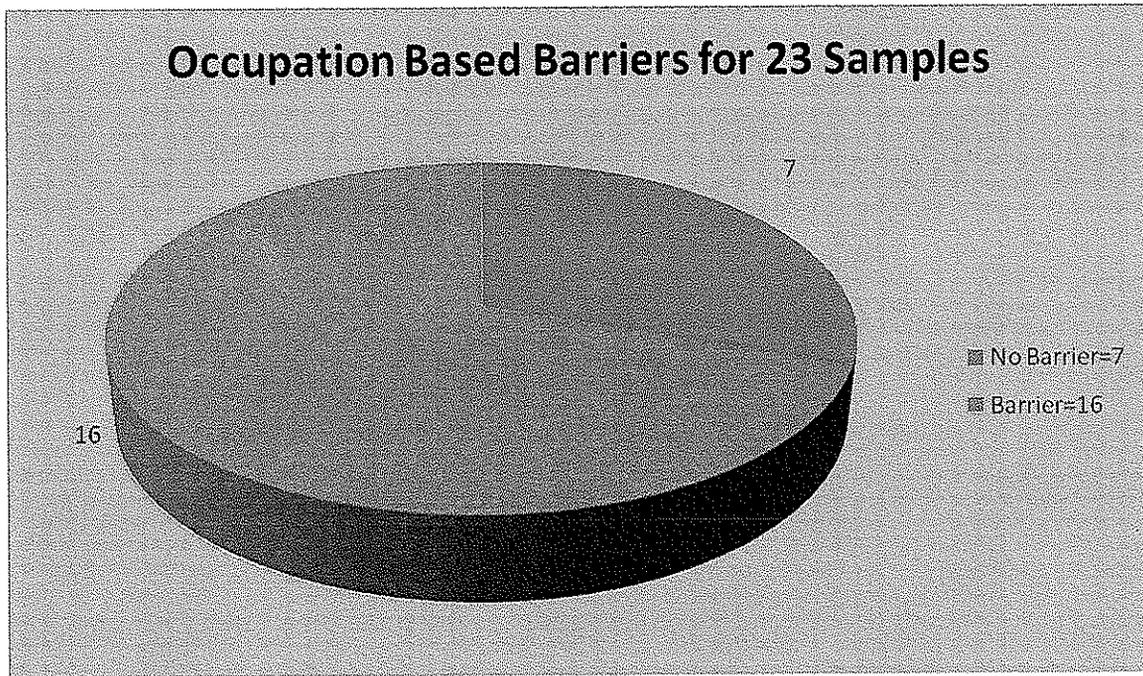
GOVERNOR'S RE-ENTRY COUNCIL STEERING COMMITTEE

The Steering Committee recommends the following statement for adoption by the Re-entry Council:

The Governor's Re-entry Council is pleased with the decision to use Byrne Grant monies for the establishment of pilot resource centers in Multnomah, Lane, and Jackson/Klamath Counties and will fully support and advise the United States Department of Justice, Bureau of Prisons and District Court in the planning and implementation of a joint private, county, state and federal partnership to provide needed services to individuals upon release from prison.

OCCUPATION BASED BARRIERS TO EMPLOYMENT

RELATED TO STATE LICENSING PROCEDURES



There are approximately 400 professional and occupational based licenses issued by the State of Oregon (licenseinfo.oregon.gov). To determine to what extent barriers exist for a person with a criminal conviction history obtaining a license, a small sample (23) of these 400 occupational based licenses were examined.

The method used was as follows; obtaining the official application from the agency, and then looking for questions related to criminal conviction and/or substance abuse. If a question related to substance abuse or criminal conviction was present, the OAR's and ORS text was obtained that relates to licensing authority and procedures.

Occupation-based Barriers to Employment:

With greater public awareness of the possibility of identity theft, and a heightened domestic security environment, we are likely to see a greater proliferation of vocation-based exclusionary hiring practices. These laws and policies have the effect of further limiting employment options for many individuals with felony convictions.

Oregon law allows certain professional groups with licensure requirements latitude in considering past convictions as a criteria for acceptance.

ORS (Oregon Revised Statute) 670.280 says a licensing board, commission or agency may not deny, suspend or revoke an occupational or professional license solely for the reason that the applicant or licensee has been convicted of a crime, but it may consider the relationship of the facts which support the conviction and all intervening circumstances to the specific occupational or professional standards in determining the fitness of the person to receive or hold the license.

The list of professional and occupational associations and boards that can legally bar an individual with specific felony convictions from working in Oregon is long. Here is a partial list: engineers and land surveyors, dentists, veterinarians, cosmetologists, real estate agents, construction contractors, clinical social workers, and occupational therapists.

According to Oregon statute, other specific professions, like teaching, can totally bar people from employment based on the mere presence of certain felony convictions.¹ The list of felony convictions that bar an individual from employment as a licensed teacher in Oregon totals over 40 different felonies, running the gamut from person-to-person crimes to drug possession to prostitution.

Although certain convictions may be pertinent to some hiring decisions, particularly in jobs that work with vulnerable populations, the overly broad extent of existing employment barriers is unnecessary and counterproductive. Take the case of a woman who ten years ago turned to prostitution because of poverty and domestic violence and was arrested and convicted. Imagine that now this same woman has worked hard to get her life back on track, including successfully getting out of her abusive relationship. She has a long history of community volunteerism, works with youth, and completed school with academic success. Should we really deny this person the ability to become a teacher because of a past prostitution conviction? The civil barriers faced by this woman suggest that even after paying any criminal penalties (such as jail or prison time, fines, restitution, etc.), the "punishment" for her crime never ends.

Employment barriers are a slippery slope. Too often, businesses develop hiring practices that screen out qualified applicants based on conviction history alone. This creates a dilemma for many people with felony convictions. If you tell the truth and check the box that acknowledges a conviction (or even an arrest) record, then chances are you will never get an interview--no matter what you have done to get your life back on track, or how qualified you might be. Yet, if you lie and don't check the box, you could begin an important relationship based an act of dishonesty.

People in our focus groups spoke about their disappointment and frustration with how hard it is to break through that initial job screening. For many people who have worked hard to turn their lives around, all they need is the opportunity to tell their story in an interview and their sincerity and potential will shine through. Too many people never get that chance.

¹ Oregon Revised Statute 342.142 and 342.175

This is the site to the **Oregon Licensing Boards**

<http://oregonone.org/ORlicbd.htm>

Job Description

- Prioritize the Oregon Licensing Board list
- Discuss priorities with Patty
- Call the list
 - Ask the procedure for reinstating licenses with a felony conviction
 - Ask if there is a “rule” that a person with a felony conviction can not be reinstated
 - Is there a time limit for the license to be revoked
- Write a summary of findings

DATE: February 9, 2009
TO: Patty Katz
FROM: Bob Basque
SUBJECT: Occupation-Based Barriers to Employment Study

I apologize it has taken me a few days to get back to you. I have been in school all weekend and the end of last week, so I finally had some time to sit down today and write to you today.

As we discussed, according to the "License Directory" at Oregon.gov there are 402 professional/occupational based licenses issued by the State of Oregon. We decided that a sample of 20 licenses would be researched asking the following questions:

1. Does the agency ask for conviction data and how is it used to grant or deny a license?
2. Does the agency have written criteria for using conviction data (OAR, operational procedures, etc.)?
3. If they use conviction data to deny licenses, do they have numbers on how many licenses have been denied?
4. Attempt to obtain related OAR's regarding criminal convictions for each license.
5. Is there a time limit for "look-back" period on criminal conviction?
6. Does the agency run a computerized check on applicants?

After looking over the list I would suggest the following 26 licenses be researched:

Athletic Trainer
Commercial Fishing
Body Piercing
Boiler Mechanic
Boxer or Wrestler
Pharmacy Technician
Chiropractic Assistant
C.N.A. 1 and 2
Commercial Driver Training Instructor
Commercial Fishing License Crewmember
Cosmetology

Dental Assistant
Egg Breaker License
Electrician
Electrologist
Elevator Mechanic
Exercise Person (Horse Racing)
Foodhandler
Home Inspector
Massage Therapist
Medication Aide
Pesticide Operator
Plumber, Water Heater Installer
Radiologic Technologist
Real Estate Appraiser
Vehicle Appraiser

This is a few more than we first talked about but it will give us a good idea. I tried to pick occupations with relatively low education requirements, as many formerly incarcerated individuals do not typically possess advanced levels of education. In addition, persons that do have advanced degrees (doctors, lawyers etc.) typically would know how to assert their rights to obtain or reinstate their professional license. Those with lower levels of educational attainment would be more likely to be disenfranchised.

How does this list look to you? Are there any you would like added? I am going to Los Angeles for my niece's 2nd birthday party on Wednesday. I will be back early next week and I hope to have at least some preliminary data by the end of next week.

Please let me know what you think when you get a chance. I hope you are having a great week so far!

APRIL 28, 2007

OREGON

I. Automatic Restoration of Rights:

Person convicted of a felony and sentenced to a term of imprisonment “in the custody of the Department of Corrections,” and execution of the sentence is not suspended, loses rights to vote, to hold office, to serve on a jury, and to hold “a position of private trust.” Or. Rev. Stat. §§ 137.281(1), (3). Rights restored upon discharge or parole from imprisonment. § 137.281(1). Persons sentenced to jail do not lose civil rights. Eligibility for legislative office is lost upon conviction until sentence completed, including any period of post-prison supervision and payment of fine. Or. Const. art. IV, § 8(4). Firearms privileges automatically restored 15 years after discharge from sentence to first offenders, unless their offense involved criminal homicide or use of gun or knife. Or. Rev. Stat. § 166.270(4)(a).

II. Discretionary Restoration Mechanisms:

A. Executive pardon:

- *Authority*: Pardon power exclusively in Governor, except for cases of treason for which the legislature has the pardon power. Or. Const. art. V, § 14; Or. Rev. Stat. § 144.649. Must report to the legislature each grant of clemency, including the reasons. Or. Const. art. V, § 14.
- *Eligibility*: “Generally, the Governor will not exercise his clemency power to pardon applicants for crimes which the law allows a court to set aside; therefore, you should not file an application if you qualify for judicial expungement under [Or. Rev Stat.] § 137.225 and have not sought such expungement.” Oregon Executive Clemency and Pardon Application, posted at <http://www.cjpf.org/clemency/Oregon.html> (accessed May 26, 2005) (emphasis in original).
- *Effect*: Restores legal rights lost as a result of conviction.
- *Standards*: “Clemency will be granted only in exceptional cases when rehabilitation has been demonstrated by conduct as well as words.” Oregon Executive Clemency and Pardon Application, *supra*.
- *Process*: Applications must be filed with Governor’s Office, with a copy served upon prosecuting DA, State Board of Parole and Post-Prison Supervision, Department of Corrections. Or. Rev. Stat. § 144.650(1). No fee. Governor may not act for 30 days after receipt. § 144.650(4). Governor’s legal staff obtains information about the case from law enforcement agencies. The current Governor interviews each pardon

applicant personally before acting. If Governor has not acted within 180 days, application will be deemed denied. *Id.*

- *Frequency of Grants:* In past ten years pardons very rare. Present governor Kulongoski issued five grants in first two years in office, three for immigration purposes, two for employment purposes. Source: Office of the Governor.
- *Contact:* Lorna Hobbs, Office of the Governor, 503-378-6246 (Lorna.Hobbs@state.or.us); David Reese, Deputy General Counsel

B. Judicial sealing or expungement of adult felony convictions:

- *Set-aside of Conviction and Non-Conviction Records:* Or. Rev. Stat. § 137.225(1) through (12) authorizes sentencing court to “set aside” misdemeanor and minor felony conviction (Class C, except sex and traffic offenses, and some other minor crimes), and records of criminal matters that did not result in a conviction. Upon application, order must issue unless the court makes written findings by clear and convincing evidence that granting the motion would not be in the best interests of justice. § 137.225(11). (Statute as originally enacted in 1971 covered almost all offenses. 1971 Or. Laws chap. 434, § 2. Prior to 1993 amendments, more serious offenses eligible subject to a 10-year eligibility waiting period. Courts had no discretion to reject set-aside ex. on eligibility grounds. Or. Rev. Stat. § 137.225(1991); 1993 Or. Laws chap. 664, § 2; *see also State v. Langan*, 718 P.2d 719, 723 (Or. 1986) (statutory criteria, not discretion of trial court, control whether set aside should be granted)).
- *Effect:* Restores all rights and relieves all disabilities and seals record of the conviction. “Upon the entry of such an order, the applicant for purposes of the law shall be deemed not to have been previously convicted, or arrested as the case may be, and the court shall issue an order sealing the record of conviction and other official records in the case, including the records of arrest whether or not the arrest resulted in a further criminal proceeding.” Or. Rev. Stat. § 137.225(3). Person whose conviction has been set aside is “able to represent to prospective employers that you have not been convicted of that crime.” Oregon Executive Clemency and Pardon Application, *supra*. Set-aside also restores gun rights. Or. Rev. Stat. § 266.170(4)(a). However, Oregon courts have held that it is not a true expungement. *See State v. Langan*, 718 P. 2d 719 (1986)(noting that “expungement” is a “misnomer” because a set-aside order “is not designed to ‘rewrite history’ and deny the occurrence of an event but to limit the purposes for which official records may be used to exhume that past event”). Purpose of statute “to enhance employment and other opportunities for such formerly convicted persons...[The statute] does not, however, impose any duty on members of public who are aware of conviction to pretend that it does not exist.”

Bahr v. Statesman Journal Co., 624 P.2d 664 (Or. App.), *rev. den.* 631 P.2d 341 (Or. 1981).

- *Eligibility*: Three years from the date judgment was pronounced for felonies, one year for nonconviction records, subject in either case to there having been no other conviction in past 10 years, or arrest within three years. Or. Rev. Stat. § 137.225(1)(a),(b). No standard set forth in statute.
- *Procedure*: Prosecutor must be served with copy of motion and given opportunity to oppose. Or. Rev. Stat. § 137.225(2)(a). Victim notified by prosecutor, § 137.225(2)(b), and given opportunity to be heard by court, § 137.225(3).
- *Frequency*: For the seven months between July 2005 and January 2006, the Oregon courts granted over 500 adult felony set-asides.

C. Administrative certificate: N/A

III. Nondiscrimination in Licensing and Employment:

Except for teachers licenses, a commission or agency may not deny, suspend or revoke an occupational or professional license “solely” for the reason that the applicant or licensee has been convicted of a crime, but “it may consider the relationship of the facts which support the conviction and all intervening circumstances to the specific occupational or professional standards in determining the fitness of the person to receive or hold the license.” Or. Rev. Stat. § 670.280(2).

[The state may] deny an occupational or professional license or impose discipline on a licensee based on conduct that is not undertaken directly in the course of the licensed activity, but that is *substantially related to the fitness and ability of the applicant or licensee to engage in the activity for which the license is required*. In determining whether the conduct is substantially related to the fitness and ability of the applicant or licensee to engage in the activity for which the license is required, the licensing board, commission or agency shall consider the relationship of the facts with respect to the conduct and all intervening circumstances to the specific occupational or professional standards.

Or. Rev. Stat. § 670.280(3)(emphasis supplied). *See Dearborn v. Real Estate Agency*, 997 P.2d 239, 242 (Or. App. 2000). (drug conviction unrelated to licensee's past or future conduct in professional real estate activity), *aff'd in relevant part*, 53 P.3d 436, 440-42 (Or. 2002). No provision governing public or private employment.

Margaret Colgate Love, Relief from the Collateral Consequences of a Criminal Conviction, April 2007

HOUSTON CHRONICLE

Oct. 22, 2006, 8:10PM

Crime-fighting tool: Open more jobs to ex-felons

By NEAL R. PEIRCE

America's most effective crime-fighting tool may not be more police. Or efficient DNA labs. Or tougher laws. The big breakthrough, instead, might be in making one-timers of potential repeat offenders.

Think about it, and the idea's a slam-dunk. More than 95 percent of the 2-million-plus people we now hold behind bars will eventually be freed. Indeed, 650,000 a year, many convicted under the "get tough" laws of the 1970s to 1990s, are now returning to U.S. towns and cities. And recidivism is high. Across the United States, roughly 60 percent of released prisoners commit another crime, and more than 50 percent return to prison within three years.

Breaking that pattern is a challenge. Most released prisoners have meager educations. Majorities are likely to have been on drugs *while* in prison. They walk back on the street with practically no money, no driver's license, oftentimes an alienated, angry family. Many have mental problems. And a job? Imagine telling an employer you're a just-released felon.

Even worse, the power of law may be a felon's biggest job barrier. In Illinois, state laws historically provided long lists of jobs that ex-felons couldn't hold — from speech specialist to horsemeat dealer, roofer to athletic trainer, embalmer to acupuncturist. The law even forbade ex-felons from working as barbers — although some state prisons teach barbering so that prisoners can cut each other's hair.

Surveying the Chicago area, where tens of thousands of ex-prisoners return yearly, the business-led civic action group Chicago Metropolis 2020 decided the issue of prisoner re-entry had to be taken public in a big way. Criminal justice issues usually aren't on the agendas of either regional leadership or business groups, but Metropolis senior executive Paula Wolff had a convincing case.

First, she argued, an economically viable region has to be safe — no one wants to live or build a business where crime dangers are high. Second, a region can't be strong for economic development if a big chunk of potential workers is excluded from the labor pool. And third, the convict-imprison-reimprison treadmill is a bad use of scarce tax dollars. One of every \$20 of Illinois' general revenue fund, she noted, goes for corrections. Add together the imprisoned and the paroled and those on probation and the total is 245,000 persons — enough to be Illinois' second largest city.

In an early step, Barack Obama, then a state representative, introduced successful legislation to let ex-prisoners who were guilty of just one felony get a certificate of rehabilitation and gain easier access to occupational licensing. For the first time in

decades, the "lock-'em-up"-prone Legislature embraced the word "rehabilitation." Now some 27 previously forbidden occupations are open to ex-felons and the law's been shifted around to put the burden of proof on state agencies to show why a felon's license application shouldn't be granted.

Mayor Richard Daley, with Metropolis and the business community urging him on, created a caucus on prisoner re-entry. The group resembled a town hall of Chicagoans — department heads, police, jail and probation officers, health experts, leaders from business and nonprofits, and even some formerly incarcerated persons and their families. The imperative of a new approach to ex-prisoners became clear — learning, for example, that 50 percent of those returning went to six distressed communities, all predominantly African-American, settings already plagued by crime and poverty.

The group also learned how many tough barriers ex-prisoners often face — substance abuse, lack of housing, depression and the fact they may never have held a job in their lives.

A broad range of ideas for helping released prisoners emerged, from drug and mental health treatment to family support groups. Daley endorsed those ideas last winter and the city also opened itself to hiring released prisoners except where there's clear reason not to (a convicted sex offender as a school bus driver, for example). Now there's a parallel statewide program to assist returnees, led by Gov. Rod Blagojevich.

But increasingly, experts believe early assistance for prisoners — quickly after their release — can be critical. Now the Chicago-based Joyce Foundation has announced a multimillion-dollar, large-scale test at sites in Chicago, Milwaukee, Detroit and Minneapolis-St. Paul.

Groups of freshly released inmates will be given subsidized, wage-paying jobs for periods of up to three months, combined with an array of support services and help at finding regular employment.

If the test site results prove dramatically more successful in curbing parole violations and rearrest than regular state and local employment services, there will be a powerful argument for state and local governments to change their ways and focus major funds into recycling inmates back into employment and normal lives.

And that's where the big payoff could come, not only for hundreds of thousands of released prisoners annually, but for public treasuries and all of us, as the vicious cycle — crime, imprisonment, release and new crime and incarceration — moves from norm to rare exception.

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