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Support HB 1680 – Protect Virginia and Give People a Second Chance to Make an Honest Living

HB 1680 ensures that state agencies cannot ask a prospective employee if they have ever been arrested, charged with, or convicted of any crime, with certain exceptions. A state agency may ask a prospective employee about their criminal background, but only after a conditional offer of employment is made. A state agency may withdraw the offer of employment after learning of the prospective employee's criminal conviction background "if the prospective employee has a conviction record that directly relates to the duties and responsibilities of the position." The legislation also permits localities to prohibit these inquiries.

Ensures the Commonwealth is not required to hire Virginians whose criminal conviction is related to the job. A state agency should not be forced to hire a convicted embezzler to keep its books. Under the legislation, after a conditional offer is made the state agency retains the right to deny employment if the crime the prospective employee was convicted of is directly related to the job description for offered position.

Helps make our communities safer. According to the U.S. Department of Justice (DOJ), more than 650,000 individuals are released from prison every year. To reduce the recidivism rate for these individuals, the DOJ has identified three key elements to successful re-entry into our communities. One of these key elements is helping these individuals find and keep a job. Banning the box will better ensure that these individuals have an honest shot at finding employment. It's a first step toward realizing this key element to reducing recidivism and making our communities safer.

Ensures a fair opportunity for Virginians seeking a second chance. The repercussions of a criminal conviction extend well beyond the specific criminal penalty handed down. Questions regarding an applicant's criminal background may be used to screen out an applicant, even if the applicant is otherwise fully qualified. Denying a person's application without considering their qualifications or rehabilitation is unfair; it prevents people who've completed their sentence from getting a fair chance at a fresh start.

Better protects state agencies from claims of discrimination. Title VII of the Civil Rights Act of 1964 prohibits employment discrimination based on race, color, religion, sex, or national origin. As part of its effort to eliminate unlawful discrimination in employment screening, the U.S. Equal Employment Opportunity Commission (EEOC) issued a guidance document for entities covered by Title VII, including state and local governments. To meet the requirement that job selection criteria or procedures not discriminate, an employer must show that the selection criteria use or selection procedures are "job related and consistent with business necessity." The guidance says that the individualized screening process used in considering a person's criminal record must consider "at least the nature of the crime, the time elapsed, and the nature of the job" or otherwise comply with the EEOC Uniform Guidelines on Employee Selection Procedures.¹ HB 1680 establishes clear criteria for state agencies to consider during the screening process when evaluating a person's prior criminal record. These criteria will better protect state agencies from claims of discrimination under Title VII.

HB 1680 is a win, win!

It protects the Commonwealth and ensures that Virginians are judged on their merit, not their mistakes.

¹ U.S. Equal Employment Opportunity Commission, *Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964*, No. 915.002, p. 2, Apr. 25 2012, available at http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm.