

**Advancing Reentry in the States: 2011-2012 Reentry Reform Success Stories
Advocates Conference Call July 10, 2012 2pm ET**

Call Summary

**Elizabeth Farid, Deputy Director National HIRE Network,
a project of the Legal Action Center**

Purpose of the Call To share information about two particularly successful prisoner reentry reform campaigns and what they accomplished during the past legislative sessions. The political and fiscal situations in North Carolina and Ohio, in many ways, are representative of the trend across all states in regards issues of public safety and the role of Departments of Corrections: 1) parole and sentencing reforms are taking place, reversing “tough on crime” policies that drove the use of incarceration to unsustainably high rates, 2) the budgetary/fiscal crises are forcing agencies to save money and do more with less and 3) the reforms are taking place in states with Republican-controlled Legislatures and Executives.

According to the National Association of State Budget Officers', Spring 2012 Report, 2011-2012 State budgets displayed financial improvement in fiscal 2012, building on the progress made in fiscal 2011, which marked a turning point in the fallout caused by the recession. In fiscal 2012, general fund spending has risen 3.3 percent and governors forecast spending to rise again by 2.2 percent in fiscal 2013. If governors' spending plans reach their marks, the result will be three consecutive years of general fund spending growth, helping states move beyond the state fiscal crisis years of fiscal 2009 and 2010. However, the national economy is recovering slowly, and revenues are not growing fast enough to fully offset past budget cuts and the expiring Recovery Act funds, indicating fiscal challenges lie ahead for fiscal 2013 and beyond.

The good news is that the fiscal crunch has prompted a broad rethinking about alternatives to incarceration, since the power has been taken out of crime fears, given that crime rates have declined to 40-year lows. More than a dozen states in recent years have taken steps to reduce corrections costs to taxpayers. In the past two years, many more states have enacted — or are considering adopting— similar policies, including reducing prison time for low-level drug offenders or diverting them into treatment; granting early release to well-behaved or elderly inmates; expanding job training and re-entry programs; and instituting penalties other than a return to prison for technical violations of parole or probation.

Advocates in North Carolina and Ohio are taking advantage of the opportunity to push for effective reentry policies to edge out the ineffective ones. The record number of people being released from prison has made prisoner reentry a very hot topic in corrections

Nicole Porter, Director of Advocacy, The Sentencing Project

Federal Reentry Legislation There are currently four major vehicles for reentry reform or funding opportunities, though they are having substantial difficulty moving through Congress. They are

- National Criminal Justice Commission Act
- The Second Chance Reauthorization of 2008 Act, passed Sen Judiciary July 2011
- Funding current Second Chance Act, part of budget appropriations process for 2013. Marked House and Senate

- RISE Act, by Sen. Gwen Moore

**Amy Solomon, Senior Advisor to the Assistant for the Attorney General at
Office of Justice Programs, United States Department of Justice**

Federal Reentry Council Considerable positive reform is occurring all around the country, and the Federal agencies want to support the efforts of states reentry advocates. The Federal Interagency Reentry Council, convened by Attorney General Holder in January 2011 has made its mission to advance public safety and well-being through enhanced communication, coordination and collaboration across federal agency initiatives that make communities safer by reducing recidivism, improving reentry outcomes and assisting those who return from prison and jail.

The Council, representing 20 federal agencies, is working in three main ways:

- 1) to coordinate and leverage the existing federal resources for reentry, this includes Second Chance Act funds, the Department of Labor's Reintegration of Ex-Offender funds, among others;
- 2) to remove federal barriers to reentry in the major categories of employment, housing, access to treatment and benefits, and
- 3) to use the bully pulpit to dispel myths, educating key stakeholders about federal policies, resources and effective reentry models -- this includes the Council's website, and the two dozen MythBusters which clarify federal policy on a number of issues.

With regard to the collateral consequences of conviction, those 'extra' punishments imposed as a direct result of a criminal conviction, the NIJ has funded a national study, conducted by the American Bar Association's Criminal Justice Section, which has catalogued about 40,000 statutes that impose collateral consequences on people convicted of crimes, creating additional barriers to jobs, housing, benefits and voting.

U.S. Attorney General Eric Holder recently wrote to every state Attorney General, with a copy to every Governor, asking them to assess their state's collateral consequences and determine if any should be eliminated "so that people who have paid their debt to society are able to live and work productively." These letters are [available publicly](#) and upon request to the Council. The Attorney General's letter also said the federal government would assess the federal collateral consequences — and through the auspices of the interagency Reentry Council, we are doing just that.

Regarding employment and reentry, the Council is working the issue from the employer incentive and responsibility sides. From the incentives side, the DOL has provided both tax credits and Federal bonding protections. Council agencies also have grants resources to fund organizations that help people with criminal records get trained for and placed in jobs.

On the responsibilities side, the EEOC issued updated hiring guidance on April 25, 2012, which calls for employers to assess applicants on an individual basis rather than excluding everyone with a criminal record through a blanket policy. It provides new detail and direction for employers in how to consider three factors — the nature of the job; the nature and seriousness of the offense; and the length of time since it occurred — in writing a hiring policy and in making a specific hiring decision. The updated guidance also emphasizes that employers should not reject a candidate because of an arrest without a conviction, as arrests are not proof of criminal conduct.

Additionally, new guidance issued May 25 by the U.S. Department of Labor educates employers and workers about the civil rights and consumer protections that regulate criminal background

checks for employment. And on July 31, Secretary Hilda L. Solis is hosting a workforce development and employment summit. The event is open to the public.

**Stephen JohnsonGrove,
Ohio Justice & Policy Center**

Reentry Reform 2011-2012 Ohio SB 337 In brief, the centerpiece of the legislation was the creation of “Certificates of Qualification for Employment”, the concept for which was taken largely from Section 10 of the Uniform Collateral Consequences Conviction Act’s “Orders of Limited Relief”. The Certificates will 1) convert a specific *mandatory* collateral sanction into a *discretionary* disqualification for the person with a criminal record who can ably demonstrate that he or she has been rehabilitated and is qualified to obtain the sought after employment or license and 2) will protect an employer from negligent hiring liability.

Other important changes provided by SB 337 include:

- direct changes to certain professional licensure rules;
- expanded eligibility for adult and juvenile record sealing, where the state expungement law previously allowed expungement for first time offenders only, now two offenses can be eligible for expungement
- allowing for child support modifications based on actual earning capacity, even if someone is incarcerated or has a criminal record. (Ohio case law previously treated such child support obligors as “voluntarily unemployed” and denied modifications
- creating alternatives to certain driver’s license suspensions. Courts can now order limited driving privileges, or order community service instead of suspension
- reducing marijuana paraphernalia possession to a minor misdemeanor (comparable to a “ticket” or “violation” under other state’s laws); reduces leeway to send juvenile to an adult correctional facility; changes jail time credit; several technical changes to the sentencing law enacted in 2011 (HB 86), among other provisions.

Political Climate behind Reentry Reform The idea of wanting to remove barriers posed by criminal records was championed by Governor Kasich from the beginning of his administration; in his first address of January 2011, in fact. Thereafter, the Governor commissioned a series of public forums through the Department of Rehabilitation and Corrections, seeking input as to what the bills should address. The feedback received became the content of SB 337/HB 524. The House and Senate bills were sponsored by two Republicans and two Democrats, who met regularly to ensure both versions of the bills were identical, thereby ensuring bipartisanship support.

The Ohio CIVICC database can be thought of a precursor to the ABA Collateral Consequences project that was mentioned earlier. The ability to search by occupation or by offense easily reveal the extent of the limitations faced by people with criminal records, thereby raising considerable awareness on collateral sanctions in public and policy makers.

Visit the materials section on the HIRE audio conference page for more detailed information.

**Ed Rhine, Deputy Director of the Office of Offender Reentry at the
Ohio Department of Rehabilitation and Correction**

Reentry Efforts Already Underway within the Ohio DRC Efforts began in 2001, with the release of the report *The Ohio Plan for Productive Offender Reentry and Recidivism Reduction*, which served as original catalyst for shifting the focus of preparing for release to the admission process. Current Director, Gary Mohr has elevated reentry-related reforms to an even higher level; calling for the reduction of crime in Ohio as the driving vision of the Department with a commitment to recidivism reduction as ODRC's central mission.

- Ohio's recidivism rate now stands at 31.2%. It is the lowest rate since tracking was instituted in 1991, down from 34.03% for individuals released in 2007, and from 39.52% for individuals released in 2003.
- Many factors that have contributed to this decline over the past decade.
 - increased use of evidence-based practices;
 - better risk and needs screening;
 - improved treatment programs;
 - better staff training;
 - structured, progressive sanctions for parolees showing signs of non-compliance; and,
 - improved and effective community-based programs and treatment alternatives.
- Passage last year of HB 86 provided a significant boost to the then ongoing reentry reform. The sentencing reforms emanating from this bill reflect an extensive stakeholder engagement using a "Justice Reinvestment" approach. The new law aims to reduce crime by, among other strategies, diverting first-time, non-violent offenders to intensive community programming and using a rigorous risk assessment tool to identify offender risks and needs.
- HB 86 is an historic piece of legislation; it came about with technical assistance from the Council of State Governments Justice Center, in partnership with the PEW Center on the States and the U.S. Department of Justice, over the course of 18 months, with bipartisan support from the General Assembly, and Governor Kasich.

Ohio Ex-Offender Reentry Coalition In December 2008, legislation was passed that created the Ohio Ex-Offender Reentry Coalition to serve as a guiding hub for expanding and improving reentry efforts across state and local agencies and communities. The Reentry Coalition now consists of 17 statutory members, inclusive of state agencies and a representative of the Ohio Health Care Licensing Boards. Under the new collateral sanctions bill, it will soon add an "Ex-Offender" or Returning Citizen to its membership.

- Among its more notable accomplishments has been the creation of a website that is accessible to everyone. The address of the website is: www.reentrycoalition.ohio.gov/. The site serves as a clearinghouse for those wishing to find information pertaining to the work of the Reentry Coalition, resources that offer linkages to community services, and a mapping showing where local reentry coalitions have been formed.

- The state level Reentry Coalition has lent significant support to growing a local reentry coalition infrastructure across Ohio. In a significant development, it recently endorsed the formation of **the Ohio Association of Local Reentry Coalitions**; an organization that will provide advocacy and support to existing and soon-to-be formed local reentry coalitions throughout the state.
- Within the next two years, every offender leaving a DRC prison will have a pre-release, face-to-face contact with a local reentry coalition in the county to which he or she is returning. Every offender should leave a DRC facility anticipating the continuation of a connection that is already established and designed to facilitate their successful reentry transition.
- There are presently 19 established local reentry coalitions, 4 local reentry alliances, and 11 local reentry partners scattered across the state covering a total of 41 counties. The goal is to foster partnerships and collaborative efforts in those counties where no local coalitions exist by the end of this year!
- The Local Reentry Coalitions bring ownership and innovation to their work and their support for returning citizens, their families and the communities to which they come home.

*A number of counties have established an Office of Reentry with a full-time Reentry Coordinator.

*Sponsor Reentry Resource Forums

*Job Fairs and “Employer Awareness Workshops”

*Triaging of services and linkages relative to employment, housing, treatment, mentoring and more

*Sponsor Legal Clinics to Address barriers to reentry such as outstanding warrants, fines, license suspensions

*Ex-Offender Support Groups

*Websites that connect ex-offenders to information and resources, along with printed materials.

*Video-conferencing that connects to offenders pre-release

SB 337 and Collateral Sanctions in Ohio

- Even if rehabilitative and transitional services are made available to assist inmates post-release, or to those on community control or other community sanctions, there are still significant barriers that offenders face upon release in the form of collateral sanctions.
- Individual Ohioans, a total of 1.9M, who have been convicted of a crime, like citizens in other states, face legal penalties long after they have finished serving their prescribed sentence. Upon returning to the community, such individuals face over 700 hundred statutory and regulatory barriers to employment, housing, education, and other obstacles.
- Under Governor Kasich, and bipartisan support from the General Assembly, Ohio has dramatically expanded its efforts to reform criminal justice and corrections with its signing into law of SB 337. This legislation will open avenues by which individuals with criminal convictions will be able to pursue employment opportunities, and apply for or have occupational licenses restored for which they would otherwise remain ineligible, in

a manner that balances the larger goals of public safety and effective community reintegration.

Looking Ahead: Realignment of the Prison System

- DRC is currently transforming its entire prison operation to a three-tiered system aimed at reducing violence and increasing offenders' programmatic opportunities. Once adopted, this fundamental redesign is expected to reduce recidivism and enhance the reentry prospects of offenders returning home.
- Offenders will be placed into one of three tiers – Control Units, General Population Units, and Reintegration Units. The former will house the most disruptive and violent offenders in DRC's prisons tightly monitoring them with strict security protocols. The General Population Units will house offenders who have not violated significant institution rules, but have yet to take the initiative to enroll in evidence-based programs. The Reintegration Units will house offenders nearing release and will provide meaningful community transition services, including job readiness and social service linkages. These units will model community standards and expectations, including eight-hour work days.
- This system realignment is intended to give offenders a sense of hope, encourage pro-social behavior and offer avenues to participation in evidence-based, reentry programs.

Paul Graham, The AMOS Project

SB 337 is a landmark bill that will pave the way to employment opportunity to Ohio's nearly 2 million Returning Citizens. When AMOS first started exploring the possibility of collateral sanctions reform, we started with advocating for a Fair Hiring Policy (Ban the Box) in the city of Cincinnati in late 2009, early 2010. The challenge we faced was in engaging city council members who couldn't understand how we could advocate for "jobs for felons...in this economy"? We managed to change the conversation from that initial reaction to passing collateral sanctions reform in 2012.

We did that by reframing what the issue was about, then developing and training leaders from among Returning Citizens, and telling that story to folks around the state. Our movement building model focused on Returning Citizens at the center, surrounded by "allies" from the community, allies being non-returning citizens who support the cause.

We grew our work around faith-based organizing. We started a group called "Ohio Prophetic Voices", a statewide evangelical clergy engagement strategy. Then, we engaged other labor, neighborhood and community organizing groups throughout the state. Once we had told our story throughout the state, our statewide organization, the Ohio Organizing Collaborative, picked up and ran with the advocacy work. In three years, we trained over 300 Ohioans to be policy advocates throughout the state. We trained people in our intensive three-week intensive training; sixty Returning Citizens in Harrisburg alone. We organized two racial justice events to ensure the dialogue around criminal justice would be framed around opportunity and racial justice. We engaged a lot of allies. We worked particularly with the Catholic Church. The Cincinnati Arch Diocese was strong ally in this work; they allowed us to address 200 people in over thirty churches. These were opportunities where Returning Citizens would tell their stories. It got the Bishop's attention; he understood what the movement was about. He became engaged in prison ministry, he organized his colleagues to support SB 337, to the point that the Catholic Conference of Ohio sent a letter to each and every legislator endorsing Collateral Sanctions Reform.

So, we went from a place where we were being questioned for advocating for jobs for people with criminal records in a bad economy to changing the conversation to one of second chances, fairness and redemption. We trained a lot of leaders by engaging them in multiple lobbyist visits that drew 20-100 people; spoke with nearly every legislator; we engaged candidates for office around the issues. We held public officials in Ohio's 3 largest metropolitan areas. All our efforts were non-partisan work, but we put into place multiple tools that pushed the reform across the state.

We're now in a place where we can celebrate this work with others; share, identify challenges and look for next steps for local and statewide reform.

Daryl Atkinson, Southern Coalition for Social Justice

The Ohio and North Carolina reentry reform efforts had several factors in common: both were multi-year efforts, both were supported by strong, multi-faceted coalitions and both occurred in Justice Reinvestment States.

North Carolina's public policy reentry reform efforts began in an organized way in 2008 when the steering committee of the North Carolina Second Chance Alliance drew up a template of policy barriers to successful reentry. The North Carolina Second Chance alliance is a statewide alliance of faith based partners, service providers, and directly affected people. SCSJ is a founding organization of the NC Second chance Alliance. To learn more, visit: ncsecondchance.org

That convening made reform around the collateral consequences of conviction a policy priority. There had been early attempts to address collateral consequences that had occurred largely at the Federal and national levels. In 2004 American Bar Association's (ABA) Criminal Justice Section published a black letter commentary on collateral sanctions and discretionary disqualifications. In 2007, Court Security Improvement Act directed NIJ to collect and catalogue state and federal collateral consequences. The ABA is currently conducting a nationwide inventory of collateral consequences, and I serve on the Advisory Board.. Finally, the Uniform Collateral Consequences of Conviction Act (UCCCA) was passed by the National Conference of Commissioners on Uniform State Laws. Generally, the UCCCA recommends that state legislatures adopt reforms related to collateral consequences, some of which, we have addressed in NC through a combination of policy changes and best practices.

The UCCCA has 4 major provisions: 1) identification and collection of collateral consequences in a centralized location 2) notice of collateral consequences to defendants at critical stages in the criminal proceedings – prior to trial, at sentencing and at release 3) Certificate of Relief or Complete restoration of rights (relief from collateral consequences) and 4) relying on the Certificate of Relief as evidence of Due Care: Negligent Hiring Provisions.

We, in North Carolina have been able to achieve all four the goals of the UCCCA provisions – but through a *combination* of legislative changes and administrative change/implementation of best practices.

- Implementation Best Practice: As for the first provision, to the identification and collection of collateral consequences, in 2010, the North Carolina School of Government and the NC Office of Indigent Services received funding from a local foundation to create C-CAT (Collateral Consequence Assessment Tool). C-CAT is a free, online searchable

database that centralizes the collateral consequences imposed by North Carolina law. C-CAT was created for multiple end-users: defense attorneys, directly affected people, reentry service providers, and courts; to assess, compile and compare collateral consequences. It is searchable by criminal class or characteristics or by type of consequence.

- Implementation of Best Practices: Notice of Collateral Consequences at Critical Stages of the Proceeding. In 2010, the Supreme Court ruled in *Padilla v. Kentucky*, that criminal defense attorneys must inform their clients whether their plea bargain carries the risk of deportation. The criminal defense bar quickly interpreted the implications of Padilla to be that attorneys must warn their clients of “other serious collateral consequences” prior to pleading guilty. Therefore, we had to provide our attorneys with a tool to meet that mandate.

Since that time, the Office of Indigent Defense Services has begun training criminal defense attorneys on to make clients aware of collateral consequence before they plead guilty or go to trial. We view it as both as effective criminal defense representation and reentry work because the criminal justice system is a continuum, we don’t operate in individual silos. System involvement begins from the moment of arrest until release, with each point on that continuum representing an opportunity for intervention to set up that person to be in a better position once they leave the system.

Maintaining the practice of notifying clients of possible collateral sanctions serves other goals as well. For one, knowledge of collateral sanctions humanizes the client to his or her defender. Moreover, a defense attorney’s knowledge of collateral consequences helps them view their client as a whole person and not just a criminal case. Oftentimes, the collateral consequences of a criminal case are more salient to the client than the criminal matter. The more a defense attorney knows about the collateral consequences, the better able s/he is to negotiate a more favorable plea bargain with the prosecutor – one that avoids or mitigates impacts of future adverse consequences -- which aids the eventual reentry of the client.

- Relief from the Effects of Collateral Consequences. In 2011, the North Carolina General Assembly passed 15A-173.2, a Certificate of Relief act, modeled after the UCCCA legislation. A certificate allows a person to apply for a judicial order relieving him of the collateral consequences of a conviction. The legislation provides relief from two types of collateral consequences: collateral sanctions and disqualifications. A sanction being a punishment, imposed by function of law, meaning that once your conviction status changes, the imposition of the consequences is mandatory, there is no discretion. A disqualification being a penalty that an agency may or may not impose. Eligibility criteria for these certificates roughly centers around people who have been convicted of generally low level offences. In North Carolina, we have nine felony classes (classes A through I); anyone convicted of felony level “G” or below is eligible for relief. This was a concession we had to make, but was one the directly affected population could live with, since our Justice Reinvestment experience showed us that level “G” felonies and below constitute 80 percent of criminal convictions in the state. Thus, the certificate bill would potentially be capturing a large segment of the people convicted of crimes. The requirements are: the person cannot be deemed a threat to public safety; cannot sustain another felony conviction within twelve months; must be engaged in a lawful occupation, or seeking one, and must comply with all requirements of their sentencing.

So what is the effect? The certificate of relief transforms a collateral sanction, an automatic barrier, into a discretionary disqualification. The certificate can be used as evidence of rehabilitation. The certificate can also be enlarged, if it previously contained limitations, or can be limited or revoked for just cause through a preponderance of the evidence- a standard which can be satisfied by a subsequent felony or misdemeanor conviction.

- Perhaps the most important component, is the ability is to rely on the certificate as evidence of due care. NC General Assembly passed 15A-173.2, which provides protection against negligence liability suits. One of the major obstacles in trying to deal with potential employers or landlords is their fear of liability -- for negligent hiring or negligent lease holding. The Certificate in NC is a bar to any civil action alleging negligence. The immunity applies to any civil or judicial action alleging negligent hiring, retaining, licensing, leasing, admitting to a school, or program, or otherwise transacting business with a certificate holder. We think this is an important piece of legislation that assuages fears of an employer or potential landlord.