October 6, 2015

Honorable Ron Johnson  
Chairman  
Committee on Homeland Security and Governmental Affairs  
United States Senate  
Washington, DC 20510

Honorable Thomas Carper  
Ranking Member  
Committee on Homeland Security and Governmental Affairs  
United States Senate  
Washington, DC 20510

Re: S. 2021 (Fair Chance to Compete for Jobs Act of 2015)

Dear Chairman Johnson and Ranking Member Carper:

We understand that the Committee on Homeland Security and Governmental Affairs will soon consider legislation to address barriers to federal employment for persons with a criminal record. On behalf of the American Bar Association and its over 400,000 members worldwide, we urge you to support S. 2021, the “Fair Chance to Compete for Jobs Act of 2015” (or “Fair Chance Act of 2015”). S. 2021 is bipartisan legislation that would require the federal government and federal contractors to postpone requests for criminal history information from job applicants until the applicants have received a conditional offer of employment.

Currently, an estimated 70 million adults have arrests or convictions that will show up on routine background checks. Although considerable strides have been taken to ensure that civil rights laws are being upheld and to provide guidance to employers on the appropriate use of background check information, many employers continue to utilize blanket prohibitions and questions regarding criminal history to exclude persons with prior records from employment before even considering those individuals’ actual job qualifications. A study conducted in New York City demonstrated that a disclosure of a criminal record by an otherwise qualified applicant can reduce the likelihood of a callback or job offer by nearly 50 percent. Such hiring practices often have an even more acute impact on individuals from low-income communities of color, due to the racial profiling and discriminatory practices that persist at all stages of the justice system.

Without a job, it is virtually impossible for a formerly incarcerated person to rebuild his or her life. Laws and policies that prevent people with records from a fair shot at employment only exacerbate the challenges of reentry. Reducing barriers to employment for formerly incarcerated people also helps the economy and improves public safety. Economists have estimated that U.S. GDP was reduced by as much as $65 billion in 2008 alone due to the poor job prospects of formerly incarcerated individuals. A 2011 study found that employment is the single most important influence in decreasing recidivism.
Many states and private employers have already embraced fair chance hiring initiatives. More than 100 jurisdictions, including 19 states, the District of Columbia, and more than 100 cities and counties, have adopted “ban the box” and other fair chance hiring reforms. Major U.S. corporations, such as Home Depot, Target Corporation, Starbucks, Walmart, and Koch Industries, have also joined the movement by instituting fair hiring policies.

S. 2021 would apply the same fair chance principles to hiring by the federal government and federal contractors. The legislation does not prevent federal agencies or federal contractors from considering criminal history; it only delays consideration of criminal history so that all applicants are afforded a fair chance at consideration for employment. S. 2021 includes exceptions for positions related to law enforcement and national security duties, positions requiring access to classified information, and positions for which access to criminal history before the conditional stage is required by law.

The Fair Chance Act of 2015 will provide millions of Americans with equal access to federal employment opportunities, and set an example for states and private employers to adopt fair chance policies that relieve workplace reentry barriers. We urge members of the Committee to approve this common-sense legislation so that it may soon be considered by the full Senate and enacted into law by this Congress.

Sincerely,

Thomas M. Susman

cc: Members of the Senate Committee on Homeland Security and Governmental Affairs

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