

Unlock Opportunity: How Michigan's Licensing Laws Block Second Chances

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Introduction

Between two and three million Michigan residents have a criminal record, according to Safe and Just Michigan, a nonprofit focused on criminal justice research and reform.¹ Around 45,000 people in this state are convicted of some type of felony every year.² About 11,000 people are released from prison every year.³ While Michigan's recidivism rate — how often people return to prison — is at a historic low, one in five prisoners released from prison still end up back beyond bars after three years.⁴

Lawmakers often debate what activities should be criminal and what types of punishment the state should inflict for violating the law. These discussions should also consider the best ways to keep previously convicted people from committing new crimes and going back to prison.

Research shows that people released from prison who find work are significantly less likely to be convicted of additional crimes.⁵ Stable, long-term employment seems to be one of the best deterrents to recidivism.⁶

Creating better employment opportunities for individuals with criminal records is no easy task. A number of factors impact whether a former prisoner lands a stable job after serving his or her sentence. But policymakers can still make a difference.

The state should reform its occupational licensing laws to remove the barriers that prevent people with criminal records from obtaining a license to work. State policymakers recently took steps in this direction, and the results demonstrate that these reforms can improve public safety and reduce prison costs for taxpayers. Allowing more people with criminal backgrounds to obtain state licenses means more of them will find steady employment, reducing the chance they reoffend and end up back in prison.

Licensing laws in Michigan

Occupational licensing laws affect a significant portion of Michigan's workforce. The state requires about one in five workers to receive special permission before they can legally practice a trade.⁷

Obtaining a license or certification often requires completing education and training mandates, passing exams, paying fees and more.

There are around 180 specific occupational licenses mandated by law. In total, Michigan requires licensure, certification or registration for more than 400 occupations and industries.⁸

Michigan is about average compared to other states in the number and restrictiveness of its licensing laws. The Institute for Justice ranks Michigan 30th in licensing burden based on the requirements mandated to work legally in 48 lower-income occupations — jobs that pay below the national average.⁹ The state requires fees of \$281 on average, plus 308 days of education or training and passing one exam.

Licensing fees and requirements can vary significantly, however.¹⁰ Some licenses are inexpensive, such as \$25 for an application fee to get certified as an auto mechanic.¹¹ Others cost hundreds or thousands of dollars in combined fees and testing.¹² Many licensing requirements seem arbitrary, with similar occupations mandating substantially different training hours and fees.¹³

A unique feature of Michigan's licensing regime is that the state's constitution requires licensing boards to be controlled by current license holders.¹⁴ This mandate makes it easier for licensed professionals to limit their competition by raising barriers to entry.

What the research reveals

Occupational licensure is associated with fewer job opportunities and higher consumer prices.¹⁵ Research estimates that licensing requirements reduce national employment by nearly two million, costing the economy about \$200 billion in productivity.¹⁶

Economist Morris Kleiner estimated in 2013 that licensing laws cost Michigan 125,000 jobs and shrank the economy by \$10.4 billion. That works out to be about \$2,500 per household, assuming all wage gains from licensure stemmed from reduced competition rather than increased productivity.¹⁷

The stringency of a state's licensing laws is associated with higher recidivism rates. A 2016 study found that the recidivism rate in "states with the heaviest occupational licensing burdens" increased by 9% annually between 1997 and 2007. The rate decreased on average in states with less stringent licensing laws over the same period.¹⁸

A James Madison Institute study analyzed occupational licensing and rearrest rates in 30 states. The authors controlled for a number of factors that impact recidivism. They found that the more occupations states license and the more demanding the licensing requirements, the higher the recidivism rate. A 10% reduction in the number of occupations a state licenses would decrease rearrests by about 10%, according to their calculations. Similarly, reducing the stringency of the training requirements for licenses by an average of 10% would reduce recidivism rates by 13%.¹⁹

Current restrictions on people with criminal backgrounds

Michigan required people to obtain occupational licenses beginning in the late 19th century.²⁰ But these first licensing laws applied to only a few occupations such as doctors, dentists, lawyers and other jobs that could directly harm someone's health or finances if done poorly or fraudulently.

Up until the 1950s, only about 5% of workers nationally were required to obtain a state license to practice their calling.²¹

According to state records, Michigan required licenses for only a handful of occupations through the 1970s. But lawmakers were concerned even then that licensing boards were automatically disqualifying ex-offenders from obtaining a state license to work.

The Legislature passed the Occupational License For Former Offenders Act in 1974.²² It defined the term “good moral character” as a measure to judge someone applying for a license. It prohibited licensing boards from automatically denying someone a license based on their criminal record. Boards could only use a previous conviction as part of a larger body of evidence about the person's character. The bulk of Michigan's licensing laws were put into place after 1980, and most of them included this good moral character requirement.²³

According to the 1974 law, good moral character “means the propensity on the part of an individual to serve the public in the licensed area in a fair, honest, and open manner.”²⁴ That is a worthy aspiration, but this innocuous-sounding language had some real negative effects. In practice, this vague text prevented people with criminal convictions from obtaining a

state license.²⁵ Even misdemeanors could be enough to stop someone from being granted a state license.²⁶

In Michigan, people seeking work in public schools, childcare, law enforcement, health care, corrections or security can still be automatically denied a license if they have prior convictions for certain crimes.²⁷ This can be the case even if the conviction happened long ago, and the crime was unrelated to the licensed occupation.

Michigan 2020 reforms

Michigan instituted reforms in 2020 that will help people with a criminal record get licensed and find work. The Legislature amended the 1974 state law that defines good moral character.²⁸ Many licensing statutes require applicants to possess good moral character to be licensed, which essentially means having no criminal record. The reforms raised the threshold for the type of previous convictions that can be considered for determining good moral character. It also reduced the authority of licensing boards to automatically deny someone a license based on their previous behavior.

The amended law now prohibits licensing boards from judging someone's moral character based on just one civil infraction. An applicant for a license must have more than one civil judgment against them for a licensing board to consider it as evidence of their character.²⁹

The 2020 reforms also removed misdemeanor convictions from consideration of someone's moral character. The original 1974 statute referred to records of “judgment of guilt in a criminal prosecution,” which could include misdemeanors. The amended law now specifies that a licensing board “may only consider an individual's criminal

conviction as evidence in the determination of his or her good moral character if ... the individual's criminal record includes a conviction for a felony.”³⁰

The law further restricts licensing boards in using a felony record against an applicant for a license. They may only consider the conviction if: 1) It has a “direct and specific relationship” to the licensed occupation; 2) It “involves a demonstrable risk to the public safety;” 3) The individual would be “more likely to commit a subsequent offense” if licensed; or 4) If a subsequent offense would “cause greater harm to the public” if the person were licensed.³¹

Some licenses are exempt from these requirements, however. The 2020 amendments enable licensing boards that oversee licenses for child care services, nursing homes, adult foster care, law enforcement and legal services to use a previous felony conviction as evidence without meeting one of the four aforementioned requirements.³²

The updated law orders licensing boards to consider specific elements of a former offender’s situation when judging their moral character. The statute already required boards to include certificates of employability, which are official documents issued by the state to offenders who complete an educational degree or technical training while maintaining good behavior in prison.³³ In addition to these, the law requires boards to take into account “any additional information about his or her circumstances, such as how long ago the offense occurred, whether he or she completed the sentence for the offense, other evidence of rehabilitation, testimonials, employment history, and employment aspirations.”³⁴

The 2020 reform also added a requirement for the state licensing department to publish a report annually showing how many licenses it denied because of lack of moral character.³⁵

Since the law was put in place, from 2021 to 2024, only two people were denied a license due to their criminal backgrounds. It should be noted that the department only reports on a handful of occupations, such as accounting, real estate, mortuary science, cosmetology and construction.³⁶

These legal changes appear to be working. Michigan has improved its standing among the states for how its licensing laws treat those with criminal backgrounds. One study upgraded Michigan’s score from a ‘C’ to a ‘B-’ when considering licensing barriers for ex-offenders.³⁷

Real people and their stories

- ♦ **Laurence Reuben** was convicted decades ago in New York for a low-level theft. He turned his life around, received a judicial endorsement for being rehabilitated and worked for years as a nurse. When he moved to Michigan, though, the state rejected his application. Strict licensing laws allow denial based on any past conviction, even though New York had cleared him to work legally. A judge ultimately overruled the state licensing department, and Reuben works as a licensed nurse today.³⁸
- ♦ **Mike Grennan** is a recovering addict with a felony record who rebuilt his life and found work in roofing. But under Michigan’s old licensing laws, he was barred from becoming a licensed builder due to a “good moral character” clause. In 2020, a unanimously passed law repealed that barrier for most trades, allowing people with past convictions

to obtain licenses unless their crime directly relates to the work or poses a public safety risk. Grennan now holds his own license and has his own company, successfully providing construction services to customers and turning around his life.³⁹

- ♦ Wildfires ravaged parts of California in 2017. The state turned to a proven resource to deal with it: Thousands of prisoners who had been trained in firefighting were deployed in order to help contain the blaze.⁴⁰ In fact, 4,000 low-level felons made up nearly one-third of the firefighters helping stop the wildfires. But California, like many government entities, prevents those with a felony record from being hired as firefighters. They are training people for a job and then stopping them from ever legally working in it.⁴¹

Needed reforms

The reforms described above were a major improvement that benefited workers without risking public safety. But there are several more changes that would improve the licensing process for ex-offenders. Specifically, the above reforms should apply to every occupational license in the state.

Most notably, the 2020 reforms did not override other parts of state licensing laws that block ex-offenders from qualifying for a license. Many licensing codes still prevent people from working if they have certain criminal convictions.

The result is that people who want to work in health care, education, child care, nursing homes, law enforcement and other areas are still automatically blocked if they have a criminal record. Employers in these industries are legally required to run background checks, so they will know the criminal

history of whomever they are considering hiring. Just as the state's good moral character law requires licensing boards to consider more than just a previous conviction when determining if someone is fit to hire, employers in these industries can and should do the same thing.

A further problem is that the statutes and explanations may be confusing to those trying to get a state license. People may not know if they are legally able to get a license or whether they are likely to be approved for one. Michigan's current system of issuing a "preliminary determination," where the state notifies applicants before applying for a license if their criminal background disqualifies them from employment, is not binding. This means someone may waste time and money getting an education and training for a job they are ultimately denied a license to perform. Michigan should amend this process so that a binding determination can be made unless there is a subsequent criminal conviction, giving individuals full confidence in their licensing opportunities before starting training and education.

Due to the 2020 reforms, reporting of a few different licenses shows that almost no one is being denied a license for lack of good moral character. But the state licensing department only reports this information for about 10 occupations. Michigan should require this reporting to extend across all licenses to ensure that good moral character requirements are implemented properly across the spectrum of careers.

Conclusion

It is important to note that reforming how states treat people with criminal backgrounds does not affect the freedom of employers to hire whomever they think will be best for the job. If the state allows more people with criminal backgrounds to obtain a license to work, it does not require any business or organization to hire them. For instance, if more people with a past offense are allowed to earn a nursing or teaching license, hospitals and schools can still opt not to hire these people, even based on their background. All employers will make that decision themselves, evaluating the risks and rewards on a case-by-case basis.

That is how it should be. Outside of obvious cases, the government should not prevent someone from trying to find work and better his or her life just because of a criminal past. In some cases, a person's criminal history is directly related to the job they want to pursue (like someone with a criminal sexual conduct conviction wanting to work in child care or committing financial crimes and wanting to be a certified public accountant).

State laws should allow people to rehabilitate themselves or provide employers the ability to give someone a second chance. The research shows that making it easier for ex-offenders to find work benefits everyone — lowering recidivism rates, improving public safety, lowering prison costs for taxpayers and giving consumers more options in the marketplace. Reforming state occupational licensing laws will provide more job opportunities in Michigan. And the opportunity and ability to work a stable job is key for people to rebuild their lives and communities.

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