



Report

Clean Slate reforms as a solution to workforce challenges

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Introduction

We hear daily from small business owners in our network that they are struggling to attract and retain talented employees in this tight labor market. Meanwhile more than 70 million Americans have a criminal record, which limits their opportunities to earn a living wage, start a new business and contribute to society. Even a minor criminal record can create a wall of lifelong barriers that prevent gainful employment. However, expanding criminal record expungement and opening access to occupational licensing are solutions that can address labor shortages and reduce recidivism.

Small businesses [employ nearly half of the private workforce](#) and create the majority of new jobs. Their views on criminal justice reforms are critical to ensuring policymakers enact measures that will benefit both small employers and justice-impacted individuals who are eager to find employment.

In particular, Clean Slate policies have the potential to address the needs of employers and individuals who are struggling to seek meaningful employment. Clean Slate is a policy model that automatically seals qualifying criminal records, if a person doesn't reoffend for a particular period of time. This results in the removal of certain criminal records from an individual's background check, which provides justice-impacted individuals with more opportunities to seek employment, earn a living wage and seek entrepreneurial endeavors. Clean Slate has many implications on the small business community, which is why it's critical that policymakers understand their views on this issue.

To support this effort, Small Business Majority is conducting a research project to better understand small business owners' perspectives about criminal justice reforms that can help returning citizens access employment and entrepreneurship opportunities. As part of that, Chesapeake Beach Consulting conducted two focus group discussions with small business owners on behalf of Small Business Majority. This report reveals a demonstrated need for further education and engagement around Clean Slate and criminal justice reforms, and how small businesses and the communities they serve may benefit from these policies.

Key findings

- While small business owners indicated that they were optimistic about their business prospects and business was starting to pick back up after the pandemic, hiring and retaining staff were the top challenges faced by nearly all participants in both focus groups.
- Small businesses are generally supportive of Clean Slate policies, but they want detailed information about existing programs and the proposed policies to make more informed decisions that may impact their businesses and communities. Many entrepreneurs conduct background checks to get a better picture of job candidates' history.
- Most small business owners have general liability and safety concerns. However, most of their concerns are related to external factors and not the conduct of their employees.
- Many small business owners believe that Clean Slate policies may be more applicable to certain industries, such as construction, food service and retail. Other industries that are strictly regulated, such as the financial sector, would be less able to benefit.
- When discussing Clean Slate laws and how they differ across states, the focus group did not explore the complexities of Clean Slate laws among the type of small businesses.

Workforce challenges

In our focus groups, small business owners shared a number of challenges they are currently facing in hiring and retaining top talent. Among them are workforce retention, skillset and qualifications to perform their job, and increases in wages and inflation. As entrepreneurs continue to compete with larger

businesses for employees, more small businesses are looking for ways to solve this labor shortage, and some are considering the outsourcing of tasks to third-party entities.

When searching for qualified candidates, small employers have specific criteria they are looking for, including trustworthiness and honesty, people skills, reliability and work ethic, willingness to learn, schedule flexibility, managerial capabilities and consistent work history. When asked about general liability and workplace safety, small business owners shared concerns about external and specific factors related to their industry. Employee conduct/records was not a concern for entrepreneurs, which reveals that they generally trust and have positive views of their employees. However, they wanted to ensure that customer-facing employees behave appropriately in the workplace.

A [recent survey](#) of small business owners found that a robust 84% of respondents agree that Clean Slate policies will open up a pool of job applicants that deserve a second chance, which would benefit small businesses in their efforts to attract and retain employees.

The owner of a food and beverage small business said, “If it opens up a pool of job candidates, it could help alleviate the labor shortage.”

Justice-impacted individuals and the labor shortage

The focus group discussions revealed that there needs to be more education and awareness about what Clean Slate policies entail and how they can be beneficial in addressing the ongoing workforce shortage. Only half of the participants were familiar with these kinds of policies, while the other half wanted to learn more about how these policies would provide a second chance for formerly incarcerated individuals, filling the existing labor gap in the current market.

After learning about Clean Slate policies, a majority of participants were supportive of laws that automatically seal or expunge certain qualifying offenses and allowing individuals to petition state and federal courts to remove and seal certain old convictions.

A business owner in the accounting services industry shared, “When you see [a criminal record], you have a preconceived notion of who they are. But [Clean Slate laws] eliminate that and give them a fair shot.”

For those who were learning about these types of policies for the first time, they naturally raised questions about the specific context of the convictions. Many of them cared more about the types of offenses committed, length of time since their convictions and the type of job that individuals with a criminal record would be fulfilling, and less about whether they had a felony or misdemeanor conviction. Small business owners also shared that they were open to hiring individuals with juvenile records in order to provide them with a second chance to earn a living wage and contribute positively to their communities.

One particular business owner in the insurance and financial services industry expressed sympathy for justice-impacted individuals, saying that “We all make mistakes. It’s really about your character and how you recover from it.”

However, small business owners shared that they have general liability and safety concerns when it comes to hiring new personnel, which is why some of them conduct background checks on potential employees. Many shared that they’re required to do so due to external factors such as franchising regulations, industry standards, and licensing standards, among others.

Although the federal government offers incentives to businesses that support the re-entry of justice-impacted individuals and removal of barriers to employment opportunities, small business owners did not agree that taxpayers should be contributing to cover these costs. They also stated that the incentives, which include programs such as the Federal Work Opportunity Tax Credit and Federal Bonding Program, are not robust enough to mitigate potential risks.

Recommendations

The focus group discussions revealed a number of solutions to help advance Clean Slate policies that are supported by small employers. This includes the following:

- Advocates for Clean Slate policies should communicate as many specifics as they can about those policies and the states' existing laws, especially what kind of offenses are excluded and the length of time that must elapse before becoming eligible, to better engage small business owners on this issue. Many of the participants reiterated concerns about hiring someone who was convicted of sexual or violent crimes, not realizing that Clean Slate laws deny expungement of these types of offenses.
- When considering reforms to licensing rules, both government and corporations could re-evaluate their licensing requirements to allow for more flexibility while maintaining consumer safety.
- The messaging statements that resonated the most with participants were:
 - One way to expand the productivity and diversity of our nation's workforce is by making it easier for employers to recruit from underused candidate pools.
 - Nearly half of all children in the United States have a parent with a criminal record. Sealing or expunging old qualifying records might improve these families' economic mobility by increasing their parents' ability to find and maintain employment.
 - The American criminal justice system disproportionately impacts people of color, leading to employment barriers and a lack of economic mobility.
- Participants were less receptive to messages involving reducing recidivism as a way to reduce taxes.

Conclusion and next steps

Small business owners are generally open to Clean Slate policies and would like to be better informed about the qualifying factors for individuals to seal and expunge old criminal convictions. However, due to the complexities of Clean Slate, small business owners were left with questions about how these policies would directly impact their business industry rather than the entire small business community.

It's important to learn more about how to engage small business owners on Clean Slate policies; these roundtable discussions uncovered just a small fraction of insights into small business owners' views on criminal justice reforms that can benefit both employers and justice-impacted individuals who are seeking employment and entrepreneurship opportunities. More extensive research is needed to provide direct engagement with small business owners and managers that can provide critical insights for policymakers and advocates.

Methodology

Chesapeake Beach Consulting conducted two focus groups on behalf of Small Business Majority in Montgomery County, Maryland among small business owners on February 15. There were eight participants in each group. The groups were mixed gender and mixed ethnicity. The participants were compensated for their time.