



Opinion Poll

Texas small business owners support criminal justice reforms to address persistent workforce challenges

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Introduction

Small businesses in Texas are still struggling to hire and retain a ready workforce, persistent challenges in the wake of the pandemic. A parallel problem for the labor market cannot be ignored: more than [70 million](#) Americans have a criminal record, including around 4.7 million Texans, which reduces their opportunities to contribute to society, earn a living wage or start a new business.^{1,2} Even a minor criminal record can create a wall of lifelong barriers that prevent gainful employment.

What's more, criminal records also further widen the racial wealth gap: While only 13.6% of the population is Black, 28% of all arrests and 36% of all felony convictions are imposed on Black people.^{3,4} Yet [employers who hire justice-impacted workers report](#) that their quality of work and contributions are on par with or better than other employees, and turnover rates are notably lower.⁵ Small businesses employ [nearly half \(44.5%\) of the private workforce in Texas](#), opening a powerful role for small employers to play in addressing the labor shortage and reducing the harms of mass incarceration.⁶

Small Business Majority's new poll of Texas small business owners reveals strong support for criminal justice reforms at the state and federal level that would remove barriers to employment or entrepreneurship opportunities for formerly incarcerated individuals. In particular, continued efforts to expand occupational licensing reform in Texas would allow employers to tap into an underutilized workforce. It would also promote racial equity because the justice system disproportionately impacts people of color, leading to increased barriers to employment and economic mobility.

Key findings

- **Small business owners agree that Clean Slate policies will help boost labor recruitment.** A robust 83% of respondents agree that Clean Slate policies will open a pool of job applicants that deserve a second chance, which will benefit small businesses in their efforts to hire and recruit employees. Only 17% of respondents report that they are not open to hiring individuals with a criminal record, regardless of Clean Slate policies. Fewer than half of (46%) poll respondents are familiar with Clean Slate policies.
- **Small business owners agree that families, communities, and the economy are impacted by the criminal justice system.**
 - 80% of respondents agree that 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.
 - 76% of respondents agree that removing barriers to employment for people with criminal records will save tax dollars by reducing recidivism and the need for long term government assistance.
 - 62% of respondents agree the U.S. criminal justice system disproportionately impacts people of color, leading to employment barriers and economic mobility.
- **Small businesses support policies that remove barriers to obtaining professional and driver's licenses.** A majority (70%) support reforms that would allow people with old convictions fairer access to occupational licenses. Additionally, two-thirds (66%) of respondents support ending debt-based driver license suspensions for unpaid fines and fees.
- **Texas small business owners are planning to hire in the next six months.** More than 7 in 10 small business owners (75%) are optimistic about their business prospects, and 62% of respondents say they are likely to hire in the next six months. More than half (56%) of respondents say it's hard to find quality candidates and 46% say that jobseekers are expecting higher wages.
- **Small businesses are attracting workers by increasing pay and benefits.** Two in five (40%) of small business owners are increasing employee wages, while 31% are offering additional benefits. Small employers are also being more flexible in their hiring and recruitment practices,

with the poll revealing that a quarter of respondents are creating more part-time positions, 18% are hiring younger candidates, and 20% are hiring within their local community.

- **Texas small business owners are supportive of state and federal policies that improve hiring chances for justice-impacted individuals.** Small business owners are supportive of several federal and state criminal justice reform policies:
 - A robust 74% support legislation that would allow individuals to petition federal courts to seal or expunge certain records.
 - Roughly half of (48%) business owners support federal legislation that would prohibit private-sector employers from asking jobseekers about their criminal background.

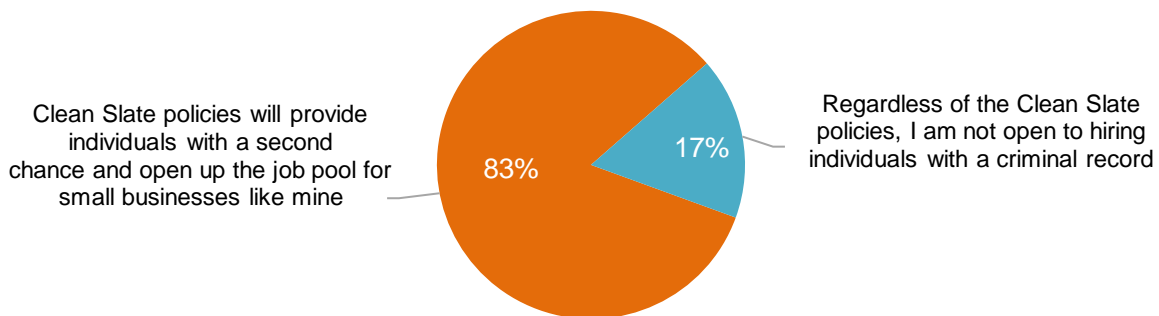
Texas small businesses support Clean Slate policies

Despite rising inflation, supply chain disruptions and workforce challenges, most small businesses (75%) in Texas remain optimistic about their business conditions. Coupled with this optimism, 62% of small businesses are likely to add employees in the next six months. However, they are facing challenges in hiring and recruiting. A majority (56%) of poll respondents say it's hard to find quality candidates, and another 46% say that more jobseekers are expecting higher wages.

Clean Slate is a policy model that automatically seals qualifying criminal records if a person stays crime-free for a set period of time. As a result, certain criminal records will no longer appear on background checks, providing justice-impacted individuals with more opportunities to seek employment and make a living wage.

Clean Slate laws have been passed in just a handful of states. Texas has only passed nondisclosure or “sealing” of certain criminal records. However, these laws are often unclear, narrow and leave too many people out of consideration. Additionally, the bipartisan Clean Slate Act, introduced in the U.S. House of Representatives, establishes a framework for sealing records related to certain federal criminal offenses. The poll reveals that 83% of small business owners support Clean Slate policies as a solution to their hiring challenges and say that these policies will open the job pool for small businesses.

Figure 1: Texas small business owners agree that Clean Slate policies make sense and will help with workforce challenges

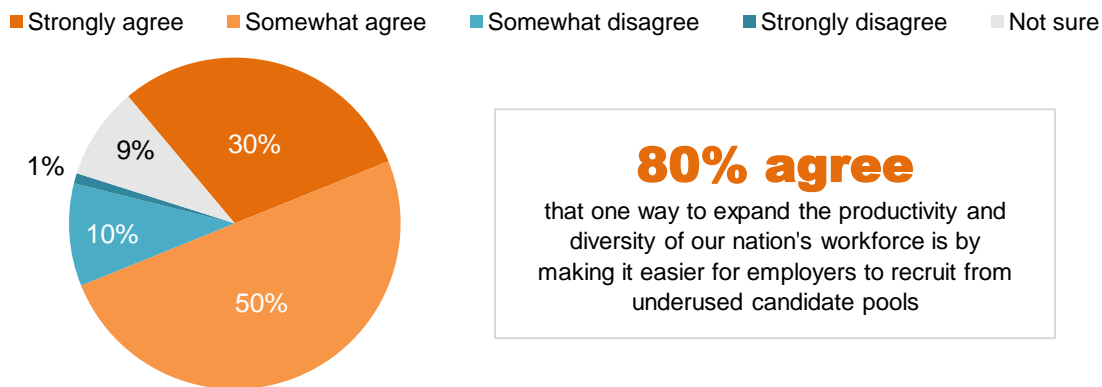


Fewer than half of respondents (46%) were familiar with Clean Slate policies, with 18% reporting that they were very familiar with such policies and 28% reporting that they were somewhat familiar. However, with knowledge still lacking among a wide swath (54%) of entrepreneurs, there is a demonstrated need for further education and engagement around the issue.

Criminal justice system and the candidate pool

The poll reveals that small business owners are aware of the inequities of the criminal justice system and see reform as a way to solve their workforce challenges. Eight in ten (80%) Texas small business owners agree 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. In addition, 76% of respondents agree that removing barriers to employment for people with criminal records will save tax dollars by reducing recidivism and the need for long term government assistance.

Figure 2: Small business owners agree with the following sentiments that support criminal justice system reforms



78% agree: 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.

76% agree: Removing barriers to employment for people with criminal records will save tax dollars by reducing recidivism and the need for long term government assistance.

75% agree: A job is one of the most important factors in determining whether someone will be re-arrested and return to jail. Many business leaders have prioritized hiring people with criminal records and building partnerships with service providers for this population.

62% agree: The American criminal justice system disproportionately impacts people of color, leading to employment barriers and economic mobility.

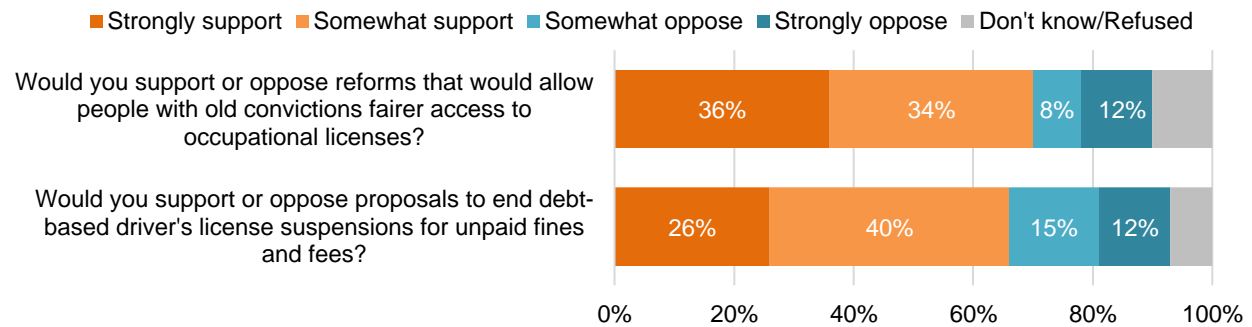
Despite this strong support for Clean Slate policies, small business owners have general liability concerns about their employees' behavior on the job, and most conduct criminal background checks as part of the interview process (84%). Some of the employers' top general liability concerns include occupational safety; physical, sexual or other forms of harassment; and theft of the company's, customer's or another employee's property. It's important to note that small business owners raised these concerns as potential workforce liability concerns, and not specifically about jobseekers with criminal backgrounds.

Licensing reform

In several states, Clean Slate legislation is often too narrow and includes provisions that exclude or limit employment opportunities and entrepreneurship. For instance, one in three Americans has some form of a criminal record, which can undermine their ability to acquire employment and a professional license. Nearly one in four professions require an occupational or professional license, including plumbing, dentistry, nursing, cosmetology and more, which is why Texas has passed some occupational licensing

measures to address this issue. When thinking about the impact a change in the law would have on their ability to hire qualified individuals, 70% of small businesses in Texas support reforms that would allow people with old convictions fairer access to occupational licenses. Additionally, Texas upholds some policies that make renewing a driver’s license for formerly incarcerated individuals significantly more difficult. Two-thirds of respondents support proposals to end debt-based driver license suspensions for unpaid fines and fees.

Figure 3: Texas small business owners support policies that remove barriers to obtaining professional and driver’s licenses

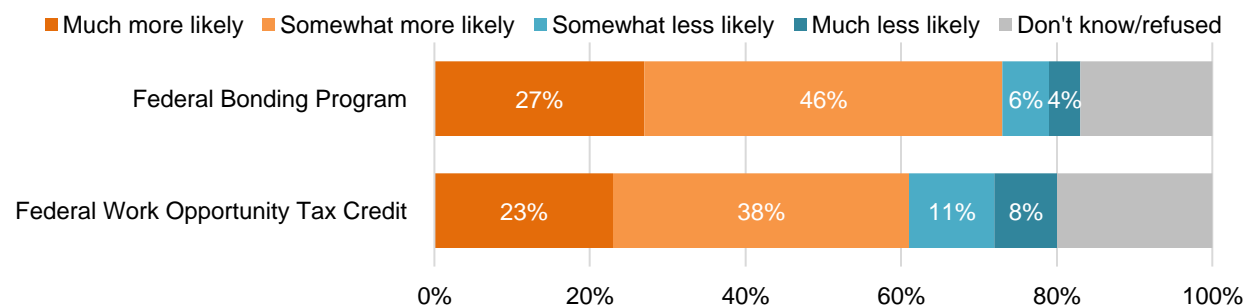


Federal incentives

The federal government is implementing programs to help support re-entry for justice-impacted individuals and remove barriers to employment opportunities. The Work Opportunity Tax Credit is a federal tax credit available to employers that incentivizes the hiring of individuals from targeted groups, who have consistently faced barriers to employment opportunities, including the formerly incarcerated or those previously convicted of a felony. Employers may receive a 40% credit of up to \$6,000 of the wages paid to these justice-impacted individuals. To qualify for this federal program, individuals must be certified by a state workforce agency as members of one of 10 targeted groups.

Another federal program that incentivizes employers to hire justice-impacted individuals is the Federal Bonding Program. This program provides “Fidelity Bonds” for at-risk and hard-to-place jobseekers. These bonds protect employers from any loss caused by fraudulent or dishonest acts of bonded employees, whether committed on or away from the workplace. Six in 10 (61%) Texas small businesses said learning about these programs would make them more likely to hire justice-impacted individuals. An additional 74% of respondents would support federal legislation to establish a process for individuals to petition federal courts to seal records of nonviolent offenses, nonviolent cannabis and drug offenses and arrest records for those who have been acquitted.

Figure 4: Small businesses are more likely to hire justice-impacted individuals after learning about these federal programs



Conclusion

This report conveys strong support for criminal justice reform from small businesses owners of all political parties and leanings. Across the state of Texas, small business owners share the belief that Clean Slate policies would be beneficial for the overall economy and the well-being of those who have been justice-impacted. These findings will help criminal justice advocates and small business stakeholders come together to advance more state and federal policies aimed at meeting the workforce needs of small businesses and reducing the barriers created by the criminal justice system.

Glossary of terms

Clean Slate: A policy model that automatically seals qualifying criminal records if a person does not reoffend for a set period. As a result, criminal background checks will no longer flag this information, as eligible criminal records are sealed, expunged, erased, or set-aside, meaning there is no public record of the arrest or conviction.

Expungements/expunged criminal records: To erase or completely remove a record of criminal conviction from a state or federal court.

Felony offense: A more serious crime than a misdemeanor. Though definitions vary by state courts, felony is typically defined as a crime that is punishable by imprisonment of one year or more.

Misdemeanor offense: A less serious crime than a felony. Though definitions vary by state courts, misdemeanor is typically defined as an offense that is punishable by fines or by short imprisonment in local jails.

Recidivism: The act of an individual previously convicted who reoffends again.

Second-chance hiring: The practice of allowing individuals with a criminal record a fair and equal opportunity to get a job.

Justice-impacted: Individuals who are or have been arrested and/or incarcerated.

Methodology

This opinion poll, conducted by Chesapeake Beach Consulting for Small Business Majority, reflects the opinions of 100 small business owners from Texas. The poll, conducted from September 13 through September 20, 2022, has a margin of error of +/-10% at a 95% confidence interval. Poll respondents identified with the following political parties: 26% Democrat, 35% Republican and 33% Independent. The Texas sample was part of a six-state poll of 600 small business owners.

Download the full topline from our website:

<https://smallbusinessmajority.org/our-research/texas-small-business-owners-support-criminal-justice-reforms-address-persistent-workforce-challenges>

¹ “One Strike and You’re Out: How We Can Eliminate Barriers to Economic Security and Mobility for People with Criminal Records”, 2014, Center for American Progress, <https://www.americanprogress.org/article/one-strike-and-youre-out>

² “Criminal Records in the Digital Age: A Review of Current Practices and Recommendations for Reform in Texas”, 2013, The University of Texas School of Law, <https://law.utexas.edu/wp-content/uploads/sites/27/Criminal-Records-in-the-Digital-Age-Report-by-Helen-Gaebler.pdf>

³ “Race and ethnicity”, Prison Policy Initiative, https://www.prisonpolicy.org/research/race_and_ethnicity

⁴ “The Growth, Scope, and Spatial Distribution of People With Felony Records in the United States, 1948–2010”, Sarah K. S. Shannon, Christopher Uggen, Jason Schnittker, Melissa Thompson, Sara Wakefield, Michael Massoglia, <https://doi.org/10.1007/s13524-017-0611-1>

⁵ “2021 Getting Talent Back to Work Report”, 2021, SHRM Foundation, https://www.gettingtalentbacktowork.org/wp-content/uploads/2021/05/2021-GTBTW_Report.pdf

⁶ “2022 Small Business Profile: Texas”, U.S. Small Business Administration, <https://cdn.advocacy.sba.gov/wp-content/uploads/2022/08/30121351/Small-Business-Economic-Profile-TX.pdf>