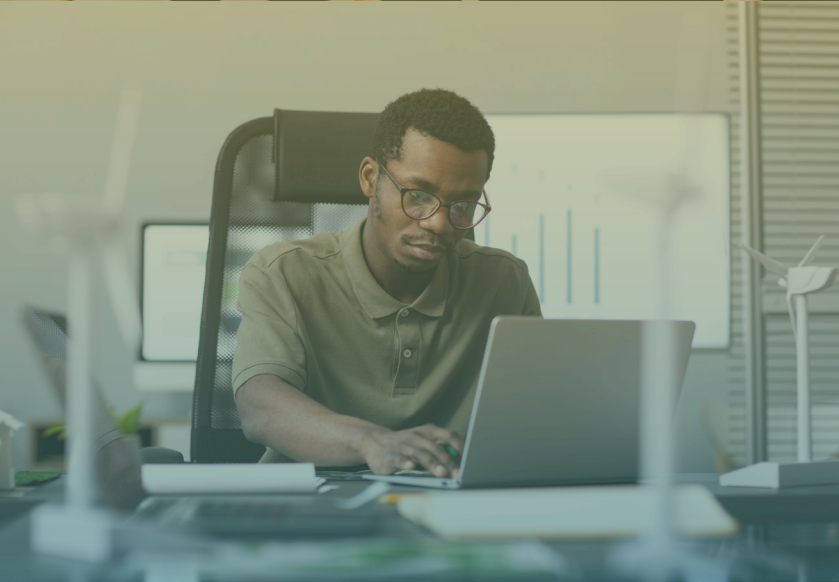


THE

Workforce Solution

D.C. Employers FAQ for Second Chance Hiring



SCHA 

SECOND CHANCE

HIRING ALLIANCE

About SCHA

The Second Chance Hiring Alliance (SCHA) is convened by the Council for Court Excellence and led by a core group of business and nonprofit leaders, workforce development programs, government agencies, and justice-impacted people. We empower D.C. area employers to hire justice-impacted job seekers by providing them with real resources, networks, and support.



SCHA equips businesses with information and tools to feel confident when second chance hiring. We engage stakeholders, including justice-impacted job seekers, employers, and employment support providers who touch every piece of the second chance hiring process from job-training and workforce development to recruitment and retention. Visit <https://scha-dc.org> for more information or to join.

About CCE

The Council for Court Excellence's (CCE's) mission is to enhance the justice system in the District of Columbia to serve the public equitably. CCE identifies and proposes solutions by collaborating with a diverse group of partners and advisors to conduct research, advance policy, educate the public, and increase civic engagement.



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About this Publication

"**The Workforce Solution: D.C. Employer's FAQ for Second Chance Hiring**" seeks to answer questions that business owners or those who hire staff in the District of Columbia have about the legal requirements, financial incentives, and protections available as an employer looking to second chance hire. Second chance hiring is the practice of hiring people who have experienced incarceration (also known as returning citizens) and those with any kind of criminal record; collectively these two groups are known as "justice-impacted" people. This publication is designed to answer the most frequently asked questions we hear at the Second Chance Hiring Alliance from business owners and employers.



Please note: this information is not intended as legal advice. You should contact a lawyer or a human resources professional for more specific guidance.

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Frequently Asked Questions

What is a criminal record? What other terms should employers be aware of when using second chance hiring practices?

Criminal record

A criminal record can include information about an arrest, charge, or case disposition related to a specific offense. About half of all criminal records are incomplete and do not include information about whether a person was ultimately convicted.

Justice-impacted person

A justice-impacted person includes anyone with any type of criminal record for any offense.

Offense

An offense is a type of crime. There are hundreds of crimes in D.C., ranging from having an open alcoholic beverage in public, to fraud, to carjacking.

Misdemeanor

A misdemeanor is an offense for which a sentence of up to one year of incarceration is allowed.

Felony

A felony is an offense for which a sentence of more than one year of incarceration is allowed. In 2023, less than 40% of felony convictions in D.C. were for violent crimes.

Arrest

An arrest is when a person is taken into custody by the police.

Charge

A charge is when the government decides to move forward with prosecuting the offense.

Disposition

A case disposition describes what ultimately happened regarding a specific offense. A person could be arrested but never charged. They could initially be charged, but later the government could drop the charges. They could be found not guilty. They could plead to or be convicted of lesser charges. In all these scenarios, a person may still have an arrest or charge on their record even if they were never convicted of that offense in a court of law.

Conviction

A conviction is when a person pleads guilty to or is found guilty of an offense.

85% of human resource professionals and **81%** of business leaders report that individuals with criminal records perform the same as, or better than, employees without criminal records.

Is there any law that would prohibit a business from hiring someone with a criminal record?

No. There are no laws, D.C. or federal, that would prevent the hiring of someone with a criminal record. However, certain industries have occupational licensing requirements that can prevent the licensing of individuals with certain criminal records. In addition, certain industries are prohibited from hiring people with directly related offenses on their record (e.g., financial services companies may be prohibited from hiring people with finance-related convictions).

Are there any tax benefits available to businesses for hiring justice-impacted people?


Yes. The federal Work Opportunity Tax Credit may be claimed by any employer that hires eligible individuals with a felony conviction within a year of the day the person was convicted of a felony or released from prison after serving a felony sentence. The tax credit is equal to 40% of up to \$6,000 of wages paid to or incurred on behalf of an individual who (1) is in their first year of employment; (2) is within the one-year window from felony conviction or release date; (3) performs at least 400 hours of service for that employer; and (4) begins work on or before December 31, 2025. A 25% rate applies to wages for individuals who perform fewer than 400 but at least 120 hours of service for the employer. The maximum tax credit available is \$2,400.

How does a business apply for the tax credit?

An employer must submit IRS Form 8850 and ETA Form 9061 (or 9062 if applicable) within 28 days of the new hire's start date to the D.C. Department of Employment Services (DOES). Detailed application instructions are available on [DOES' website](#). Employers should consult their tax professionals.

Is there government funding available to help with hiring justice-impacted people?

Yes. The D.C. Mayor's Office on Returning Citizen Affairs has previously offered an Access to Jobs grant that covers a portion of the salary paid to returning citizens a business hires. The grant covers 40% of the minimum wage of returning citizens for the 1st year, and 80% for the second year to encourage retention of qualifying employees. Applications for the 2025 grant are closed, and no information has yet been issued for 2026. If the program is renewed, the request for applications will be posted the [Community Affairs page](#) of the D.C. Mayor's Office.



Nearly **75%** of people who were formerly incarcerated remain unemployed a year after being released.

Are there any programs available to help train or mentor justice-impacted people before hiring or once employed?

Yes. [Project Empowerment](#) at the D.C. Department of Employment Services recruits, trains, matches, and coaches justice-impacted individuals for successful employment. Many are also eligible for training through the [D.C. Infrastructure Academy](#).

There are also many local nonprofits supporting justice-impacted people through job training and mentoring, including (but not limited to) SCHA partners:

- [DC Central Kitchen’s Culinary Job Training](#)
- [Free Minds Reentry Services](#)
- [Georgetown University Pivot Program Fellowship](#)
- [Georgetown University Prison and Justice Initiative’s MORCA-Georgetown Paralegal Program](#)
- [SOME’s Education and Training for Career and Human Development](#)
- [Thrive DC’s Employment Coaching](#)

There have been **no cases** in D.C. in the last 10 years in which an employer was found liable for negligent hiring someone with a criminal record.

Are there any protections available for businesses from theft or fraud when hiring justice-impacted people?

Yes. The Federal Bonding Program provides fidelity bonds for hard-to-place job seekers that protect employers against employee fraud or dishonesty in the first six months of employment at no cost to the employer. Full-time, part-time, and temporary employees receiving paid wages with federal taxes automatically deducted can be bonded. Fidelity bonds are provided in amounts between \$5,000 and \$25,000. For more information, visit the [Federal Bonding Program’s website](#) or call 1-877-US2-JOBS.

What about negligent hiring lawsuits?

D.C. law protects businesses that hire employees with criminal records by prohibiting the introduction of an employee’s criminal record as evidence in a civil action against a business if the business made a reasonable, good faith determination that certain characteristics of the applicant and their offense warranted hiring. Specifically, courts look at whether the following factors favor the hiring or retention of the employee:

- The specific duties and responsibilities of the position being sought or held.
- The bearing, if any, that an applicant’s or employee’s criminal background will have on their ability to perform one or more of the duties or responsibilities related to their employment.
- The time that has elapsed since the offense.
- The age of the person at the time of the offense.
- The frequency and seriousness of the offense.
- Any information about the applicant’s or employee’s rehabilitation and good conduct since the offense.

To the extent possible, employers should document their consideration of the above factors and how they favor the hiring of the justice-impacted person. D.C. does not require justice-impacted people to have a certificate of employability for the negligent hiring protection to apply.

Can an employer ask about arrest records, charges, or convictions as part of job applications?

No. D.C.’s Fair Criminal Record Screening Amendment Act of 2014, more popularly known as a “Ban the Box” law, generally prohibits employers from asking about or searching for information about an applicant’s arrest record, former charges or criminal accusations, or convictions. The prohibitions of this statute apply to employers with 11 or more employees. Employers should remove any such questions from their application. More information can be found at the [D.C. Office of Human Rights website](#).

The U.S. Equal Employment Opportunity Commission published an [Enforcement Guidance](#) on the “Consideration of Arrest and Conviction Records in Employment Decisions under Title VII of the Civil Rights Act” that can also be used to guide your decision making regarding the use of criminal records throughout the hiring process.

Can an employer ever ask about an applicant’s criminal record?

Yes. Once a conditional offer of employment has been extended, employers may inquire about convictions only. Employers may conduct background checks and directly ask applicants about their records at this point. However, any record of an arrest or charge that did not result in a conviction must be disregarded.

Employers may only withdraw the offer of employment or take adverse action after considering various factors, including:

- Specific duties and responsibilities necessarily related to the employment.
- Fitness or ability of the person to perform one or more job duties or responsibilities given the offense.
- Time elapsed since the offense.
- Age of the applicant when the offense occurred.
- Frequency and seriousness of the offense.
- Information provided by the applicant that indicates rehabilitation or good conduct since the offense occurred.

Note that if an applicant communicates to you that they believe their job offer was withdrawn because of their criminal record, you must provide a notice advising them about their right to file a complaint at the D.C. Office of Human Rights. Within 30 days an applicant can request a copy of all records used by the employer in evaluating the applicant, including criminal records. If you receive this request, you must provide the records used within 30 days.

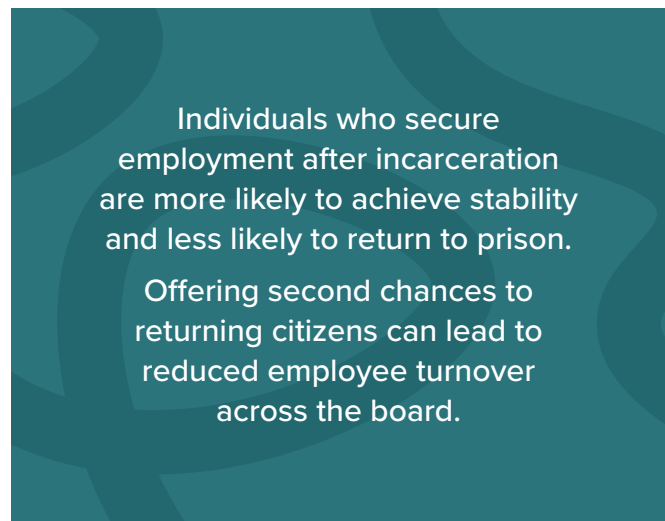
Visit the [D.C. Office of Human Rights website](#) to learn more about resources for applicants and employers.

What if a business operates elsewhere in the DMV region?

- For information about incentives and protections for employers in Maryland, visit the [Maryland Department of Labor’s website](#).
- Virginia has a state bonding program you can learn about [on their website](#).

If a business is ready to hire justice-impacted people, where can they find more information and resources?

Visit [SCHA’s employer resource page](#) for more.





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