

Second Chance Hiring Opportunity and Benefits

GEORGIA JUSTICE PROJECT

Wade Askew

SECOND CHANCE HIRING: CONTEXT

The Impact of the Criminal Legal System on Employment

State of the Workforce

Worker Shortage

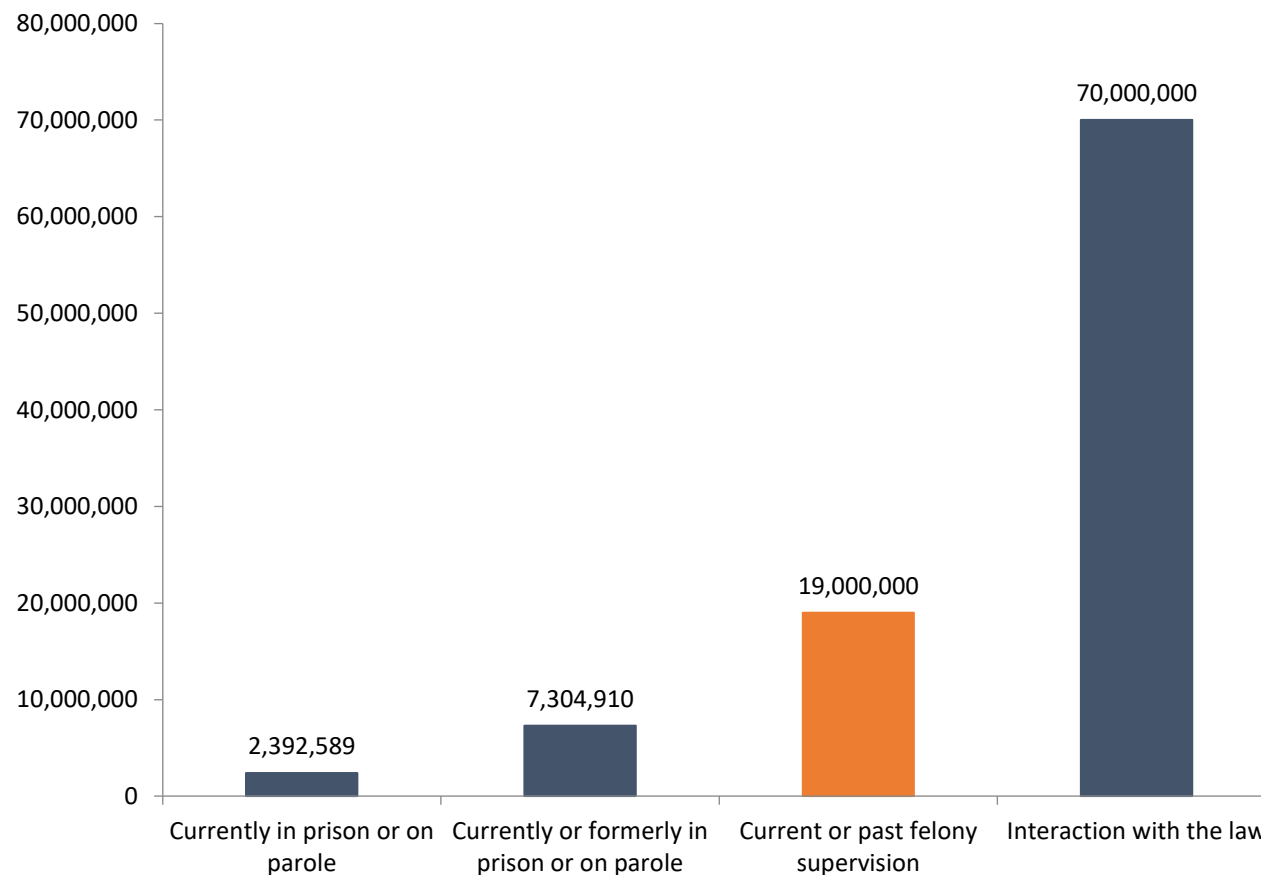
- **The Georgia Chamber of Commerce found the following:**
 - **Pre-COVID, there were 3 openings for every 1 person looking for a job in GA**
 - **Sept. 2021: 333,914 active job postings**
 - **Sept. 2021: 181,656 Georgians registered for unemployment**
 - **Worker exit – nearly 60% of those who left the workforce in early 2020 are still not in the labor force**

Source: “Winning the War for Talent” [gac-2022-01-10-v4-WarForTalent-booklet-hw.pdf](https://gachamber.com/gac-2022-01-10-v4-WarForTalent-booklet-hw.pdf)
(gachamber.com)

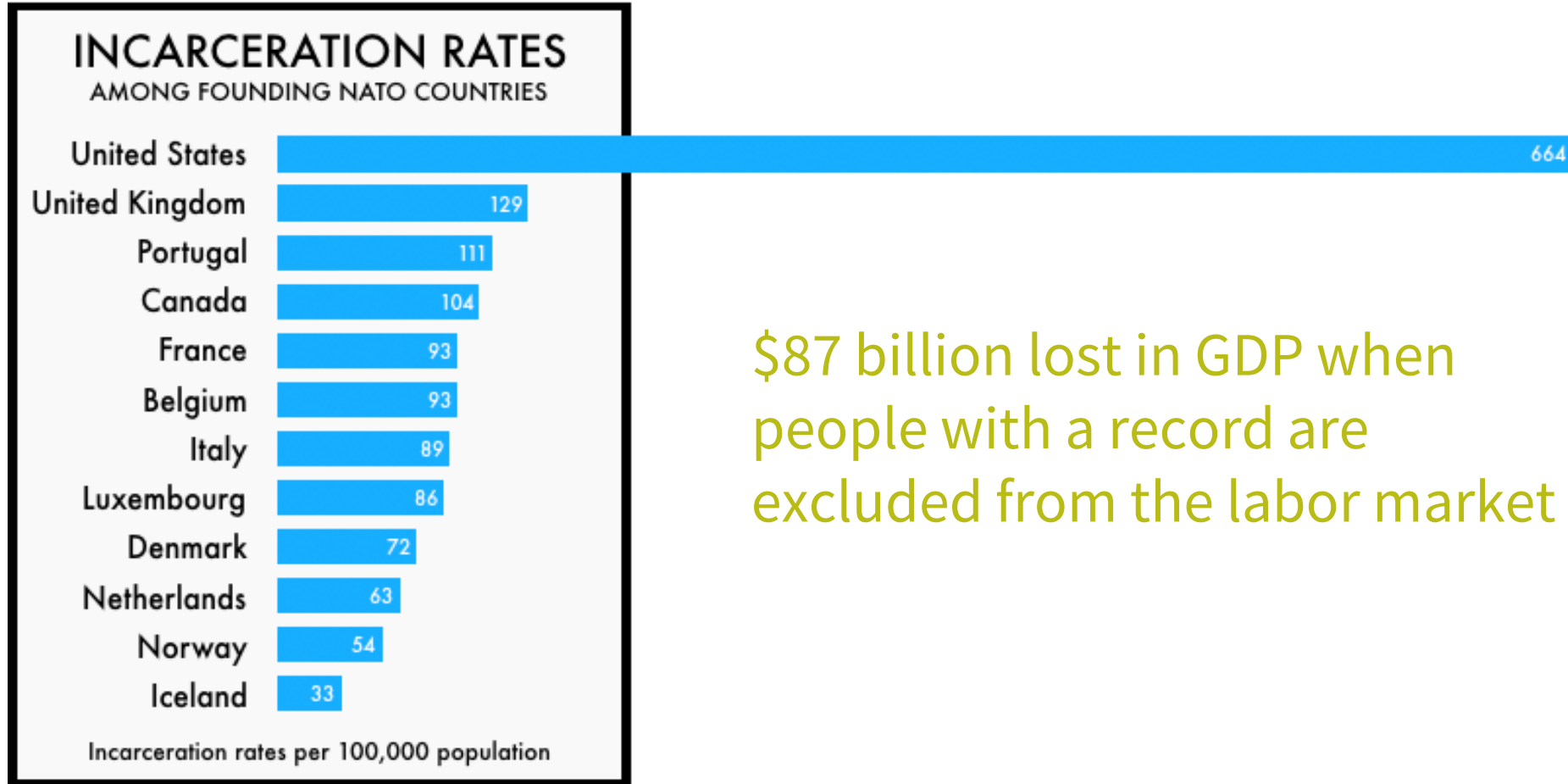
Opportunity

Untapped Talent

- Millions with a criminal record – most of whom never went to prison
- Study showed 64% of unemployed men have an arrest record; 46% have a conviction
- 60% of formerly incarcerated unemployed one year after release



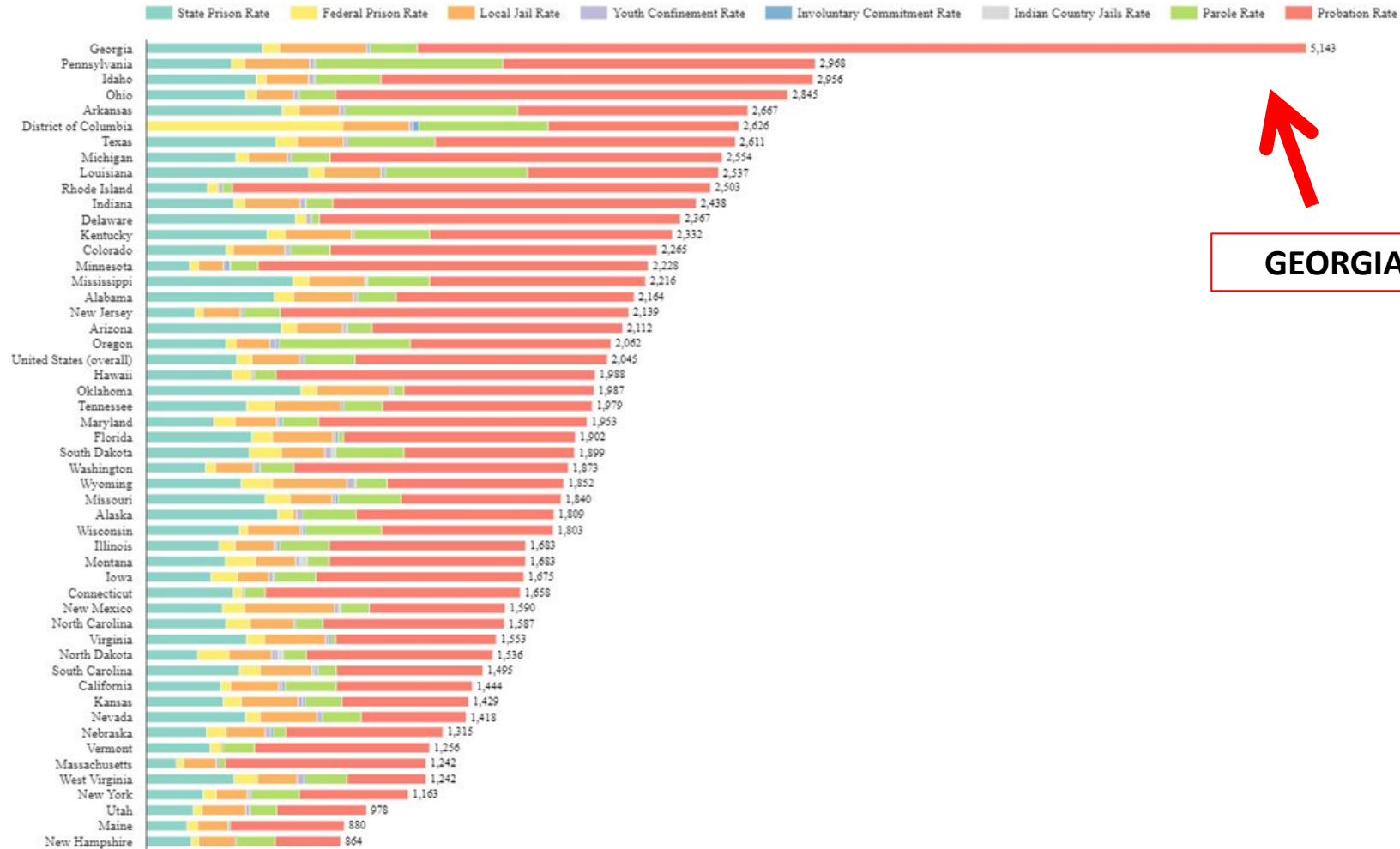
Mass incarceration in the U.S.



\$87 billion lost in GDP when people with a record are excluded from the labor market

Source: <https://www.prisonpolicy.org/global/2021.html>

GEORGIA HAS THE HIGHEST RATE OF CORECTIONAL CONTROL IN THE NATION



"Correctional control" includes federal prisons, state prisons, local jails, youth confinement, Indian Country jails, involuntary commitment, parole and probation. Rates are per 100,000 total population in that state, D.C., or for all 50 states and D.C. combined.

GJP Goals and Theory of Change

1) **Reduce** the number of Georgians who are under correctional control

2) **Reduce reentry barriers** for the formerly incarcerated and justice-involved

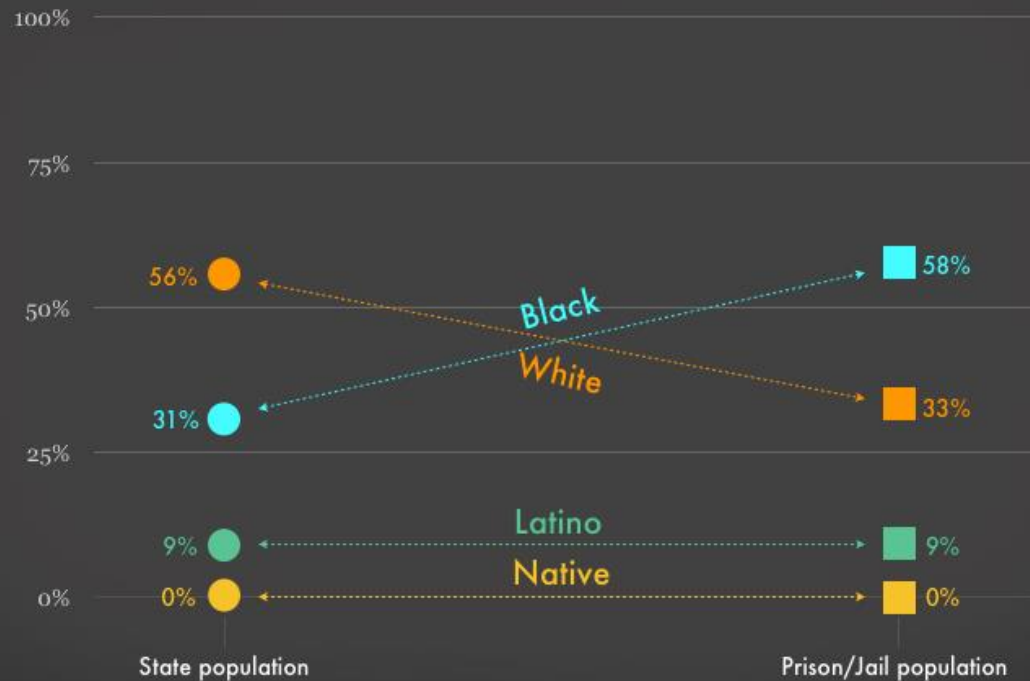


- 1 INDIVIDUAL**
Legal representation and social services
- 2 POLICY & SYSTEMIC**
Working toward system change
- 3 COMMUNITY OUTREACH**
Building community awareness and creating partnerships

RACIAL DISPARITIES exist at every step in the process

Racial and ethnic disparities in prisons and jails in Georgia

Whites are underrepresented in the incarcerated population while Blacks and Latinos are overrepresented.



- **No equivalent disparities in actual criminal behavior**
- **Having a criminal record reduces likelihood of a callback after an interview by half**
- **Black applicants with a record suffer a penalty about twice as severe as their white counterparts**

Record Work, Partnerships, and Policy

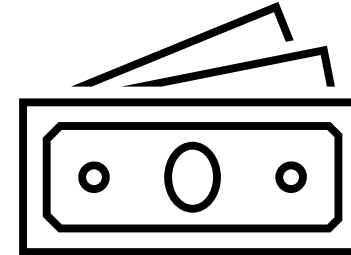
- **Employer outreach key to our record work**
 - **Volunteers**
 - **County desks**
- **Policy work**
 - **SB 288, the Second Chance for Georgia Campaign, and business support from major corporations and MAC**
 - **Continued partnership with businesses and chambers**

SECOND CHANCE HIRING: WHY

The Business Case for Second Chance Hiring

Benefits and Bottom Line

Employer Benefits



- **Better retention, less turnover**
 - **John Hopkins study**
- **Evidence that people with records are more motivated to do better in their job**
 - **Harvard military study**
- **Motivation and loyalty**
 - **Employers like Butterball Farms observed employees with records are more highly motivated and loyal**

Public Perception

- **Many corporations now promote the fact they are second chance employers**
- **Example: a group of major employers and national organizations launched the Second Chance Business Coalition (SCBC) in April 2021**
 - **See the list at secondchancebusinesscoalition.org**

Most Records are Minor

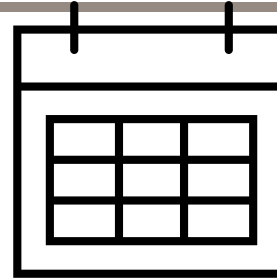
Backgrounds vary widely

Georgia (February 2020 numbers)

- **4.3 million people with a record**
- **49% were only arrested once**
- **602,800 have a felony conviction. Of those, only 10% have a serious violent felony or serious sexual conviction**
- **“Know your felony”**

Desistance Research

The effect of time passing



- **Most recidivism happens within 3 years of an arrest. Almost all recidivism happens within 5 years.**
- **At a certain point, people with records are no more likely than the general population to be arrested again.**
 - **Multiple factors relevant, such as age at time of offense and type of offense.**
 1. Example: 18-year-old arrested for burglary is no more likely to be arrested again than the general population if 3.8 years pass without new arrest
- **Individuals with jobs are twice as likely to avoid arrest than their unemployed counterparts.**

“Expungement” and SB 288

For People with a Record

- Up until January 2021, most convictions could not be “**expunged**” in Georgia
- Greatly expanded what **misdemeanor convictions** can be **restricted & sealed**
- Made most **felony convictions** that have been **pardoned** eligible for restriction & sealing

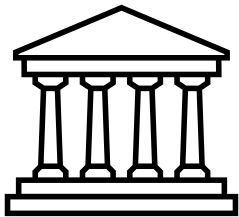
For Employers

- **Limited what employers see on a background** (they generally can’t see a record if it has been restricted & sealed)
- **Provided liability protection for employers** by limiting the admissibility of evidence

Liability Protections

Senate Bill 288 and Liability Protection

- **In a civil lawsuit, the criminal history of an employee or former employee cannot be admitted as evidence if any of the following apply:**

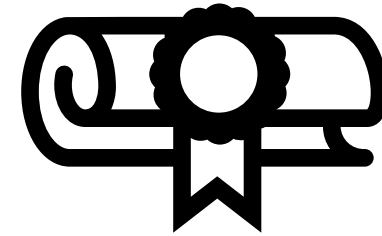


1. **The conviction was either restricted or sealed (“expunged”) or pardoned**
2. **The underlying charge did not lead to a conviction**
3. **Non-expunged and non-pardoned convictions: The nature of the criminal history is not relevant to the facts that led to the lawsuit (see next slide for guidance)**

- **Bottom line: neither 1) an expunged/pardoned conviction, 2) an arrest that didn’t lead to conviction, nor 3) irrelevant criminal history, can be a factor in a negligent hiring lawsuit**

Liability Protections

Program and Treatment Completion Certificates



- **What are they?**
 - Certificates issued by DCS or DOC that demonstrate program participation and efforts toward rehabilitation.
- **Effect on Negligent Hiring**
 - Creates a presumption of due care in hiring, retaining, licensing, admitting to school/program, etc.
 - This means it is presumed that the employer was NOT negligent with respect to conviction(s) related to a Certificate.

Incentives and Protections

Federal Bonding Program

- The Federal Bonding program provides limited liability coverage to employers when they hire job applications who cannot be bonded.
- The program insures employers against theft, forgery, or embezzlement by the bonded employee for up to \$5,000 for a six-month period.

Work Opportunity Tax Credit

- The Work Opportunity Tax Credit (WOTC) is a federal tax credit available to employers for hiring individuals from certain targeted groups that have consistently faced barriers to employment
- This tax credit can range from \$1,200 to \$9,600 per qualified employee

SECOND CHANCE HIRING: HOW

Practices for Implementing Second Chance Hiring

What is a Relevant Conviction?

EEOC Guidance (2012)



- **I found a conviction that has not been expunged or pardoned. Is it relevant?**
 - **EEOC Guidance says to consider:**
 1. Nature and gravity of the crime
 2. Time that has passed since the offense or completion of the sentence (see next slide)
 3. Relationship of the offense to the worker's ability to perform the job
- **Other EEOC recommendations for hiring:**
 - **Do not ask about criminal record on initial application**
 - Industry examples: Butterball, Target, Walmart, Home Depot, Koch Industries
 - **Only consider convictions and pending prosecutions**
 - Remember: GA law protects against expunged/pardoned convictions

Background Checks: Things to Know

- **Backgrounds are hard to understand – even for the person who has the record**
- **Misinformation about what to – and not to – report**
- **Background checks are frequently wrong, incomplete**
- **Most offenses aren't expunged – even if eligible**
 - **Not automatic, difficult to navigate: Only about 6% of people eligible for relief receive it**
 - **Georgia law is still limited**

Applications and Hiring

- **Review your job listings, applications, and recruitment strategies**
- **If you see a record, let it be the beginning of a conversation**
 - **Who are they today? What have they done since the conviction?**
- **Work with your Consumer Reporting Agency to limit background check needs for each individual jobs**

What's Working?

Recruiting and retaining new hires

- Supportive Employment Practices
- Offering employment opportunities with career paths that offer economic mobility
- Understanding skill gaps for those reentering the workforce
- Partnering with nonprofits and specialized staffing agencies



HR Tools for taking the next step



SHRM: Getting Talent Back to Work

Certificate

Toolkit



Levelset

Assessment

Coaching/Training



Manufacturing Institute

Resource Guides/Webinars

Upcoming Cohort training w DKB



Second Chance Business Coalition

Resources

Connections

GJP's 2022 POLICY PRIORITIES

#GettingGeorgiansBacktoWork

Partnering with GJP

GJP 2022 POLICY PRIORITIES: *Getting Georgians Back to Work*

SR 376: Opening Access to Occupational Licensing



- **Any** criminal record can be used to deny someone a license
- **50** licensing boards with different standards

SB 353: Reducing Driver's License Suspensions



- **105,000** suspended licenses each year for FTA
- **80%** of Georgians drive to work
- **~50%** of people with a suspended driver's license lose their job

SB 257: Expanding Access to Expungement



- Almost **4.6 million** people with GA criminal history
- Felonies biggest barrier to employment

STAYING CONNECTED WITH GJP



We can help you:
Employer Resources
Information & Training
Connections



Support GJP:
Volunteer
Donate financially



Help GJP make Policy Change:
Driver's License Suspensions
Occupational Licensing
Expungement



Reach Out:
Wade@GJP.org
404-827-0027 ext 214

[GJP.org/advocacy/employers/](https://www.gjp.org/advocacy/employers/)



GEORGIA
JUSTICE
PROJECT

The sign is white with a gold border and is mounted on a wall. The text is in a serif font, with horizontal lines separating the words. The background of the image shows a gallery with various artifacts on display.

THANK YOU.

438 Edgewood Ave. SE

Atlanta, GA 30312

(404) 827-0027 • www.GJP.org

 @gajustice

 @georgiajusticeproject

 @gajusticeproject