Louis W. Blessing III

State Senator
8th Senate District
1 Capitol Square
Columbus, Ohio 43215
(614) 466-8068

Committees

Ways and Means, *Chair*
Education, *Vice Chair*
Finance
Judiciary
Financial Institutions, Insurance and Technology

Chairman Koehler, Vice Chair Reynolds, and Ranking Member Ingram; thank you for the opportunity to testify in favor of SB 143, legislation colloquially known as "private sector ban-the-box". It has been introduced many times in the past and, broadly speaking, the legislation seeks to prohibit employers from inquiring about or considering the criminal background of an applicant on any initial employment application. It should be noted the key operating word in that sentence is initial. Philosophically, the idea is to prevent employers from just tossing aside applications because a background check revealed a criminal conviction. In today's brave new world, this could mean AI algorithms ensuring anyone with a conviction would be relegated to either public sector jobs – as we currently have public sector ban-the-box – or a smaller subset of private sector jobs, thus harming their economic outlook, and without even a human being looking at their application. Thus, the status quo is not in the public interest and this reform is.

Much ink has been spilled over the years trying to reduce recidivism in this state, as well as getting people up and off of government assistance – Medicaid, SNAP, etc. – and for good reason: Medicaid is our largest budget expenditure when both federal and state dollars are included, while incarceration is also very expensive. Not a single member of this committee would dispute that it's better to have people gainfully employed than dependent on the government, excluding corner cases like the severely disabled. Moreover, a simple search will show numerous studies that not only demonstrate correlation, but causation between lack of employment and crime. We don't really need studies to show what we all know to be obvious: if you can't find a job you're more likely to commit crime. So why do we allow people who have paid their debt to society, labor under diminished employment prospects when compared to someone similarly situated, quite literally for the rest of their lives, especially when reform would actually be cheaper for the state and increase labor force participation?

We can appreciate that employers would not want government involved in their hiring practices. We've also heard members over the years say that a reform like this intrudes on the free market. Government should tread lightly in this space, but, respectfully, we find these arguments with respect to this legislation wanting. We tell businesses what to do all the time, through the laws we pass, and for many good reasons. We tell businesses that they cannot discriminate in employment based on race, sexual orientation, age, etc. We tell them they cannot pollute. We tell them they cannot become monopolies. We tell them how they're supposed to store and serve food to prevent illness. The list goes on and on. Moreover, we don't hear these same complaints when we're subsidizing businesses with tax credits and exemptions. Metaphorically speaking, the free market is like an automobile; it can get us where we want to go and benefit us tremendously. However, we'd find that it doesn't work so well without brakes and steering. We'll always be regulating businesses. What matters is the degree and, though light regulation can be superior, it is not always the case.

Digging a little deeper into the bill, we would ask the committee to consider if the requirements are truly onerous for the business community, especially when compared to other laws on the books. As mentioned before, businesses are prohibited from considering past convictions on the initial employment application. They also cannot consider arrests that didn't lead to conviction. If an applicant is injured by an alleged violation of the bill they can file a complaint with the Ohio Civil Rights Commission. The statute of limitations is two years, and the commission has to attempt a number of remedies – a cease and desist order, for example – prior to anything more punitive: ultimately the individual could sue the employer, but they would have to have gone through the complaint process first, and received a notice of the right to sue. There are exemptions for employers who are required by federal, state, or local law to conduct criminal background checks, as well as more feedback requirements between the employer and prospective employee should the employer choose to not offer employment. We're struggling to see how this would be an undue burden on employers when Ohio has had public sector ban-the-box for a decade. Employers wouldn't be required to hire these folks, but they couldn't categorically reject them either.

In the end, it boils down to whether we believe the public interests served, and savings for the state, outweigh the costs and inconvenience to the business community. For us the choice is clear, and it seems to be for a number of states as well. Thirty-seven states have banned the box for the public sector, while fifteen have done so for the private sector: https://www.nelp.org/insights-research/ban-the-box-fair-chance-hiring-state-and-local-guide/. Though the states who've passed some form of SB 143 are mostly either blue or purple, it seems that at least some conservative publications have printed columns in favor of private sector ban-the-box. Some examples may be found here: https://www.nationalreview.com/corner/ban-the-box/ and https://www.aei.org/research-products/journal-publication/ban-the-box-measures-help-high-crime-neighborhoods/.

Thank you for the opportunity to testify, and we are happy to answer any questions you may have.