

STATE OF FLORIDA

OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NUMBER 06-89

WHEREAS, on February 7, 2005, I issued Executive Order 05-28 establishing the Governor's Ex-Offender Task Force (Task Force) to improve the effectiveness of the State of Florida in facilitating the reentry of ex-offenders into our communities and reduce the incidence of recidivism; and

WHEREAS, the Task Force has found that gainful employment after release from prison is one of the critical elements necessary to achieve successful reentry after prison and that employment has been shown to reduce recidivism and, thus, to make our communities safer; and

WHEREAS, the Task Force has found many state laws and policies that impose restrictions on the employment of people who have been to prison and has estimated that these restrictions may affect more than one-third of Florida's 7.9 million non-farm jobs, including state and local government jobs, jobs in state-licensed, regulated and funded entities, and jobs requiring state certification; and

WHEREAS, the Task Force has further found that no comprehensive review of these restrictions has been undertaken to evaluate whether the restrictions are related to the safety, trust and responsibility required of the job or to determine whether a less restrictive approach could protect the public while preserving employment opportunities; and

WHEREAS, the Task Force has further found that the disqualifications for many kinds of jobs can be lifted through exemptions and other mechanisms that allow a case-by-case showing of rehabilitation, yet the disqualifications for many other jobs requiring a similar level of safety, trust and responsibility cannot be lifted, exempted or relieved; and

WHEREAS, the State's executive agencies can assume a leadership role in providing employment opportunities to ex-offenders by reviewing their employment policies and practices and identifying barriers to employment that can safely be removed to enable ex-offenders to demonstrate their rehabilitation;

NOW THEREFORE, I, JEB BUSH, as Governor of the State of Florida, by virtue of the authority vested in me by the Constitution and Laws of the State of Florida, do hereby promulgate the following Executive Order, effective immediately:

Section 1. Terms of Employment Disqualifications.

A. All executive agencies shall produce a report for the Task Force that describes the employment restrictions and disqualifications that are based on criminal records for each occupation under the agency's jurisdiction and that of its boards, if any, including, but not limited to, employment within the agency; employment in facilities licensed, regulated, supervised, or funded by the agency; employment pursuant to contracts with the agency; and employment in occupations that the agency licenses or provides certifications to practice. For

each occupation subject to an ex-offender restriction or disqualification, the agency shall set forth the following:

1. The job title, occupation or job classification;
2. The cause of the disqualification (statutory, regulatory, policy or practice) and the substance and terms of the disqualification, including a listing of the disqualifying offenses, the recency of the disqualifying offenses, and the duration of the disqualification;
3. The year the disqualification was adopted and its rationale;
4. In instances where the disqualification is based upon conviction of any offense “related to” the practice of a given profession, the criteria the agency has adopted to apply the disqualification to individual cases;
5. The source of any requirement (statute, rule, policy, or practice) for an individual convicted of a felony to have his civil rights restored to become qualified for the job; and
6. The exemption, waiver, or review mechanisms available to seek relief from the disqualification, based on a showing of rehabilitation or otherwise. This should include the terms of the exemption, waiver or review, the nature of the relief it affords, and whether an administrative and judicial appeal is authorized.

B. The agency shall also describe, for each occupation subject to ex-offender disqualification, the procedures used to determine and review the disqualification, and shall provide to the Executive Office of the Governor copies of the forms, rules, and procedures that it employs to provide notice of disqualification, to review applications subject to disqualification, and to provide for exemptions and appeals of disqualification.

C. Agencies are strongly encouraged to adopt such policy reforms and changes as will achieve the goals of this Order. Agencies shall report to the Executive Office of the Governor reform efforts including eliminated or modified ex-offender employment disqualifications, draft legislation for a case-by-case exemption or review mechanism, and modified criteria and procedures used in relation to ex-offender employment restrictions.

Section 2. Data.

The second part of the review involves the collection of data to determine the impact of the disqualifications on employment opportunities for ex-offenders in Florida and the effectiveness of existing case-by-case review mechanisms that list the disqualifications. For each occupation under the jurisdiction of the agency for which there are employment disqualifications based on criminal records, the agency must provide, for the previous two-year period, the number and percentage of individuals who underwent a criminal history background check, the number who were merely required to disclose their criminal history without a criminal history background check, the number and percentage found disqualified based on criminal records; the number and percentage found disqualified because their civil rights had not been restored; the number and percentage who sought review and exemption from or reversal of the disqualification, the number and percentage that were found qualified for the initial review, and

the number and percentage that were found qualified for any subsequent level of review. If the agency maintains records of active licenses or certifications, the agency shall provide the total number of employees in occupations subject to criminal history restrictions.

Section 3. Time Frame for Provision of Information.

The terms of each of the agency's employment disqualifications described in Section 1 of this Order shall be provided to the Executive Office of the Governor no later than 60 days from the issuance of this Order. The data described in Section 2 shall be provided no later than 90 days from the issuance of this Order.

Section 4. Other State Agencies and Private Sector.

I strongly encourage all other state agencies, counties, municipalities and political subdivisions of the State to likewise conduct an inventory of employment disqualifications as described herein, to eliminate or modify such disqualifications that are not tailored to protect the public safety, and to create case-by-case review mechanisms to provide individuals the opportunity to make a showing of their rehabilitation and their qualifications for employment. I encourage private employers, to the extent they are able, to take similar actions to review their own employment policies and provide employment opportunities to individuals with criminal records.

IN TESTIMONY WHEREOF, I have hereunto set my hand and have caused the Great Seal of the State of Florida to be affixed at Tallahassee, the Capitol, this 25th of April, 2006.

GOVERNOR

ATTEST:

SECRETARY OF STATE