

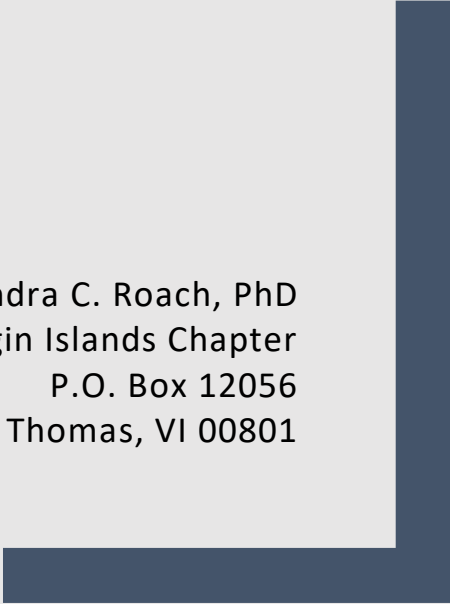
Response Testimony to Bill No. 35-0115: March 12, 2024

Legislature of the Virgin Islands
Office of the Honorable Senator Kenneth L. Gittens

Homeland Security, Justice & Public Safety
Chairperson

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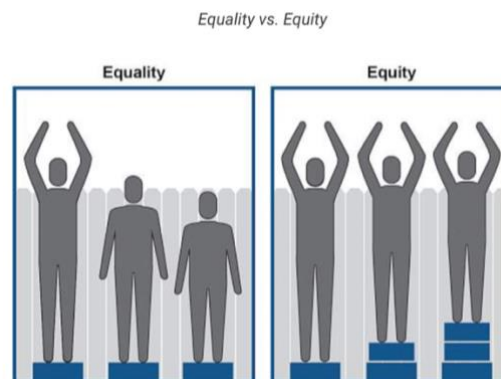


Good morning, Honorable Chairperson Kenneth L. Gittens, other distinguished Members of the Committee on Government Operations, Veterans Affairs, and Consumer Protection, Members of the 35th Legislature and to the viewing and listening audience. I am Dr. Kendra Roach, here in the capacity of Chapter President for the Society for Human Resource Management (SHRM Virgin Islands). On behalf of the leadership team and myself, we extend our sincere gratitude for the opportunity to provide testimony on Bill No. 35-0115, "The Fair Chance for Employment Act," sponsored by The Honorable Senator Donna A. Frett-Gregory.

As advocates dedicated to fairness, justice, and building a world of work that works for all in the Virgin Islands, we firmly believe that this proposed bill is a positive advancement towards providing equitable opportunities for individuals with criminal records to access employment, thereby fostering their successful rehabilitation and reintegration into society.

Equality vs. Equity

In the business world where accountability often extends beyond prison walls and into the lives of those re-entering their communities, equity becomes paramount. The overarching aim of The Fair Chance for Employment Act is to promote equity by providing individuals with criminal records a fair chance to compete for jobs, recognizing that not everyone starts from the same position. While equality ensures that everyone is treated the same, equity acknowledges and addresses systemic barriers, by asking the question: how do we ensure that everyone has the same ability to contribute to their fullest potential?; which in turn, assures "fair access" and outcomes for all individuals, regardless of their background. As such, The Fair Chance for Employment Act aligns with principles of equity by striving to level the playing field and provide fair opportunities for employment, even for those with past criminal records.



Source: SHRM

This proposed legislation acknowledges the significant impact of employment in enabling successful reintegration into society for formerly incarcerated individuals. By offering avenues to stable and meaningful employment, we not only assist individuals in their path to rehabilitation and self-sufficiency, but also yield additional tangible benefits. This includes broadening the tax base, fostering economic inclusion, alleviating the strain on the criminal justice system, reducing

reliance on public assistance programs, and ultimately enhancing the overall prosperity and resilience of our territory.

Evidence Based Practices to Reduce Recidivism

Recidivism data from states and jurisdictions that have implemented similar fair chance hiring policies vary. However, a study published in the American Journal of Criminal Justice (2017) found that individuals in Hawaii who secured employment through fair chance hiring initiatives were 57% less likely to re-offend within the first year of release, demonstrating the effectiveness of the policy.

In 2023, the average recidivism rate (national) across all states was 37.1%. Among the states that reported the lowest recidivism rates in 2023 were South Carolina, Virginia, and Florida. All three have pointed to reentry or rehabilitative programs, including their own ordinances or policies aimed at promoting fair chance hiring practices as part of the reason.

3-Year Recidivism Rate

State	Rank	Rate
South Carolina	# 1	21%
Virginia	# 3	23.3%
Florida	# 6	25.4%

Source: Wisevoter

Florida for example, has undertaken extensive efforts to overhaul its laws and regulations to better serve its growing population and diverse economy. The Florida Legislature regularly reviews and updates statutes in areas such as business regulation, healthcare policy, and criminal justice to ensure they remain relevant and effective in addressing contemporary issues. One such issue included the restoration of voting rights and its dignity to formally incarcerated individuals, who fulfilled specific requirements.

While it's true that states with higher recidivism rates may indicate challenges in prisoner reentry and rehabilitation efforts, it's important to consider various factors that contribute to recidivism. These factors can include access to education and job training programs, availability of support services upon release, substance abuse treatment, mental health services, housing stability, employment opportunities, and community support networks.

However, it's important to recognize that reducing recidivism is a complex issue that requires a multifaceted approach involving collaboration between government agencies, community organizations, employers, and other stakeholders. Simply having high recidivism rates does not necessarily imply that a state is not doing enough for prisoners, but it may indicate other areas where improvements can be made in supporting successful reentry and reducing the cycle of incarceration.

The Exceptions: Equal Employment Opportunity Commission Green Factors

The Equal Employment Opportunity Commission's (EEOC) Green factors aim to assess the relevance of an individual's criminal history to their suitability for employment. These factors include the nature and gravity of the offense, the time elapsed since the offense, and the nature of the job sought. In the context of the Fair Chance for Employment Act, the exceptions outlined in the bill mirror the considerations outlined in the EEOC's Green factors by ensuring that criminal history inquiries are relevant to the duties of the job and are applied fairly and equitably.

Conclusion

In closing, we earnestly urge the esteemed members of this committee to champion and propel forward the proposed Fair Chance for Employment Act. By embracing fair chance hiring practices, we not only reaffirm our dedication to justice, equity, and rehabilitation principles, but we are also extending this commitment beyond the public sector to influence private sector labor policies as well. As our legal landscape and societal norms rapidly evolve, the aging Virgin Islands Code, established over 60 years ago, demands a comprehensive overhaul to maintain its effectiveness in our dynamic world. This underpins the greater need for a collaborative, systematic effort between both the Division of Personnel and the Department of Labor since overlap is evident and unavoidable to ensure the successful implementation of fair chance hiring practices; and addressing the evolving needs of our legal and administrative frameworks. I thank you for the allowing me to present our Chapter's response and I am available to answer any questions that you may have.

References

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