



Corrections

BREAKING BARRIERS: ISSUE 1 COULD PUT OHIOANS BACK TO WORK

MICHAEL SHIELDS

Key Findings

Issue 1 removes barriers for thousands of Ohioans

- Drug possession convictions accounted for 11.7 percent of Ohio prison sentences in 2014, nearly 2,400 Ohioans
- 524 distinct laws – called collateral sanctions – bar Ohioans from employment in a wide array of jobs based on a drug conviction. 56 percent apply only to felonies.
- Jobs that are affected by collateral sanctions pay \$4,700 more on average, and are growing at twice the rate of other jobs
- Issue 1 would reclassify low level drug possession felonies as misdemeanors, opening more jobs to Ohioans whose highest conviction is a minor drug charge

The consequences of a criminal conviction extend far beyond the sentence imposed in court. Ohio’s legislature and its administrative bodies have constructed an array of legal restrictions, called collateral sanctions, that can limit access to housing, licensing and jobs. Policy Matters Ohio has found that collateral sanctions limit or bar access to one in four Ohio jobs and contribute to \$3.4 billion in foregone wages each year. For Ohioans whose highest conviction is for a drug possession charge, relief could come on November’s ballot, in the form of Issue 1.

Ohio has more than 1,000 laws curtailing what Ohioans with a conviction can do: some 850 relate specifically to jobs and entrepreneurship. Job-related collateral sanctions range from a background check to an outright prohibition against working in a certain job or acquiring a required occupational license. 524 sanctions can be triggered by a drug conviction. Among them, 56.4 percent (296 sanctions) are triggered only by a felony.¹ Lesser drug possession felonies of category 4 and 5 are eligible under Issue 1 to be reclassified as misdemeanors. That means Ohioans with such convictions, and nothing more serious, would have a new range of jobs opened to them.

Who is affected?

In Fiscal Year 2014, 11.7 percent of Ohioans sent to prison were sentenced on drug possession charges,² including felony 4 and 5 charges affected by Issue 1, and more serious felonies. Trafficking laws are unchanged under Issue 1 – another 9.8 percent of convictions were for trafficking, which will still carry prison time. For 5.4 percent (2,688) of those serving time in Ohio prisons, drug possession is their most serious offense. While Ohioans convicted of higher felonies would still be sent to prison if Issue 1 passes, those whose charges are reclassified as misdemeanors would receive addiction treatment instead. Misdemeanors are still crimes, and affected Ohioans could serve jail time.

¹ The Ohio Justice and Policy Center, Civil Impacts of Criminal Convictions, <https://civicc.opd.ohio.gov/>.

² <https://www.supremecourt.ohio.gov/Boards/Sentencing/resources/monitorRpts/25YearReview.pdf>

Women are a growing share of Ohio's prison population. The typical woman in an Ohio prison is a non-violent, low-level drug offender. Drug charges accounted for 38.9 percent of prison sentences among women in 2015 and 25 percent of men.³

The NAACP reports that African Americans nationwide are six times more likely to be convicted of a drug offense, despite comparable rates of drug abuse to whites.⁴ In Ohio, black residents experience similarly imbalanced rates of conviction across all types of charges. Around one in four black Ohioans has a criminal conviction. Unequal treatment in our criminal justice system may be a contributing factor in Ohio's growing racial wage gap. In 1979, before the War on Drugs, white Ohioans earned \$1.37 more per hour than their black counterparts. By 2017, that figure grew to \$4.61, and black Ohioans' wages had actually fallen.⁵ While many factors have played a role in this divergence, a criminal justice strategy that has both disproportionately targeted Ohioans of color, and fostered the creation of a substratum in the labor market, has been a contributing force.

What is at stake?

Issue 1 will reduce excessive incarceration, relieve the stress it places on our overextended criminal justice system, and help Ohioans convicted of a crime to re-enter communities as productive members. Opening new work opportunities for Ohioans with a minor drug conviction benefits them and the communities where they live. It is likely to have a serious impact of its own: The Prison Policy Initiative found that in 2008 - the only year for which data are available - formerly incarcerated individuals nationally faced an unemployment rate of 27.3 percent, or 4.7 times higher than the overall rate.⁶

Ohio sanctions limit access to public sector jobs, health care, driving jobs, and more. Jobs subject to collateral sanctions are projected to grow at twice the rate of other jobs through 2024, 11.0 percent versus 5.4 percent. They are also better jobs: paying \$4,700 more on average, a 10.3 percent wage premium.

Broad restrictions ensnare many Ohioans with a criminal offense in their past who pose no higher public safety threat compared to Ohioans without a record. Rules restricting who can hold a safety-sensitive position may be effective when narrowly drawn and individually applied, so that each decision to reject an applicant is job-related and warranted by business necessity. When sanctions are overly broad and lack clear relevance, they actually put Ohio communities at greater risk, by cutting off one of the most important avenues to recovery: access to a stable job. Research shows that the ability to earn a living corresponds directly to a person's likelihood of remaining crime-free. Closing off that access makes Ohioans more likely to reoffend, and leaves their communities more susceptible to fallout from recidivism.

Conclusion

Issue 1 gives Ohioans a direct opportunity to eliminate costly and excessive hurdles that prevent residents with a minor drug charge from accessing work. Ohio voters should support it. Issue 1 better equips Ohio's criminal justice system to treat those with convictions and prepare them to return to their communities. It emphasizes treatment and relieves overstretched resources. For Ohioans whose highest conviction is a minor drug charge, felony reclassification under Issue 1 opens an array of jobs now closed to them.

This work was made possible with contributions from The George Gund Foundation

³ <http://www.ciic.state.oh.us/docs/Population%20Brief%202016.pdf>

⁴ <https://www.naacp.org/criminal-justice-fact-sheet/>

⁵ <https://www.policymattersohio.org/research-policy/fair-economy/work-wages/state-of-working-ohio/state-of-working-ohio-2018-inequality-amid-job-growth>

⁶ <https://www.prisonpolicy.org/reports/outofwork.html> The overall rate was 5.8 percent.