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Testimony from:

Nicolas John, Northeast Region Director, R Street Institute

In SUPPORT of S1589, “An Act concerning criminal history records and professional or occupational boards, and amending and supplementing P.L.1978, c.73.”

February 1, 2019

Senate Budget and Appropriations Committee

Dear Chairman Sarlo and members of the committee,

My name is Nicolas John. I am the Northeast Region Director for the R Street Institute, which is a nonprofit, nonpartisan, public policy research organization. Our mission is to engage in policy research and outreach to promote free markets and limited, effective government in many areas, including occupational licensing reform. That is why S1589 is of special interest to us.

New Jersey’s occupational licensing statutes [wisely prohibit](#) a licensing board from issuing blanket bans on licenses based on convictions and requires that boards consider a conviction’s relation to the nature of the licensed job before accepting or denying an applicant. N.J. Rev. Stat § 2A:168A-2 (2013). But a separate statute, N.J. Rev. Stat. § 45:1-21 (2017), [allows](#) the denial of a license for “any crime or offense involving moral turpitude.” This section of the law [applies](#) to over 30 licensing boards, including those as diverse as the State Board of Professional Planners and the Elevator, Escalator, and Moving Walkway Mechanics Licensing Board.

“Moral turpitude” is an ambiguous term used in many licensing restrictions on formerly incarcerated people. Similar to “good moral character” [provisions](#), “moral turpitude” provisions have been subject to vague and varying definitions in the courts, [including](#) “baseness, vileness or depravity” and “behavior that violates accepted moral standards of the community.” Due to the ambiguity of the phrase and the lack of language requiring boards to consider the nature of the conviction or its relation to the licensed job, section 45:1-21 functions as a carve-out for the standard that section 2A:168A-2 sets. Therefore, section 45:1-21 is due for legislative review and amendment.



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S1589 would amend this section of New Jersey’s licensing laws to remove the phrase “crimes of moral turpitude” and align the statute with the rest of the licensing law, which requires boards to make individualized assessments based on the applicant and his or her qualifications.

In statutes that do not require individualized assessments, vague language affords boards extensive latitude to deny licenses to otherwise qualified people for reasons that may be entirely unrelated to the responsibilities of the job. In fact, “moral turpitude” and other “good moral character” provisions function as a primary mechanism for boards to deny a license to any person with a criminal history, even when the law prohibits blanket bans elsewhere. That one in three Americans has a criminal record, and that licensing laws now cover one in three occupations, suggests that a considerable number of Americans — including many New Jerseyans — could be unemployed simply because they have a record.

Keeping formerly incarcerated people out of licensed jobs beyond what is necessary to protect public safety can actually harm public safety. Without an available path to obtaining an occupational license, people with records are more likely to become unemployed and return to crime. A 2016 report from Arizona State University [found](#) that states with heavier licensing burdens for people with records experience higher recidivism rates than states with lighter burdens.

The optimal policy reform would be to remove vague “moral turpitude” requirements and replace them with individualized assessments. This would allow boards to consider past offenses only if they relate to the nature of the job. Such assessments should also consider time elapsed since the offense occurred, mitigating circumstances and evidence of rehabilitation. New Jersey law prudently requires this in section 2A:168A-2. Ideally, the statute would also list potentially disqualifying crimes so that applicants do not waste hours of time and energy needlessly working for a license for which they will ultimately be denied.

State legislatures across the country are leading the way in reforming barriers to employment. Indiana is the most recent state to update its occupational licensing statute. The provision no longer contains vague “moral character” or “moral turpitude” language and requires that licensing boards deny licenses only to those whose offenses directly relate to the nature of the job for which they are applying. New Jersey can join this movement by advancing this legislation.



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By advancing S1589, the Garden State has a unique opportunity to relax these onerous restrictions and to help many otherwise qualified New Jerseyans find steady employment.

Thank you for your time and consideration. Please do not hesitate to contact me if I can ever be of assistance.

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