

The Beyond the Box for Higher Education Act

A bill to provide colleges and universities with guidance and recommendations on the removal of criminal and juvenile justice questions from their initial application for admissions process.

An estimated one in three Americans has some type of criminal or juvenile record.

- In 2014, the Bureau of Justice Statistics estimated that 70 million Americans have some type of arrest or conviction record that would appear in a criminal background check.ⁱ
- Around one in three Americans has been arrested at least once by the age of 23.ⁱⁱ
- Nearly 11 million Americans were admitted to city and county jails in 2015, with an average daily population of more than 700,000 people.ⁱⁱⁱ
- Each year, over 600,000 people return to society from state and federal prisons.^{iv}

Individuals with criminal or juvenile justice involvement experience barriers to educational opportunities, decreased earnings, increased unemployment, and increased poverty.^v

- Research shows that application rejection rates for individuals with convictions can be as high as 12 to 13 percentage points more than for those without.^{vi}
- One study found that potential applicants with felony convictions failed to complete their applications at a rate that was 41.5 percent higher than for those without felony convictions—62.5 percent versus 21 percent, respectively.^{vii}
- One year after being released, 60 percent of formerly incarcerated individuals remain unemployed.^{viii}
 - Most of those able to find employment have considerably diminished earnings.^{ix}
- One study reports that if not for mass incarceration, the overall U.S. poverty rate would have dropped by 20 percent between 1980 and 2004.^x

Most colleges and universities ask criminal justice, juvenile justice, and/or school disciplinary questions in their admissions processes.

- In the most recent surveys of postsecondary institutions, 60 to 80 percent of private institutions ask criminal or juvenile justice questions during their admissions process.^{xi}
- Similarly, for public institutions, 55 percent of 4-year institutions and 40 percent of community colleges collect this information in their admissions process.^{xii}
- Nearly 75 percent of postsecondary institutions collect elementary and high school disciplinary information.^{xiii}
 - Of those institutions, 89 percent use that information in their admissions process.^{xiv}
- Postsecondary institutions that use universal application services from the Common Application will receive information about an applicant's convictions, both misdemeanor and felony.^{xv}
 - The Common Application, used by over 800 postsecondary institutions, has been asking these questions since 2006.
 - In August 2018, after 18 senators sent a letter urging The Common Application to remove its criminal history question, the organization announced that beginning in August 2019, it will no longer include the question.^{xvi}

To remove barriers to higher education for individuals with criminal or juvenile justice histories, the *Beyond the Box for Higher Education Act* would do the following:

- (1) Direct the Department of Education to provide guidance and recommendations for colleges and universities to:

- a) Determine whether criminal and juvenile justice questions are necessary in the initial application for admissions process;
 - b) Develop a process to determine in what situations criminal or juvenile justice information can be requested of students for non-admissions purposes, and provide a process for prospective students as well as training for staff on the use of such information; and
 - c) Offer recommendations for colleges and universities that decide to keep criminal and juvenile justice questions, such as delaying the request for such information to avoid a chilling effect, and making transparent, specific, and narrow inquiries that offer prospective students the opportunity to explain their involvement.
- (2) Direct the Department of Education to provide colleges and universities with the necessary training and technical assistance to meet the above recommendations.
- a) The Department will also establish a resource center to serve as a repository for best practices as colleges and universities develop and implement new policies.
- (3) Remove the drug conviction question from the Free Application for Federal Student Aid.

The bill is supported by over 40 organizations, including the Association of American Colleges & Universities, Association of Jesuit Colleges & Universities, National Association for College Admission Counseling, R Street Institute, Right on Crime, NAACP, National Association of Criminal Defense Lawyers, Center for Law and Social Policy, National Employment Law Project, Campaign for Youth Justice, Juvenile Law Center, The Sentencing Project, Citizens United for the Rehabilitation of Errants, Safer Foundation, Addiction Policy Forum, College and Community Fellowship, and Louisiana Center for Children’s Rights.

If you have any questions or your boss would like to cosponsor, please contact Trelaine Ito with Senator Schatz at trelaine_ito@schatz.senate.gov.

ⁱ “Survey of State Criminal History Information Systems, 2012.” (U.S. Department of Justice, Bureau of Justice Statistics, 2014), <https://www.ncjrs.gov/pdffiles1/bjs/grants/244563.pdf>.

ⁱⁱ Judith Scott-Clayton, “Thinking ‘beyond the box’: The use of criminal records in college admissions,” (The Brookings Institute, 2017), <https://www.brookings.edu/research/thinking-beyond-the-box-the-use-of-criminal-records-in-college-admissions/>.

ⁱⁱⁱ Todd D. Minton and Zhen Zeng, “Jail Inmates in 2015,” (U.S. Department of Justice, Bureau of Justice Statistics, 2016), <https://www.bjs.gov/content/pub/pdf/ji15.pdf>.

^{iv} Ann E Carson, “Prisoners in 2014,” (U.S. Department of Justice, Bureau of Justice Statistics, 2015), <http://www.bjs.gov/content/pub/pdf/p14.pdf>.

^v Rebecca Vallas et al., “Removing Barriers to Opportunity for Parents with Criminal Records and Their Children,” (Center for American Progress, 2015), <https://www.americanprogress.org/issues/poverty/reports/2015/12/10/126902/removing-barriers-to-opportunity-for-parents-with-criminal-records-and-their-children/>.

^{vi} Robert Stewart and Christopher Uggen, “Criminal Records and College Admissions: A National Experimental Audit,” (Presentation at American Sociological Association Annual Meetings, 2017), <http://users.soc.umn.edu/~uggen/RobStewartASA17.mp4>.

^{vii} “Boxed Out: Criminal History Screening and College Application Attrition,” (Center for Community Alternatives, 2015), http://communityalternatives.org/pdf/publications/BoxedOut_FullReport.pdf.

^{viii} Vallas et al., “Removing Barriers.”

^{ix} Ibid.

^x Robert DeFina & Lance Hannon, “The Impact of Mass Incarceration on Poverty”, (SAGE JOURNALS Vol. 59, Issue 4, 2013) <http://journals.sagepub.com/doi/abs/10.1177/0011128708328864>.

^{xi} Scott-Clayton, “Thinking ‘beyond the box.’”

^{xii} Ibid.

^{xiii} Marsha Weissman and Emily NaPier, “Education Suspended: The Use of High School Disciplinary Records in College Admissions,” (Center for Community, 2015), <http://communityalternatives.org/pdf/publications/EducationSuspended.pdf>.

^{xiv} Ibid.

^{xv} Scott-Clayton, “Thinking ‘beyond the box.’”

^{xvi} Alia Wong, “The Common App Will Stop Asking About Students’ Criminal Histories,” (*The Atlantic*, 2018), <https://www.theatlantic.com/education/archive/2018/08/common-app-criminal-history-question/567242/>.