



Christian Caldwell's

depression started at age 12. In the years that followed, he tried to commit suicide six times. In high school, he mostly kept to himself. He played basketball and baseball, but struggled with severe anxiety at game-time. He began to self-medicate, starting with alcohol. At first, it felt like a solution. He finally felt like he could be social. He went to college, where he studied finance. After an open container conviction at age 20, Christian sought help. A psychiatrist put him on several different pharmaceuticals. But shortly thereafter, his drinking resumed. And he started getting into fights.

In 2001, after his longtime girlfriend cheated on him with his best friend, he went home, got drunk, and took a handful of Clonopin. He woke up in jail. He later learned he had entered his ex-girlfriend's home and attempted to assault the former best friend. No one was injured, but he pled guilty to burglary and assault in order to avoid prison time.

“If only I had the tools back then that I have now...”

~ *Christian Caldwell*

Eventually, Christian was diagnosed with a personality disorder. The prior treatments he had received were based on the wrong diagnosis and were, at best, ineffective. Since then, counseling and behavioral therapy have given him a set of coping skills he never had before. He believes that if he “had the tools back then that I have now,” he probably would have avoided his run in with the law.

Despite completing his sentence and going fifteen years without any trouble, Christian is still trapped by the consequences of his criminal history. He got a job as a personal trainer and enrolled in DeTtech to get a degree in exercise science. But he dropped out after being fired because of his criminal background check. He considered getting a real estate license, but decided against it when he was told he would never get licensed. He was offered two other jobs as well, but the offers were rescinded once they learned he had burglary and assault convictions. The only steady employment he has been able to achieve—because in that field he is judged only by the quality of his work—is as a house painter.

Christian should not have to stay out of trouble for another decade before he is accepted back into normal society. Fifteen years is long enough to conclude that he has been rehabilitated and deserves a fair shot without the burden of his criminal record.

EMPLOYMENT: DELAWARE LAW MAKES IT UNDULY HARD FOR PEOPLE WITH CRIMINAL RECORDS TO FIND STABLE WORK

The most significant factor impacting a person's successful reintegration after prison is whether they find a stable job.ⁱ Nationally, roughly two thirds of people released from prison are still unemployed a year after release.ⁱⁱ Job training does little to raise their employment prospects.ⁱⁱⁱ Regardless of their skills or background, people with a criminal record are burdened by the indelible mark of even minor criminal encounters, misguided policies categorically disqualifying anyone with a criminal record, and limits on professional licensing.

- **Disqualification based on arrests without conviction.** Rejection of applicants based on arrest records can violate federal antidiscrimination law. But unlike a dozen states that bar such discrimination, Delaware does not. Hawaii and Massachusetts forbid inquiry of any kind into criminal history until after the initial application stage, so that applicants have the opportunity to show that they are qualified for the position.
- **Checking the box.** When seeking some government-related jobs in Delaware, applicants are not asked if they have a felony conviction on the job application. However, most private employers and many public employers may still ask applicants to “check the box” indicating that they have been convicted of a felony (or sometimes any conviction). The result is that people with a conviction—no matter how minor or how many years have passed—are often automatically rejected despite their qualifications.
- **Expungement.** Expungement is the destruction or deletion of a criminal record in order to avoid the unwarranted stigma that comes from merely being arrested without conviction, or from a conviction after a person has been rehabilitated. Unlike the majority of states, Delaware provides no method for expungement of most ordinary adult criminal convictions. A shoplifting conviction as a high school senior will follow an individual for the rest of her life in Delaware, often disqualifying her before she even has an opportunity to explain the circumstances of the crime or what has happened in her life since.
- **Occupational licensing.** Over 50 professions in Delaware require a professional license even for entry-level positions. In theory, professional boards may only refuse licenses for people convicted of a crime “substantially related” to the profession. In reality, a wide range of convictions bar individuals from professional licenses whether they are related to the job or not. For example, there are 300 crimes that bar someone from becoming a dental hygienist, from bigamy to failing to file taxes.

ⁱ Mark T. Berg & Beth M. Huebner, *Reentry and the Ties that Bind: An Examination of Social Ties, Employment, and Recidivism*, 28 JUSTICE QUARTERLY 382 (2011).

ⁱⁱ Jeremy Travis, *BUT THEY ALL COME BACK: FACING THE CHALLENGES OF PRISONER REENTRY* (2005).

ⁱⁱⁱ Lois M. Davis, et al., *HOW EFFECTIVE IS CORRECTIONAL EDUCATION, AND WHERE DO WE GO FROM HERE?* 15 (2014).

A professional board's power to override these broad restrictions is limited — no waivers can be granted until an applicant has paid or is on track to pay all of the fines and fees they owe the court; and a waiver for someone with a felony conviction cannot be granted until five years have elapsed. This is quite a catch-22 when someone is trying to get a job to pay the fines and fees they owe. Even more troubling are licensing restrictions in the context of prison vocational training. In some instances, the Department of Corrections is training inmates for jobs they cannot be licensed for without a waiver, including jobs in HVAC and plumbing.

CRIMES *that* PREVENT LICENSURE *for a barber*



[Sexual relations in detention facility](#) (11 Del. C. 1259)
[Obscenity](#) (11 Del. C. 1361)
[Identity Theft](#) (11 Del. C. 854)
[Possession of forgery devices](#) (11 Del. C. 862)
[Unlawful use of a credit card](#) (11 Del. C. 903)
[Endangering the welfare of a child](#) (11 Del. C. 1102)
[Second degree perjury](#) (11 Del. C. 1222)
[Misuse of prisoner mail](#) (11 Del. C. 1260)
[Violation of privacy](#) (11 Del. C. 1335)
[Promoting prostitution in the third degree](#) (11 Del. C. 1351)
[Promoting prison contraband; deadly weapon](#) (11 Del. C. 1256)
[Carjacking in the first degree](#) (11 Del. C. 836)
[Burglary in the second degree](#) (11 Del. C. 825)
[Escape after conviction](#) (11 Del. C. 1253)
[Hate crimes](#) (11 Del. C. 1304)
[Stalking](#) (11 Del. C. 1312A)
[Cruelty to animals; felony](#) (11 Del. C. 1325)
[Giving a firearm to person prohibited](#) (11 Del. C. 1454)
[Violation of privacy](#) (11 Del. C. 1335)
[Aggravated harassment](#) (11 Del. C. 1312)

SOLUTIONS:

- Prevent all employers from asking about convictions on application forms.
- Forbid consideration of arrests without conviction in private employment.
- Expand access to expungement and ensure that an expunged or incorrect record cannot be accessed by potential employers or landlords.
- Amend occupational licensing laws to ensure that crimes that prohibit one from licensure are narrowly tailored to the profession in question.
- Expand waiver provisions so that boards can decide for themselves whether a particular individual is worthy of licensure.