



# The Florida Senate

*Interim Project Report 2008-114*

*December 2007*

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Committee on Criminal Justice

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## **RULES FOR RESTORATION OF CIVIL RIGHTS FOR FELONS AND IMPACTS ON OBTAINING OCCUPATIONAL LICENSES AND OTHER OPPORTUNITIES**

### **SUMMARY**

In April 2007, the Governor and Cabinet changed the Rules of Executive Clemency to make more convicted felons who have completed their sentences eligible for restoration of civil rights. In the eight months since the change, almost twice as many felons have had their rights restored as in any previous year. Many offenses for which restoration of rights was either excluded or delayed for a period of years are now eligible for restoration after verification that all qualifying conditions have been met.

Many occupations in Florida are closed to ex-felons because of offense-based employment restrictions. Restoration of civil rights allows ex-felons to seek employment in many occupations previously closed to them. However, poorly defined restrictions, such as requiring that the person not have committed an act or crime of moral turpitude, still close many occupations to persons whose act or offense may have nothing to do with the requirements of the desired occupation.

### **BACKGROUND**

The civil rights of a convicted felon are suspended until restored by pardon or restoration of civil rights. Among the civil rights that are lost are the right to vote, to hold public office, to serve on a jury, to possess a firearm, and to engage in certain regulated occupations or businesses. The power to restore civil rights is granted by the Florida Constitution to the Governor with the consent of at least two Cabinet members pursuant to Article IV, Section 8(a), of the Florida Constitution.

#### ***Restoration of Civil Rights***

The Florida Parole Commission (FPC) acts as the agent of the Clemency Board in determining whether offenders are eligible for restoration of rights, investigating applications and conducting hearings when required, and making recommendations to the board.

During the period from 1975 to 1991, felons who completed their sentences had their civil rights automatically restored by the Clemency Board. However, in 1991 the process was changed to require review prior to restoration. Subsequent to that time, certain felons who had been convicted of less serious crimes were allowed to apply for restoration of rights without a hearing. This process still required the felon to file a lengthy application that had to be investigated and verified by the Parole Commission. If determined to be eligible for restoration without a hearing, the felon's name was included on a list forwarded to the Clemency Board for consideration. A felon would receive restoration of rights without a hearing unless two Clemency Board members objected. Those who were rejected, or who did not meet the criteria to apply for restoration without a hearing, could still apply for a hearing to present their case before the board.

Section 944.293, F.S., requires the Department of Corrections (DOC) to obtain the application and any other forms needed to apply for restoration of civil rights, to assist offenders in completing the forms, and to ensure that the forms are forwarded to the Governor. Felons being released from prison at the expiration of their sentence were required to be given this assistance. Those whose sentences expired upon release from community supervision were not required to file an application; rather, a list of those eligible for restoration without a hearing was sent from the department to the commission.

Prior to 2001, the commission annually received approximately 22,500 requests for restoration without a hearing through applications of felons being released from prison, applications from felons previously released, and those released from supervision whose names were sent directly to the commission. At that time, there was a backlog of approximately 7,199 names.

After 2000, a number of factors combined to greatly increase the number of applications filed and the backlog of cases. The 2000 presidential elections focused attention on voting issues, and many civic groups organized efforts to help ex-felons apply for restoration of civil rights. Additionally, a lawsuit filed in 2001 by the Florida Caucus of Black State Legislators resulted in a 2004 ruling by the First District Court of Appeal that the department was not assisting inmates with the application process as required by law.<sup>1</sup> The lawsuit prompted better compliance with the law, resulting in an increase in applications. In 2001, the Clemency Board eliminated the requirement for inmates to file an application, with a computer-generated list of felons eligible for restoration sent directly to the commission by the department. The Clemency Board also revised the rules in 2001 to make more offenders eligible for restoration without a hearing. In addition to new applications resulting from these factors, for a period of time the computer program that generated the list of persons eligible for restoration after completion of community supervision was not functioning properly. This was corrected in March 2001, adding to the commission's backlog. These changes appear to be the primary factors that increased the annual number of new cases to approximately 40,000.

In April 2007, the Clemency Board fundamentally changed the restoration of civil rights process by revising the Rules of Executive Clemency to automatically restore civil rights for certain classes of offenders.<sup>2</sup> The differences between these new rules and the previous rules are examined in detail in the Findings section of this report.

### ***Employment Restrictions***

The Florida Department of Law Enforcement's criminal history database includes records of approximately 800,000 persons who have been convicted of a felony in Florida. Some of these persons have died or left the state, and other persons who were convicted outside of Florida are not in the database.

More than 71,000 persons were completely discharged from state custody during the 2005-2006 fiscal year. Of these, 21,336 were released from prison without community supervision afterward and 50,295 were released from community supervision.<sup>3</sup>

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<sup>1</sup> Florida Caucus of Black State Legislators, Inc. v. Crosby, 877 So.2d 861 (Fla. 1st Dist. 2004).

<sup>2</sup> Neither rule restores the right to possess firearms.

<sup>3</sup> Florida Department of Corrections 2005-2006 Annual

The state correctional system included 92,884 inmates as of June 30, 2007.<sup>4</sup> The Governor's Ex-Offender Task Force estimates that almost ninety percent of Florida inmates will be released one day, but that over a quarter of them will return to prison within 3 years. The Task Force found that prison releasees face barriers to employment because many jobs are affected by restrictions based on criminal records.<sup>5</sup> It estimated that almost forty percent of the 7.6 million jobs in Florida are subject to criminal background checks or restrictions based on criminal history. One of the most common restrictions is a requirement for restoration of civil rights. Other restrictions are based on commission of specific crimes or passing a background check under Chapter 435, F.S. Less defined restrictions require assessment of whether the applicant has good moral character, has committed an act or crime of moral turpitude, or has committed a crime related to the position sought.<sup>6</sup>

Florida law provides the following regarding the effect of civil rights restoration on a felon's ability to engage in a regulated business or occupation:

Except as provided in s. 775.16, a person whose civil rights have been restored shall not be disqualified to practice, pursue, or engage in any occupation, trade, vocation, profession, or business for which a license, permit, or certificate is required to be issued by the state, any of its agencies or political subdivisions, or any municipality solely because of a prior conviction for a crime. However, a person whose civil rights have been restored may be denied a license, permit, or certification to pursue, practice, or engage in an occupation, trade, vocation, profession, or business by reason of the prior conviction for a crime if the crime was a felony or first degree misdemeanor and directly related to the specific occupation, trade, vocation, profession, or business for

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Report.

<sup>4</sup> Florida Department of Corrections website, [www.fl.dc.state.us/pub/pop/facility/fy0607.html](http://www.fl.dc.state.us/pub/pop/facility/fy0607.html), viewed November 26, 2007.

<sup>5</sup> Final Report of the Governor's Ex-Offender Task Force, November 2007.

<sup>6</sup> Key Findings and Recommendations Based on State Agency Responses to Executive Order 06-89, Governor's Ex-Offender Task Force, January 18, 2007.

which the license, permit, or certificate is sought.<sup>7</sup>

Thus, it appears that civil rights restoration removes any general prohibition that would prevent a person with a felony conviction from engaging in a business or occupation. However, some licensing boards have interpreted this statute to imply a requirement for restoration of civil rights.

## **METHODOLOGY**

Staff reviewed the current and former Rules of Executive Clemency and reports and working papers of the Governor's Ex-Offender Task Force and the Office of the Governor. Staff also discussed the subjects of the report with representatives of the Parole Commission, the Governor's Office, and others interested in civil rights restorations and employment of ex-felons. In addition, staff reviewed pertinent Florida Statutes and rules.

## **FINDINGS**

### ***Restoration of Civil Rights Under Prior Rules of Executive Clemency:***

The first conditions for being eligible to apply for restoration of civil rights were that the felon must have completed all sentences, that all conditions of supervision had been satisfied or expired, and that there was no outstanding victim restitution. Once these primary conditions were satisfied, felons were either immediately eligible to apply for restoration without a hearing or had a five or fifteen year waiting period. The time of eligibility depended upon the offense for which rights were lost. The list of offenses which made a felon ineligible for consideration was broadest for the immediate consideration category and less restrictive for the 5 and 15-year categories. Only capital and life felons were completely excluded from applying for restoration without a hearing. The rules also provided a procedure for waiver of the requirements.

In most cases, consideration for restoration of rights without a hearing required an affirmative act on the part of the ex-felon. This originally required filing of a properly-completed application form, but provision was later made to initiate the process based upon a telephone call or other communication with the Parole Commission. Also, in more recent years the names of felons who were eligible for immediate consideration for restoration without a hearing were sent directly to

the Parole Commission by the Department of Corrections upon completion of their sentence.

After the felon's name came to the Parole Commission, the commission was responsible for verifying whether the felon was in fact eligible for restoration of rights without a hearing. The average time to process a restoration without a hearing application coming directly from the department was approximately 6 months.<sup>8</sup> Representatives of the commission indicate that verifying payment of victim restitution was the most time-consuming component of the verification process.

### ***Restoration of Civil Rights Under Current Rules of Executive Clemency:***

Like the previous rules, eligibility for restoration of civil rights requires that the felon have completed all sentences, that all conditions of supervision have been satisfied or expired, and that there is no outstanding victim restitution. Thereafter, the felons fall into one of three categories: those immediately eligible for automatic approval of restoration, those immediately eligible for restoration without a hearing, and those eligible for restoration without a hearing after 15 years.

Automatic approval requires a basic investigation by the Parole Commission to determine eligibility and to ensure that the felon has no pending charges and no detainers. Those who meet the criteria are placed on the executive order for signature by the Clemency Board. Once the order is signed, the Parole Commission mails certificates of restoration to the affected persons.

This category of persons immediately eligible for restoration without a hearing includes persons who were convicted of crimes that exclude them from automatic approval, but which are not considered serious enough to delay restoration for a period of years after completion of the sentence. Approval without a hearing requires a more thorough eligibility investigation, after which a preliminary review list is submitted to the Clemency Board for consideration. The Governor and two members of the Clemency Board must approve restoration of rights without a hearing within 30 days of submission of the preliminary review list. If approved, an executive order is signed and the

<sup>7</sup> s. 112.011(b), F.S.

<sup>8</sup> OPPAGA Report No. 06-15, Parole Commission Operations Consistent with Its Mission; Clemency Workload Needs to Be Addressed, February 2006.

Parole Commission issues a certificate of restoration.

The final group of felons who will eventually become eligible for restoration are those who committed more serious crimes and are therefore not eligible for automatic approval of restoration or immediate restoration without a hearing. After a period of 15 years free from conviction or arrest, any felon who has satisfied the prerequisites for eligibility (completion of sentence, satisfaction or expiration of conditions of supervision, and no outstanding restitution) is eligible to be considered for restoration without a hearing.

Felons who do not qualify for automatic restoration or restoration without a hearing, or who are rejected, may seek a hearing to request restoration.

### **Comparison between Prior and Current Rules:**

#### ***Procedural Differences:***

The current Rules of Executive Clemency do not restore civil rights to all felons after completion of sentence. However, they make restoration available to many more persons than was the case under the rules that were in effect prior to April 5, 2007. One of the most significant differences is that the civil rights restoration process is initiated automatically for all felons who were sentenced to confinement or supervision by the Department of Corrections, including those who have already completed their sentences. The department performs an initial screening for eligibility and provides names of those deemed eligible to the commission for further review. Under the prior rules, persons were screened as they left the department's custody; those with previous convictions had to affirmatively request restoration. This change immediately created a significant backlog of cases to be reviewed, but also presents a clearer picture of the number of persons in Florida without civil rights. However, persons who were convicted in another state, convicted in federal court (including by court martial), or convicted of felonies in Florida but not placed in the department's custody must still request initiation of the restoration process.

The most apparent difference between the current and the prior rules is that the current rules provide for "automatic" restoration of civil rights. Executive orders including the names of felons eligible for automatic restoration are sent to the Clemency Board on a continuing basis. Under the prior rules, restoration was only granted at one of the quarterly Clemency Board meetings. Also, there is no provision for the Clemency Board to remove a person from the automatic

restoration list. On the other hand, the Governor and two members of the Clemency Board must approve restoration of rights for an individual who is on the preliminary review list for restoration without a hearing. This differs from the process for restoration without a hearing under the prior rules, which provided that those on the preliminary review list were granted restoration unless two members of the Clemency Board objected to restoration of the individual's rights.

A "mid-level investigation" is performed for persons considered for restoration without a hearing. The scope of this investigation lies between that performed for those eligible for automatic investigation and those who require a hearing. The mid-level investigation results in an individual case report that is sent to the Clemency Board.<sup>9</sup> The restoration without a hearing investigation under the prior rules was less extensive and did not produce an individual case report.

#### ***Substantive Differences:***

The new rules have significantly expanded the opportunity for persons to have their civil rights restored after completion of their sentences. When both automatic restoration cases and restoration without a hearing cases are considered, far fewer offenses are excluded from eligibility for immediate restoration than under the prior rules. The differences between the exclusions fall into four categories: those offenses that are excluded from consideration for 15 years under both rules; those offenses that were excluded from consideration for a period of time under the prior rules but that are immediately eligible for restoration under the new rules; those offenses that were excluded from consideration for a period of time under the prior rules but that are not excluded from consideration under the new rules; and newly excluded offenses. Each of these categories has subcategories as set forth below.

#### **Offenses excluded until 15 years under both prior and current rules**

- Murder, attempted felony murder, manslaughter (ch. 782, F.S.)<sup>10</sup>

<sup>9</sup> In cases that require a hearing, the commission conducts an even more extensive investigation and makes an advisory recommendation as to whether restoration should be granted.

<sup>10</sup> These are generically listed as homicide and

- DUI manslaughter (s. 316.193(3), F.S.)
- Aggravated child abuse (s. 827.03, F.S.)
- Sexual battery and attempted sexual battery (s. 794.011, F.S.)<sup>11</sup>
- Lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition (ch. 800, F.S.)
- Offenses that require registration as a sexual predator under s. 775.21, F.S.

Offenses excluded under prior rules but now eligible for automatic restoration

a. *Excluded until 15 years under prior rules.*

- Illegal use of explosives
- Child abuse
- Abuse or aggravated abuse of an elderly person or disabled adult
- Robbery
- Shooting or throwing missiles into or from a vehicle or dwelling

b. *Excluded until 5 years under prior rules.*

- Burglary of a dwelling<sup>12</sup>
- Stalking
- Manufacturing any substance in violation of ch. 893, F.S.
- Battery on a law enforcement officer or other specified officer
- DUI resulting in serious bodily injury under s. 316.193, F.S.
- Public corruption or violations of election laws
- Crimes committed by an elected official
- Leaving the scene of an accident with serious injury or death
- Possession of a firearm by a convicted felon

Offenses with a reduced exclusionary period under the current rules

a. *Excluded until 15 years under prior rules; excluded from automatic restoration but immediately eligible for restoration without a hearing under current rules.*

- Kidnapping, false imprisonment (ch. 787, F.S.)

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manslaughter in the prior rules.

<sup>11</sup> This category includes “Sexual activity with a child, 12 or older but less than 18, by or at solicitation of person in familial or custodial authority” that is stated separately in the prior rule.

<sup>12</sup> Burglary of an occupied dwelling is a first degree felony that is excluded from automatic restoration under the current rules. Burglary of an unoccupied dwelling is a second-degree felony and is not excluded.

- Aggravated battery (s. 784.045, F.S.)
- Armed robbery, carjacking, home invasion, (ch. 812, F.S.)
- Arson (s. 806.01, F.S.)
- Aircraft piracy (s. 860.16, F.S.)

b. *Excluded until 5 years under prior rules; excluded from automatic restoration but immediately eligible for restoration without a hearing under current rules.*

- Aggravated assault (s. 784.021, F.S.)
- Aggravated stalking (s. 784.048, F.S.)
- Aggravated battery or aggravated assault on a law enforcement officer or other specified officer (s. 784.07, F.S.)
- Attempted aggravated battery
- Attempted armed robbery
- Attempted arson
- Attempted carjacking
- Attempted home invasion
- Attempted kidnapping
- First degree trafficking in illegal substances (s. 893.135, F.S.)
- Habitual Violent Felony Offender under s. 775.084(1)(b), F.S.
- Three-time Violent Felony Offender under s. 775.084(1)(c), F.S.
- Violent Career Criminal under s. 775.084, F.S.
- Prison Releasee Reoffender under s. 775.082(9)(a), F.S.

Offenses excluded under current rules but not excluded under prior rules

a. *Excluded until 15 years under current rules.*

- Lewd or lascivious offense or attempted lewd or lascivious offense upon or in the presence of an elderly or disabled person (s. 825.1025, F.S.)
- Sexual performance by child or attempted sexual performance by child (s. 827.071, F.S.)
- Failure to register as a sexual predator (ch. 775, F.S.) or sexual offender (s. 943.0435, F.S.)
- Treason (s. 876.32, F.S.)<sup>13</sup>

b. *Excluded from automatic restoration but immediately eligible for restoration without a hearing under current rules.*

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<sup>13</sup> Article IV, Section 8, of the Florida Constitution provides that in treason cases the Governor may grant a reprieve until adjournment of the Legislative Session after conviction, and the Legislature may grant pardon or further reprieve. This is the only offense for which clemency is reserved to the Legislature.

- Luring and enticing a child
- Poisoning of food or water (s. 859.01, F.S.)
- Computer pornography, transmission of computer pornography, buying or selling of minors (ch. 847, F.S.)
- First degree burglary or attempted first degree burglary (s. 810.02, F.S.)<sup>14</sup>
- Abuse of a dead human body (s. 872.06, F.S.)
- Unlawful throwing, placing, or discharging of a destructive device or bomb (s. 790.161, F.S.)

Offenses excluded until 15 years under current rules, excluded until 5 years under prior rules.

- Attempted murder
- Attempted lewd and lascivious battery

Exclusions that cannot be directly compared

- The prior rules completely excluded persons convicted of a capital or life felony from consideration for restoration without a hearing. The new rules do not completely exclude any offense.
- The prior rules exclude an “act of domestic violence as defined in s. 741.28, F.S.,” from consideration for 15 years. Whether a crime is classified an act of domestic violence depends upon the relationship of the victim and the offender. The current rules base exclusion on the underlying crime, not on whether it is categorized as an act of domestic violence.

**Implementation of the restoration of civil rights process:**

The civil rights of 10,519 persons were restored without a hearing during Fiscal Year 2005-2006, the last full fiscal year before the Clemency Rules were amended. This was out of a total of 43,706 cases that were processed. An additional 483 persons had civil rights restored after a hearing out of 5,304 cases processed. At the close of FY 2005-2006, 29,786 requests for restoration without a hearing were pending. The historical totals since FY 2001/2002 are included in the following table:

	Pending on 1 July	Processed	Rights Restored
FY 01/02	16,220	36,047	2,323
FY 02/03	48,010	123,074	10,516
FY 03/04	53,118	68,620	20,714
FY 04/05	24,590	40,124	19,881
FY 05/06	28,995	43,706	10,519
Total	--	311,571	61,630

After the rules were amended, it was estimated that approximately 426,000 felons who had completed their sentence could be eligible for restoration of civil rights. Of this group, approximately 298,000 could be eligible for automatic restoration. The remainder would be eligible either for restoration without a hearing after completion of sentence or restoration without a hearing after completion of sentence followed by 15 years without a conviction or arrest.

In order to screen and process this large volume of persons, the department and the commission prioritized review of the approximately 298,000 persons with the less serious offense who might be eligible for automatic restoration (Level 1). Designated department personnel were trained by the commission to review the individual records and perform an initial eligibility screen. The initial screening determines whether the person:

- (1) Has completed all sentences and conditions of supervision (or whether the conditions have expired)
- (2) Has outstanding detainers or pending criminal charges
- (3) Has paid all restitution and any obligation under chapter 960, F.S.
- (4) Has been convicted of one of the offenses or is in one of the classes of felons that are excluded from consideration for automatic restoration
- (5) Is a U.S. citizen

The names of those who are determined to be eligible for automatic restoration are forwarded to the commission for further review. The review system provides for the commission to provide feedback to the department regarding errors that are observed. It appears that the most common error in the first months of review was failure to identify that the person was ineligible for restoration because he or she had not paid all victim restitution. The frequency of this error has been reduced in more recent months. Other errors that have been observed are transmission of names of persons who have disqualifying offenses, who have not completed a sentence or supervision, who have a detainer or pending charges, or who do not need restoration because they never lost their civil rights or have died. It appears that the most common error in recent reviews was the inclusion of persons who are deceased or who never lost their rights because adjudication was withheld on felony charges.

<sup>14</sup> See footnote 11.

The following summarizes progress in restoring civil rights from April 5 to November 26, 2007:

<b>Progress in Restoring Rights Under New Rules</b>	
Previous release cases reviewed by DOC	286,315
Previous release cases referred to FPC after initial DOC review found no disqualifiers	138,911
Previous release cases with final FPC review completed	30,815
Previous release cases determined to be eligible for automatic restoration	21,099
Current release cases with FPC review completed	31,124
Current release cases determined to be eligible for automatic restoration	17,930
Total cases with FPC review completed	61,939
Total cases determined to be eligible for automatic restoration	39,029

***Impact of the new rules upon eligibility for professional and occupational licenses***

In Executive Order 06-89, Governor Jeb Bush directed the executive agencies to produce a report for the Ex-Offender Task Force describing any employment restrictions and disqualifications based upon criminal records for any occupation that came under the jurisdiction of the agency or one of its subordinate boards. A compilation of these reports and review of other sources by the Task Force indicates that occupations for which restoration of civil rights is required fell into the following three categories as of September 2006<sup>15</sup>:

**Occupations for which restoration of civil rights is statutorily mandated by agency (cannot be modified without legislative action)**

Department of Revenue

- Terminal supplier, importer, exporter, blender, carrier, terminal operator, or wholesaler fueler license

Department of State

- Notary Public

Department of Health

- Permit for ether distribution, manufacture, purchase or dealing

Department of Business and Professional Regulation

- Labor union business agent license
- Horseracing or dogracing permit or jai alai fronton permit holders and employees

Department of Agriculture and Consumer Services

- Private investigator, private security and repossession services

Department of Highway Safety and Motor Vehicles

- Dealer License of Motor Vehicle, Auction, Mobile Home, Recreational Vehicle Dealers and Manufacturers
- Wrecker Operator
- Law Enforcement Officer

Department of Financial Services

- License and permits for explosives users, manufacturers, distributors, or dealers

**Occupations for which restoration of civil rights is required by agency pursuant to statutory discretion**

Department of Agriculture and Consumer Services

- Pest control operator license

Department of Health Boards

- Certified Nurse Assistant
- Electrolysis
- Emergency Medical and Paramedics
- Licensed Practical Nurse (subsequently deleted)
- Registered Nurse (subsequently deleted)
- Occupational Therapist
- Physical Therapist
- Orthotists & Prosthetists
- Radiological Technologist

**Occupations for which restoration of civil rights is required by agency, but requirement is not specifically authorized in statute**

Department of Financial Services

- Licensure for mortgage broker
- Mortgage broker business
- Mortgage lender
- Correspondent mortgage lender

<sup>15</sup> Governor Crist has directed the agencies to submit updated reports, and a report of the Governor's Office findings is expected to be released soon.

- Title loan lender
  - Motor vehicle retail installment seller
  - Retailer installment seller
  - Sales finance company
  - Home improvement finance seller
  - Consumer finance
  - Fire equipment dealers
  - Fire protection system contractors
  - Explosives license
- Department of Business and Professional Regulation
- Construction contractor license<sup>16</sup>
  - Electrical contractors
  - Auctioneer
  - Asbestos abatement licenses

These occupational descriptions encompass a significant number of jobs within the Florida workforce. The increased availability of civil rights restoration makes these jobs and careers potentially open to felons who have had their rights restored. Of particular note is the health care field, which is one of the fastest-growing employment sectors.

The governor’s emphasis on review of employment restrictions is likely to prompt agencies and boards to reconsider blanket requirements for restoration of civil rights. For example, the Department of Health’s Board of Nursing recently amended its rules to delete the discretionary requirement that civil rights be restored before a nursing license can be granted.<sup>17</sup>

In addition to the statutes mandating or permitting requirements for restoration of civil rights, there are a number of statutes that require or permit agencies to disqualify applicants based upon whether they have good moral character or have committed a crime or other act of moral turpitude. The terms “good moral character” and “moral turpitude” are undefined and susceptible to varying interpretations. While it may have been expected that agencies would specify which crimes and acts fit into such categories, in many cases the requirements have been carried forward into rule or policy without further explanation. This leaves the applicant with no basis to know what is a disqualifying crime or act.

Florida law explicitly recognizes that “(o)ne of the chief factors contributing to the high recidivism rate in the state is the general inability of ex-offenders to find or keep meaningful employment.”<sup>18</sup> Unnecessary employment restrictions reduce the likelihood that an ex-offender will be successfully reintegrated into society. Removal of such hindrances would increase public safety, reduce costs of imprisonment, and give the individual a better opportunity for a productive life.

### RECOMMENDATIONS

The Legislature should review and consider abolishing all statutorily mandated and permitted restrictions on employment solely related to restoration of civil rights.

The Legislature should consider removing statutory language that creates or authorizes employment restrictions based upon “moral turpitude” or “good moral character,” replacing them either with specific offenses or with direction that the agencies specify offenses or acts that are related to the position or license sought.

The Legislature should consider legislation requiring that agencies include a waiver provision to relieve persons from an offense-based occupational exclusion if the person can demonstrate rehabilitation after a period of time.

The Legislature should closely monitor progress made by the executive agencies in tailoring employment restrictions for felony convictions to the license sought. If sufficient progress is not made, legislation should be considered to enact a single labor law that clearly establishes which laws exclude ex-felons from which occupations.

The Legislature should amend s. 112.011(1)(b), F.S., to clarify that state agencies and licensing authorities may not require restoration of civil rights as a condition of licensing or regulation unless authority to do so is specified in the statutes.

<sup>16</sup> This restriction was included on the license application form at the time of the review, but has since been removed.

<sup>17</sup> The amendment deleting the requirement from Rule 64B9-3.002 became effective November 22, 2007.

<sup>18</sup> Section 944.012(3), F.S.