**Reentry MythBusters** are fact sheets, designed to clarify existing federal policies that affect formerly incarcerated people (FIP) and their families.

These resources cover areas such as **public housing, access to benefits, parental rights, employer incentives, Medicaid suspension/termination**, and more.

As you will see, some federal laws and policies are less restrictive than is commonly perceived, as is the case with public housing and food assistance benefits. In several policy areas, states and localities have broad discretion in determining how policies are applied and/or have various opt-out provisions for states (TANF and child support are examples here). In some cases, statutory barriers do not exist at all or are very limited, as is the case with federal hiring. In fact, some federal policies and practices contain incentives for assisting the formerly incarcerated population (i.e., federal bonding and tax incentives for employers hiring justice-involved individuals).

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**Who are Reentry MythBusters for?**

- **Prison, jail, probation, community corrections, and parole officials** who want to ensure that individuals can access federal benefits, as appropriate, immediately upon release to help stabilize the critical first days and weeks after incarceration. Pre-release applications and procedures are available for certain federal benefits (Veterans, Social Security, food assistance, and student financial aid).

- **Reentry service providers and faith-based organizations** who want to know how to access the laws and policies related to public housing, SNAP benefits, federal student financial aid, and Veterans, Social Security, and TANF benefits. The Reentry MythBusters also describe child support options, parental rights while incarcerated, and the appropriate use of criminal histories in hiring decisions.

- **Employers and workforce development specialists** who are interested in the incentives and protections involved in hiring formerly convicted individuals. The Reentry MythBusters are also helpful to employers (including federal agencies) who want to better understand the appropriate use of a criminal record in making hiring decisions.

- **States and local agencies** that want to understand, modify, or eliminate certain bans on benefits (such as TANF, SNAP) for people who have been convicted of drug felonies.
REENTRY MYTHBUSTERS

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On Public Housing

**MYTH:** Individuals who have been convicted of a crime are “banned” from public housing.

**FACT:** Public Housing Authorities have great discretion in determining their admissions and occupancy policies for formerly incarcerated people. While PHAs can choose to ban FIP from participating in public housing and Section 8 programs, it is not HUD policy to do so. In fact, in many circumstances FIP should not be denied access.

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**FACT:** There are only two convictions for which a PHA MUST prohibit admission:

- If any member of the household is subject to a lifetime registration requirement under a State sex offender registration program; and
- If any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.

Additionally, PHAs must prohibit admission of an applicant for three years from the date of eviction if a household member has been evicted from federally assisted housing for drug-related criminal activity. PHAs must also establish standards which prohibit admission if the PHA determines that any household member is currently engaged in illegal use of a drug or the PHA determines that it has reasonable cause to believe that a household member’s illegal drug use or a pattern of illegal drug use may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

In these cases, however, PHAs retain their discretion to consider the circumstances and may admit households if the PHA determines that the evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program, such as those supervised by drug courts, or that the circumstances leading to eviction no longer exist (24 CFR 5.854).

PHAs must also formally allow all applicants to appeal a denial for housing giving the applicant an opportunity to present evidence of positive change since the time of incarceration. Working within the parameters and flexibilities of the above regulations, many PHAs have established admissions and occupancy policies that have promoted reuniting families in supportive communities and using stable housing as a platform for improving the quality of life.

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**For More Information**

**Housing Choice Vouchers Fact Sheets (HUD)**
https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/about/fact_sheet#10
24 CFR 960.204 for Public Housing & 24 CFR 982.553 for the Housing Choice Voucher program

For assistance with the legal text please see:
https://www.law.cornell.edu/cfr/text/24/982.553

“An Affordable Home on Re-entry: Federally Assisted Housing and Previously Incarcerated Individuals”

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Reentry Mythbusters

On the Work Opportunity Tax Credit

**MYTH:** Employers have no federal income tax advantage by hiring an ex-felon.

**FACT:** Employers can save money on their federal income taxes in the form of a tax credit incentive through the Work Opportunity Tax Credit (WOTC) program by hiring ex-felons. An ex-felon under WOTC is an individual who has been convicted of a felony under any statute of the United States or any State, and has a hiring date which is within one year from the date of conviction or release from prison.

The main objective of this program is to enable certified employees to gradually move from economic instability to self-sufficiency as they earn a steady income and become contributing taxpayers. At the same time, participating employers are compensated by being able to reduce their federal income tax liability. The Work Opportunity Tax Credit program (WOTC) joins other workforce programs that help incentivize workplace diversity and facilitate access to good jobs for American workers.

**THE WOTC:** For each new FIP hired, the credit is 25% of qualified first-year wages for those employed at least 120 hours, or $1,500; and 40% for those employed 400 hours or more, or $2,400.

**TARGET GROUPS:** The WOTC is a federal tax credit used to reduce the federal tax liability of private-for-profit employers. The WOTC is available to certain tax-exempt organizations as well. Employers can hire individuals from the following 9 target groups, which have traditionally faced significant barriers to employment:

- Qualified TANF Recipients
- Qualified Veterans
- Qualified Formerly Incarcerated Individuals
- Qualified Designated Community Residents (DCR)
- Qualified Vocational Rehabilitation Referrals
- Qualified Summer Youth
- Qualified Food Stamp Recipients
- Qualified Supplemental Security Income (SSI) Recipients

**APPLICATION PROCESS:** There’s no limit to the number of “new” FIP an employer can hire to benefit from these tax savings. Employers apply for and receive a WOTC certification for each new hire from their State Workforce Agencies. There’s minimal paperwork needed to qualify and claim the tax credit!

For More Information

US Department of Labor, WOTC overview
https://www.dol.gov/agencies/eta/wotc

“Employment and Training Administration WOTC Fact Sheet”

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On Federal Bonding Program

**MYTH:** Businesses and employers have no way to protect themselves from potential property and monetary losses should an individual they hire prove to be dishonest.

**FACT:** Through the Federal Bonding Program (FBP), funded and administered by the U.S. Department of Labor (DOL), fidelity insurance bonds are available to reimburse employers for loss of money or property sustained through the dishonest acts of their employees (i.e., theft, forgery, larceny, and embezzlement).

Job seekers who have in the past committed a fraudulent act, or those who have demonstrated behavior which can be perceived as an omission of credibility or honesty, very often are rejected for employment due to their personal backgrounds with the criminal justice system.

The FBP is an employer hiring incentive that guarantees the job honesty of frequently-discriminated job seekers, including formerly incarcerated people. The DOL provides state workforce agencies with a package of promotional bonds to provide a base and incentive to employers and others to participate. Beyond the promotional bonds, additional bonds may be purchased from the bonding agent by states, localities, and other organizations providing reentry services.

- Employers are connected to bonded employees free-of-charge which serves as an incentive to hire frequently-overlooked job applicants.
- The FBP bond insurance was designed to reimburse the employer for any loss due to employee theft of money or property with no employer deductible.
- This tool has proven to be extremely successful with only 1% of the bonds ever issued resulting in a claim.

For more information

**Federal Bonding Program Website**
[https://bonds4jobs.com/](https://bonds4jobs.com/)

**National Hiring Network Overview**
[https://www.hirenetwork.org/content/federal-bonding-program](https://www.hirenetwork.org/content/federal-bonding-program)

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REENTRY MYTHBUSTERS

On Hiring / Criminal Records

MYTH: People with criminal records are automatically barred from employment.

FACT: An arrest or conviction record does NOT automatically bar individuals from all employment.


These rules apply to all employers that have 15 or more employees, including private sector employers, the federal government, and federal contractors. Below are answers to common questions about the Guidance.

1) Does this Guidance prohibit employers from obtaining and using criminal background reports about job applicants or employees? No, the Guidance does not prohibit employers from obtaining or using arrest or conviction records to make employment decisions. The EEOC simply seeks to ensure that such information is not used in a discriminatory way.

2) How could an employer use criminal history information in a discriminatory way?

First, Title VII prohibits disparate treatment discrimination. Employers should not treat job applicants or employees with the same criminal records differently because of their race, national origin, or another protected characteristic (disparate treatment discrimination). Second, Title VII prohibits disparate impact discrimination. Employers should not use a policy or practice that excludes people with certain criminal records if the policy or practice significantly disadvantages individuals of a particular race, national origin, or another protected characteristic, and does not accurately predict who will be a responsible, reliable, or safe employee. In legal terms, it is not “job related and consistent with business necessity.”

3) How would an employer prove “job related and consistent with business necessity”? Is it burdensome? Proving that a criminal record exclusion is “job related and consistent with business necessity” is not burdensome. The employer can prove this if it (1) considers at least the nature of the crime, time since the criminal conduct occurred, and the nature of the job in question, and (2) gives an individual who may be excluded by the screen an opportunity to show why he or she should not be excluded.

4) Why should an arrest record be treated differently than a conviction record? An arrest record does not establish that a person engaged in criminal conduct. Arrest records may also be inaccurate (e.g., mistakenly identify the arrestee) or incomplete (e.g., do not state whether charges were filed or dismissed against the arrestee). Thus, an arrest record alone should not be used by an employer to take an adverse employment action. But, an arrest may trigger an inquiry into whether the conduct underlying the arrest justifies an adverse employment action.

For More Information


NELP’s “Ban the Box” is a Fair Chance for Workers with Records https://s27147.pcdn.co/wp-content/uploads/Ban-the-Box-Fair-Chance-Fact-Sheet.pdf

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On Federal Hiring Policies

**MYTH:** The Federal Government’s hiring policies prohibit employment of people with criminal records.

**FACT:** People with criminal records are eligible to compete for the vast majority of federal jobs.

The Federal Government employs people – including those who may have criminal records – that possess the requisite knowledge, skills and abilities.

Consistent with Merit System Principles, agencies generally are required to consider people with criminal records when filling positions if they are the best candidates and can comply with requirements.

For most federal jobs, questions regarding criminal history do not appear on initial job applications. However, individuals seeking admission to the civil service are generally asked to complete a Declaration for Federal Employment (OF 306) and undergo an investigation to establish “suitability” or fitness for employment at some point in the hiring process.

The principal issues for agencies as they consider hiring people with criminal records involve making determinations related to:

- An individual’s character traits and conduct to determine whether employment would or would not protect the integrity and promote the efficiency of the service.
- Whether the past criminal justice involvement, by its nature, is incompatible with the core duties of the job.
- Whether employment of the individual in the department or agency is consistent with the interests of national security.
- The nature, seriousness, recency, and circumstances of the individual’s criminal justice involvement, and whether there has been rehabilitation or efforts toward rehabilitation.

People with criminal records are eligible for employment in the vast majority of federal jobs. For a few positions, they may not be eligible because specific laws or statutes prohibit employment, depending on the crime committed. For example:

- A handful of federal laws, like those prohibiting treason, carry with them a lifetime ban on federal employment.
- Others, like the criminal statute for inciting a riot, prohibit federal employment for a certain number of years.
- The Bond Amendment imposes restrictions related to national security positions.

For more Information

**OPM Contractor Fitness Adjudication Best Practices Guide**
[https://www.chcoc.gov/content/contractor-fitness-adjudication-%E2%80%93-best-practices](https://www.chcoc.gov/content/contractor-fitness-adjudication-%E2%80%93-best-practices)

**Suitability Determinations Criteria**

**Pre-Employment Inquiries and Arrest & Conviction**
[https://www.eeoc.gov/pre-employment-inquiries-and-arrest-conviction](https://www.eeoc.gov/pre-employment-inquiries-and-arrest-conviction)

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On Criminal Histories and Employment Background Checks

**MYTH:** An employer can get a copy of your criminal history from companies that do background checks without your permission.

**FACT:** According to the Fair Credit Reporting Act (FCRA), employers must get one’s permission, usually in writing, before asking a background screening company for a criminal history report. If one does not give permission or authorization, the application for employment may not get reviewed. If a person does give permission but does not get hired because of information in the report, the potential employer must follow several legal obligations.

**Key Employer Obligations in the FCRA**

An employer that might use an individual’s criminal history report to take an “adverse action” (e.g., to deny an application for employment) must provide a copy of the report and a document called *A Summary of Your Rights under the Fair Credit Reporting Act* before taking the adverse action.

An employer that takes an adverse action against an individual based on information in a criminal history report must tell the individual – orally, in writing, or electronically:

- the name, address, and telephone number of the company that supplied the criminal history report;
- that the company that supplied the criminal history information did not make the decision to take the adverse action and cannot give specific reasons for it; and
- about one’s right to dispute the accuracy or completeness of any information in the report, and one’s right to an additional free report from the company that supplied the criminal history report, if requested within 60 days of the adverse action.

A reporting company that gathers negative information from public criminal records, and provides it to an employer in a criminal history report, must inform the individual that it gave the information to the employer or that it is taking precautions to make sure the information is complete and current.

If an employer violation of the FCRA is suspected, it should be reported it to the Federal Trade Commission (FTC). The law allows the FTC, other federal agencies, and states to take legal action against employers who fail to comply with the law’s provisions. The FCRA also allows individuals to take legal action against employers in state or federal court for certain violations.

**For more Information**

See *Background Checks: Tips for Job Applicants and Employees* from the FTC and *Background Checks: What Job Applicants and Employees Should Know* from the Equal Employment Opportunity Commission and the FTC.

The FTC works to protect consumers from violations of the FCRA and from fraudulent, deceptive, and unfair business practices in the marketplace, and to educate them about their rights under the FCRA and other consumer protection laws.

To file a complaint or get free information on consumer issues, visit [www.ftc.gov](http://www.ftc.gov) or call toll-free, 1-877-FTC-HELP (1-877-382-4357); TTY: 1-866-653-4261. Watch a video, [How to File a Complaint](http://www.ftc.gov) to learn more.

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On Veterans Benefits

**MYTH:** Veterans cannot request to have their VA benefits resumed until they are officially released from incarceration.

**FACT:** Veterans may inform VA to have their benefits resumed within 30 days or less of their anticipated release date based on evidence from a parole board or other official prison source showing the Veteran’s scheduled release date.

The Veterans Administration (VA) is proactive with ensuring Veterans are receiving their full entitlement of benefits once released from incarceration. VA staff conduct outreach in correctional facilities across the nation to share this information with Veterans and prison staff in preparation for release.

If the evidence is dated no more than 30 days before the anticipated release from incarceration, VA may resume disability benefits prospectively from the anticipated date of release based on evidence received from a parole board or other official prison source showing the Veteran’s scheduled release date.

If the release does not occur on the scheduled date, VA will inform the Veteran that benefits will be discontinued or reduced effective from the date of increase without advance notice.

For more Information

VA Website [www.va.gov](http://www.va.gov)

VA Benefits 1-800-827-1000

eBenefits [www.ebenefits.va.gov](http://www.ebenefits.va.gov)

Homeless Hotline 1-877-4AID-VET

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On Veterans Health Care

**MYTH:** A Veteran with criminal convictions or a history of incarceration is not eligible for VA health care.

**FACT:** An eligible Veteran, who is not currently incarcerated, can use VA care regardless of any criminal history, including incarceration. Only when an otherwise eligible Veteran is currently incarcerated, or in fugitive status, are they not able to use VA health care.

By regulation, the Veterans Administration (VA) cannot provide health care services to Veterans who are patients or inmates of another government agency’s institution, if that agency has a duty to provide the care. Because jails and prisons must provide health care for their inmates, VA cannot treat Veterans while they are incarcerated.

For Veterans who are not currently incarcerated and are otherwise eligible for VA health care, past involvement with the criminal justice system has no impact on their ability to enroll for or to receive health care. The only exception applies to Veterans with an open warrant for a felony offense (fugitive felons), whom VA is prohibited from treating by a separate Federal law.

Because Veterans with criminal histories face additional barriers to employment and other services in their communities, and may be at increased risk for homelessness, VA has two programs designed specifically to reach Veterans involved with the criminal justice system:

- **Health Care for Reentry Veterans**, which provides direct outreach to Veterans nearing release from state and federal prisons, emphasizing rapid linkage to needed health care and other VA and community services; and

**Veterans Justice Outreach**, which connects Veterans in contact with the “front end” of the system (police, courts and jails) to mental health, substance use, and other treatment resources. Every VA medical center has a Veterans Justice Outreach Specialist who serves as the VA’s liaison with the local criminal justice system.

**For more Information**

- **VA Benefits Booklet**

- **Health Care Eligibility**

- **Health Care for Reentry Veterans**

- **Veterans Justice Outreach**
  [http://www.va.gov/HOMELESS/VJO.asp](http://www.va.gov/HOMELESS/VJO.asp)

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REENTRY MYTHBUSTERS

On Parental Rights

**MYTH:** Child welfare agencies are required to terminate parental rights if a parent is incarcerated.

**FACT:** Important exceptions to the requirement to terminate parental rights provide child welfare agencies and states with the discretion to work with incarcerated parents, their children and the caregivers to preserve and strengthen family relationships.

The *Adoption and Safe Families Act (ASFA)* requires state child welfare agencies to initiate termination of parental rights if a child is in foster care for 15 out of the previous 22 months, unless one of several exceptions apply. The ASFA exceptions to the mandatory filing rule that are most relevant to incarcerated parents include:

- at the option of the State, the child is being cared for by a relative; and
- the State agency has documented in the case plan... a compelling reason for determining that filing such a petition would not be in the best interests of the child.

These exceptions provide child welfare agencies with flexibility to work within the requirements imposed by ASFA by recruiting relatives as caregivers for children and by developing carefully written case plans that document, as circumstances warrant, that the severance of the parent-child relationship would be contrary to the child’s best interests.

Because they are in federal statute, the exceptions provided in the law are available to every state, though not all use them in practice. Some states and the District of Columbia repeat the exceptions in their state statutes, emphasizing their applicability. These states include (as of February, 2010): Alabama, Alaska, California, Colorado, Connecticut, Florida, Illinois, Indiana, Iowa, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Oregon, Tennessee, Utah, Vermont, Washington, West Virginia, and Wyoming.

For more Information

**Children of Incarcerated Parents MythBuster Series**

**Child Welfare State Policies**
[https://www.childwelfare.gov/topics/systemwide/laws-policies/](https://www.childwelfare.gov/topics/systemwide/laws-policies/)

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On Child Support

**MYTH:** Non-custodial parents who are incarcerated cannot have their child support orders reduced.

**FACT:** Half of all states have formalized processes for reducing child support orders during incarceration. Three-quarters of all states have laws that permit incarcerated parents to obtain a reduced or suspended support order.

Paying child support is an important responsibility for parents and orders usually reflect a support amount based on state guidelines that take into account parents’ ability to pay. Debt accumulation is often associated with incarceration because parents have little or no ability to earn income while they are incarcerated. For non-custodial parents leaving prison, studies report child support arrearages in the range of $15,000 to $30,000.

Three-quarters of the States have the ability to suspend orders during periods of incarceration and 25 States have implemented formalized initiatives or processes to reduce orders during incarceration. However, the process is not automatic. In most states, incarcerated non-custodial parents have to initiate a request for a review of their order before any adjustment or modification can be made.

Examples of state processes to modify orders for incarcerated parents include:

- Orders set based on actual, not imputed, income during incarceration. (CT)
- If the child support agency is notified that a non-custodial parent is incarcerated, it must review the order to determine whether it is appropriate under the guidelines and may request a modification if warranted. (DC)
- Child support staff meet with inmates at intake, file a modification request, and suspend enforcement. After release, a court hearing reviews order. (MA)
- Order can be reduced to zero if the parent requests modification and is expected to be in prison for at least six more months and earns less than $200/month. (OR)

**For more Information**

**Repaying Debts**

**Staying In Jobs and Out of the Underground**
https://www.policyarchive.org/handle/10207/13797

**Working with Incarcerated and Released Parents**

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**On Social Security Benefits**

**MYTH:** Eligibility for Social Security benefits cannot be reinstated when an individual is released from incarceration.

**FACT:** Social Security benefits are not payable if an individual is convicted of a criminal offense and confined. However, monthly benefits usually can be reinstated after a period of incarceration by contacting Social Security and providing proof of release.

By law, Social Security benefits are not payable to an individual who is convicted of a criminal offense and confined for more than 30 consecutive days. If an individual was getting Social Security benefits prior to confinement, benefits are suspended until he or she is released. Generally, there is no time limit on the period of suspension.

Upon release, benefits can be reinstated without filing a new claim. The individual must request reinstatement and provide proof of release to a Social Security office. Upon provision of the necessary proof, the Social Security office will reinstate benefits quickly.

Social Security cannot reinstate benefits after release if the individual was not receiving benefits before confinement. Instead, the individual must file a claim and be approved before benefits can be paid. For these individuals, Social Security offers a prerelease application procedure, which enables a claim to be filed several months before the scheduled release date. This process allows benefits to start shortly after the individual is released.

Social Security also administers the Supplemental Security Income (SSI) program for aged or disabled individuals who have limited income and resources. SSI benefits are suspended if the individual is incarcerated for a full calendar month or more. If the incarceration is 12 months or less, Social Security can reinstate SSI benefits quickly upon release. For incarceration periods greater than 12 months, SSI eligibility is terminated and a new claim must be filed to reestablish eligibility. The prerelease application procedure expedites the provision of SSI benefits after the individual is released.

**For more Information**

Social Security’s Website  
https://www.ssa.gov/

What Prisoners Need to Know  
http://www.ssa.gov/pubs/10133.html

Entering the Community after Incarceration – How We Can Help  
http://ssa.gov/pubs/10504.html#prerelease

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On TANF Benefits

**MYTH:** A parent with a felony conviction cannot receive TANF (welfare) benefits.

**FACT:** The 1996 Welfare Reform law limited eligibility only for individuals convicted of drug-related felonies. Today, most states have modified or eliminated the ban altogether.

Section 115 of P.L. 104-193 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996) imposes a lifetime ban on Temporary Assistance for Needy Families (known as TANF or cash/public assistance) benefits for people with felony drug convictions after August 22, 1996, unless their state passes legislation to opt out of the ban. In the following states an individual with a felony drug conviction currently cannot receive TANF benefits: Alabama, Delaware, Georgia, Mississippi, Nebraska, South Carolina, South Dakota, Texas, Virginia, and West Virginia. All other states have modified the ban or eliminated it entirely.

Twelve states and the District of Columbia have enacted laws to allow people with drug felony convictions to receive TANF: Alaska, Michigan, New Hampshire, New Jersey, New Mexico, New York, Ohio, Oklahoma, Rhode Island, Vermont, Washington, and Wyoming.

Eleven states have amended the ban to allow individuals who are receiving or have completed drug or alcohol treatment to receive benefits: California, Colorado, Hawaii, Iowa, Kentucky, Maryland, Nevada, Oregon, Pennsylvania, Tennessee, and Utah.

Other examples of state modifications to the ban include:

- Providing assistance to individuals who have been convicted of drug possession, while banning those convicted of manufacturing, selling, or trafficking drugs (Arkansas and Florida).
- Restoring an individual’s eligibility after a certain time period if they do not violate the terms of their supervision and are not convicted of a new crime (Illinois, Kansas, Louisiana, North Carolina, and North Dakota).
- Imposing successful completion of drug-testing requirements as a condition of eligibility (Maine, Minnesota, and Wisconsin).

Additionally, in 2013 HHS provided guidance clarifying that the TANF eligibility ban for individuals convicted of drug-related felonies does not apply to services such as counseling, case management, job retention, job advancement, and certain other employment-related services that do not provide basic income support.

For more Information

**TANF Program Policy Q & A: Drug Convictions**
http://www.acf.hhs.gov/ofa/resource/q-a-drug-convictions

**Opting out of Federal Ban on Food Stamps and TANF**
https://iac.org/toolkits/TANF/TANF.htm

**After Prison: Roadblocks to Reentry**
http://www.iac.org/roadblocks-to-reentry/

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On SNAP Benefits

MYTH: Individuals convicted of a drug felony can never receive Supplemental Nutrition Assistance Program (SNAP) benefits.

FACT: Only six states have kept the drug felony ban in place in its entirety. Most states have modified or eliminated the ban.

Section 115 of the Personal Responsibility and Work Opportunity Act of 1996 prohibited states from providing Food Stamps (now the Supplemental Nutrition Assistance Program) to individuals convicted of drug felonies unless the state passes legislation to extend benefits to these individuals.

Only the following 6 states have kept the welfare ban entirely in place: Arizona, Arkansas, Indiana, Mississippi, South Carolina, and West Virginia. All other states have modified the ban or have eliminated it entirely.

The following 24 states and the District of Columbia have eliminated the ban entirely: California, Delaware, Illinois, Iowa, Maine, Massachusetts, New Hampshire, New Jersey, New Mexico, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Washington, and Wyoming.

The following 24 states have amended the ban to allow some individuals to regain eligibility by meeting certain additional requirements, such as receiving or completing drug or alcohol treatment: Alabama, Alaska, Colorado, Connecticut, Florida, Georgia, Hawaii, Idaho, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, North Carolina, North Dakota, Tennessee, Texas, Virginia, and Wisconsin.

- A number of state SNAP agencies have also requested a SNAP Pre-Release Waiver, which allows them to accept benefit applications and conduct eligibility interviews for incarcerated individuals nearing release.

For more Information

Visit the SNAP website at www.fns.usda.gov/snap for information on application and eligibility requirement.

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On SNAP Benefits / ID

**MYTH:** An individual cannot apply for Supplemental Nutrition Assistance Program (SNAP, formerly the Food Stamp Program) benefits without a valid State-issued identification card.

**FACT:** A person can get SNAP benefits even if they do not have a valid State ID.

Supplemental Nutrition Assistance Program (SNAP) regulations require an applicant to verify his or her identity in order to receive program benefits. A valid State-issued ID is a common document used to prove an applicant’s identity, but it is not the only acceptable form of proof. SNAP regulations require that local SNAP offices offer applicants flexibility about the type of documents they can provide to verify their information. A local office is required to accept any document that reasonably establishes the applicant’s identity and cannot accept only one type of verification. Other examples of acceptable documents that verify an applicant’s identity are:

- A birth certificate
- An ID card for health benefits or another assistance program
- A school or work ID card
- Wage stubs containing the applicant’s name

If an applicant cannot obtain sufficient verification on his or her own, the local office is required to provide assistance. If sufficient proof of identity cannot be obtained, the local office can accept a statement from a collateral contact who can confirm the applicant’s identity.

A collateral contact is a person who is knowledgeable about the applicant’s situation and can corroborate information given on the application. Possible collateral contacts include current or former employers, landlords, probation officers or staff members from other social service agencies.

**For More Information**

Visit the SNAP website at [www.fns.usda.gov/snap](http://www.fns.usda.gov/snap) for information on application and eligibility requirements.
On SNAP Benefits / Mailing Address

**MYTH:** An individual cannot apply for Supplemental Nutrition Assistance Program (SNAP, formerly the Food Stamp Program) benefits without a mailing address.

**FACT:** A person can get SNAP benefits even if they do not have a mailing address.

The Supplemental Nutrition Assistance Program (SNAP) application process requires applicants to provide an address where they can receive case related notices. Some common documents that clients receive by mail include:

- Electronic Benefit Card (EBT) that clients use to access their benefits at authorized stores
- Reapplication forms
- Eligibility interview appointment information

Individuals and families who do not have a mailing address can still receive SNAP benefits. Applicants without a fixed address should notify an eligibility worker at their local SNAP office about their situation to find out how they can receive program-related correspondence. Some common ways local offices ensure that clients without a mailing address receive notices include:

- Holding correspondence at the local office for pick up;
- Using the address of a local shelter (with the shelter’s permission);
- Use the address of a trusted friend or family member (with resident’s permission);
- Send correspondence to a local post office as general delivery mail.

Establishing a procedure for applicants without a fixed address to receive timely correspondence helps to ensure that they continue to receive all the SNAP benefits for which they are eligible.

For more Information

Visit the SNAP website at [www.fns.usda.gov/snap](http://www.fns.usda.gov/snap) for information on application and eligibility requirements.

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On Federal Student Financial Aid

**MYTH:** A person with a criminal record is not eligible to receive federal student financial aid.

**FACT:** Individuals who are currently incarcerated in a federal, state, or local correctional institution have some limited eligibility for federal student aid. In general, restrictions on federal student aid eligibility are removed for formerly incarcerated individuals, including those on probation, on parole, or residing in a halfway house.

- An individual incarcerated in a federal or state institution is ineligible to receive a Federal Pell Grant or federal student loans. Although an individual incarcerated in a federal or state prison is eligible to receive a Federal Supplemental Educational Opportunity Grant (FSEOG) and Federal Work-Study (FWS), he or she is unlikely to receive either FSEOG or FWS due to the FSEOG award priority, which is that the grant must be given to those students who also will receive a Federal Pell Grant, and due to the logistical difficulties of performing an FWS job while incarcerated.

- Those incarcerated in correctional institutions other than federal or state institutions are eligible for a Federal Pell Grant, FSEOG, and FWS but not for federal student loans. Also, it is unlikely that incarcerated individuals in correctional institutions other than federal or state institutions will receive FSEOG or FWS due to school funding limitations and to the logistical difficulties of performing an FWS job while incarcerated.

- Incarcerated individuals may not receive federal consolidation loans.

- Upon release, most eligibility limitations (other than those noted below) will be removed. In addition, you may apply for aid in anticipation of being released so that your aid is processed in time for you to start school.

- You may be able to have your federal student loans deferred while you are incarcerated, but you must apply for a deferment and meet its eligibility requirements. To apply for deferment, contact the servicer of your loan(s). To find out what kind(s) of loan(s) you have, and/or to find contact information for your loan servicer, call 1-800-4-FED-AID (1-800-433-3243) or visit www.nslds.ed.gov.

- If your incarceration was for a drug-related offense or if you are subject to an involuntary civil commitment for a sexual offense, your eligibility may be limited as indicated in the following list.

- A student convicted for the possession or sale of illegal drugs may have eligibility suspended if the offense occurred while the student was receiving federal student aid (grants, loans, or work-study). When you complete the Free Application for Federal Student Aid (FAFSA®), you will be asked whether you had a drug conviction for an offense that occurred while you were receiving federal student aid. If the answer is yes, you will be provided a special worksheet to help you determine whether your conviction affects your eligibility for federal student aid. You may preview the worksheet in the FAFSA Information section at www.studentaid.ed.gov/pubs.

- If you have been convicted of a forcible or nonforcible sexual offense, and you are subject to an involuntary civil commitment upon completion of a period of incarceration for that offense, you are ineligible to receive a Federal Pell Grant.

For more Information

Federal Student Aid for Students in Adult Correctional and Juvenile Justice Facilities [https://studentaid.gov/sites/default/files/aid-info-for-incarcerated-individuals.pdf](https://studentaid.gov/sites/default/files/aid-info-for-incarcerated-individuals.pdf)

To learn about applying for federal student aid, visit [www.studentaid.ed.gov](http://www.studentaid.ed.gov)

For details on whether the drug conviction(s) of a particular individual would limit aid eligibility, visit [www.studentaid.ed.gov/pubs](http://www.studentaid.ed.gov/pubs) and view the “FAFSA Question 23 Student Aid Eligibility Worksheet” to establish if or when a conviction limits eligibility.
On Federal Taxes

**MYTH:** Incarceration exempts individuals from the requirement to file taxes, halts the accumulation of federal tax debts, and prohibits the receipt of tax credits and deductions upon release.

**FACT:** Incarceration neither changes one’s obligation to pay taxes and tax debts nor prohibits the receipt of tax credits and deductions upon release.

**Filing Taxes and Accumulation of Tax Debt**
All citizens must comply with the federal requirements to file and pay taxes. Collection of tax debts does not stop automatically upon incarceration. Individuals who are unable to pay should contact the Internal Revenue Service (IRS).

**A tax return is necessary when:**
- Applying for housing and providing proof of income to the rental agency or owner.
- Applying for a student loan--the college/university will ask for proof of income and request to see an individual’s most recent tax return.
- Purchasing large items such as homes, cars, etc. that also require proof of income.
- Proving or establishing residency in the United States and providing employers with employment history.

**If the IRS deems an individual unable to pay any tax debt, collection may be delayed until the individual’s financial condition improves.** But, delay of collection will increase tax debt because *penalties and interest are charged until payment of the full amount.*
- Individuals who owe $25,000 or less in combined tax, penalties, and interest, can, for a fee, request an installment agreement.
- Additional time to pay taxes in full may be granted, but the payments must be timely.

To make an installment or payment delay request, use the Online Payment Agreement application at www.irs.gov or call 800-829-1040.

**Individuals have three years from the due date of a tax return to file a past due return and receive a refund.** Individuals who do not have the necessary documents to prove employment should:
- Call 1-800-829-1040 and request a copy of their Form W-2, Wage and Tax Statement, or Form 1099-MISC, Miscellaneous Income, for the year for which the tax return is being filed.
- After receiving the forms, contact the local IRS office or local 211 number to receive free tax return preparation services.

**Before or after incarceration, individuals can visit a Low Income Tax Clinic (LITC) for assistance.** LITCs are independent organizations that provide low income taxpayers with representation in federal tax disagreements with the IRS for free or for a nominal charge.

Free help is available through the Taxpayer Advocate Service (TAS), an independent organization within the IRS that helps taxpayers who are experiencing economic harm as a result of tax issues. Individuals should contact their local advocates, whose numbers are in the phone book, in Publication 1546, Taxpayer Advocate Service -- Your Voice at the IRS, online at [https://taxpayeradvocate.irs.gov/](https://taxpayeradvocate.irs.gov/), or by calling 1-877-777-4778.

**Tax Credits and Deductions**
After release, a felony conviction does not bar an individual from receiving tax credits or deductions. Tax Credits create a dollar for dollar reduction in tax liability. Tax deductions reduce the level of taxable income.
Common tax credits include:

- Earned Income Tax Credit (EITC) – Individuals who work and have an earned income below the thresholds may qualify for the refundable EITC; the amount is determined by income and family size. *Income received for work performed while incarcerated, in a work release program or while in a halfway house is not included in the calculation of the EITC amount.*

- Child Tax Credit - Individuals with a qualifying child may receive this tax credit which can be claimed in addition to the Child and Dependent Care Credit (see below).

- Child and Dependent Care Credit—Covers a percentage of the expenses paid for the care of children under age 13, or for a disabled spouse or dependent, which enables the taxpayer to work.

- Education Credits—The American Opportunity Tax Credit covers some tuition and related expenses in the first four years of post-secondary education of an eligible student for whom the taxpayer claims an exemption on the tax return. The Lifetime Learning Credit can be claimed for all post-secondary education for an unlimited number of years. Both credits cannot be claimed for the same student in one year.

- Retirement Savings Contribution Credit – May be claimed on a percentage of qualified retirement savings contributions. Eligible individuals must be age 18 or older at the end of the year, not a student or an individual for whom someone else claims a dependency exemption, and have an adjusted gross income below a specified amount.

Common tax deductions include:

- Standard Deduction - Consists of the basic standard deduction and any additional standard deduction for age or blindness.

- Exemption – Reduces taxable income. Individuals are entitled to a personal exemption when filing a tax return.

For More Information


Publication 4925, *Get Right with Your Taxes* and *Get Right with Your Taxes, Facilitator’s Guide for Prisoner Reentry Educational Program*

For more information on LITC’s see *Publication 4134, Low Income Taxpayer Clinic List*, this provides information on clinics in local areas.

Publication 596, *Earned Income Tax Credit Publication 972, Child Tax Credit*

Publication 503, *Child and Dependent Care Expenses*

Publication 970, *Tax Benefits for Education*

Chapter 5 in *Publication 590, Individual Retirement Arrangements (IRAs)*

Publication 501, *Exemptions, Standard Deduction, and Filing Information*

For copies of these documents, call toll free at 1-800-TAX-FORM (1-800-8293676), write or visit a local IRS office. To find a local office, visit the IRS website at [www.irs.gov](http://www.irs.gov)

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On Medicaid Suspension vs. Termination

**MYTH:** Medicaid agencies are required to terminate benefits if an otherwise eligible individual is incarcerated.

**FACT:** States are not required to terminate eligibility for individuals who are incarcerated based solely on inmate status. States may suspend eligibility during incarceration, enabling an individual to remain enrolled in the state Medicaid program, thereby facilitating access to Medicaid services following release.

Medicaid-eligible individuals may continue to be enrolled in the program before, during, and after the time in which they are held involuntarily in the secure custody of a public institution.

The statutory Federal Financial Participation (FFP) exclusion applies to Medicaid-eligible inmates of public institutions and only affects the availability of federal funds under Medicaid for reimbursement of medical services provided to an incarcerated individual. The FPP exclusion does not affect the Medicaid eligibility of an incarcerated individual. Additionally, Medicaid reimbursement is available for inpatient services provided to an inmate in medical facilities.

Prior to release from incarceration, the state may make certain that enrolled individuals in suspended status are placed in payment status to ease the receipt of Medicaid-covered services immediately upon leaving the facility.

Inmates not already enrolled in Medicaid may file an application prior to discharge. Beginning the process before release allows the state time to enroll eligible individuals so that they may receive Medicaid-covered services upon leaving the facility.

**For More Information**

For more information see the Centers for Medicare and Medicaid Services Medicaid Primer


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REENTRY MYTHBUSTERS
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On Youth Access to Education Upon Reentry

MYTH: Folks who have been released from juvenile confinement easily return to school.

FACT: The majority of youth involved in the juvenile justice system have strong aspirations to continue their education, yet face many barriers that reduce their access to education upon reentry.

According to the latest OJJDP Survey of Youth in Residential Placement (May 2017), more than two-thirds of youth in custody report that they have aspirations of higher education. Research consistently shows that school attendance is a strong protective factor against delinquency; youth who are engaged in school are much less likely to commit crimes in the short and long-terms.

Despite the strong association between school truancy, dropouts, and delinquency, reenrollment in school for youth exiting residential confinement is often challenging. In fact, while more than half of confined youth have not completed the eighth grade, the majority -- 66% -- do not return to school after release.

There are multiple challenges involved in this issue. For instance, states lack a comprehensive mechanism to assess and address the learning needs of youth reentering the system. The process of reenrolling in school is often complicated and lengthy, resulting in a difficult burden for youth to face alone. Youth often face challenges having their educational records and credits transferred from juvenile justice educational facilities to their home schools upon reentry. And some schools place obstacles to reenrollment for formerly incarcerated youth because these youth are considered difficult to manage. In fact, some states have enacted laws that create obstacles for youth attempting to re-enroll in school upon reentry.

Evidence-based practice suggests that successful youth reentry programs and policies must be comprehensive in scope. An educational approach based upon a “think exit at entry” philosophy, which is student-driven and addresses individual strengths and weaknesses of juvenile justice-involved youth, must be a part of a comprehensive reentry plan whose goal is to prevent recidivism and help youth establish a self-sustaining, law-abiding life.

Ideally, comprehensive reentry plans start when youth enter a juvenile justice facility; they include the time that youth are in juvenile justice facilities, as well as the transitional period when youth leave; and they end in a follow-up phase to ensure that youth have the resources and support they need to successfully rejoin their communities, families, and schools.

In sum, the majority of youth who have been involved in the juvenile justice system are motivated to continue their education upon reentry. Significant barriers remain, however, that prevent these youth from achieving their educational aspirations and potential. A comprehensive, community-based approach is needed to facilitate youth reentry into education, and will help to narrow the gap between the goals that these youth possess and the realities that they encounter.

For more Information

Webinar: Juvenile Reentry in Concept and Practice

Youth’s Characteristics and Backgrounds: Findings from the Survey of Youth in Residential Placement (OJJDP)

Youth Reentry

Addressing the Unmet Educational Needs of Children and Youth in the Juvenile Justice and Child Welfare Systems
http://cjri.georgetown.edu/pdfs/ed/edpaper.pdf

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On Juvenile Records

**MYTH:** Access to juvenile criminal records is strictly limited.

**FACT:** Privacy of juvenile court records has eroded over the years. In many cases criminal justice professionals—and in some cases others—can access information about an individual stored in state repositories.

Data collection systems are designed to collect, record, and report information on each felony and serious misdemeanor arrest that occurs in a state, as well as the court’s response to the arrest. These records may be used for many purposes, mostly for background checks including identification, employment, security, adoption, immigration/international travel/visa, licensing, assistance in developing suspects in a criminal investigation, and for enhanced sentencing in criminal prosecutions. This information is accumulated into what is commonly known as a “RAP Sheet” (Record of Arrest and Prosecution). This information is linked to a person through fingerprints.

Some state repositories collect information on juvenile arrests and some do not. Some states with juvenile information report this information when it is requested by a criminal justice entity (e.g., law enforcement, prosecution) and some do not. When a potential employer requests criminal history information on a juvenile applicant, some states will provide some or all of the recorded juvenile information, and some do not.

Sealing of juvenile court records means placing them in a separate file or other repository that is not accessible to the public. Expungement refers to court records that are considered to have never existed or the destruction of those records. Destruction of such records, however, does not always mean actual destruction, but rather placing a juvenile’s records in a separate file where only certain parties can access them, usually with a court order.

The fact is that the privacy of juvenile court records has eroded over the years. Persons interested in juvenile justice issues should know the policies and practices of their state’s criminal history repository. Information on juvenile matters. Given that the information will be collected and stored, the concerns for juvenile justice should focus on the repository’s retention and dissemination policies, especially dissemination to potential employers.

The questions to ask are:

- Should any juvenile records be reported when a request is made by a potential employer?
- Should reporting be limited to only those matters in which the youth was adjudicated delinquent?
- Should there be criteria established to expunge juvenile information housed in a repository after a certain period of time?
- If a court expunges or seals the juvenile court records on a youth should (and is) the information housed in the state criminal history repository also be expunged or sealed?
- How can juveniles determine if their information is in a repository—and if it is accurate?

For More Information

ABA’s Juvenile Collateral Consequences Database [http://www.beforeyouplea.com](http://www.beforeyouplea.com)


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On Medicaid Suspension vs. Termination for Juveniles

**MYTH:** Medicaid agencies are required to terminate benefits if an otherwise eligible juvenile is incarcerated.

**FACT:** States are not required to terminate eligibility for juveniles who are incarcerated based solely on their confinement status. States may suspend eligibility during incarceration, enabling a juvenile to remain enrolled in the state Medicaid program, thereby facilitating access to Medicaid services following release.

Like Medicaid-eligible adults, Medicaid-eligible juveniles may continue to be enrolled in the program before, during, and after the time in which they are held involuntarily in the secure custody of a public institution.

The statutory Federal Financial Participation (FFP) exclusion applies to Medicaid-eligible inmates of public institutions, including juveniles, and only affects the availability of federal funds under Medicaid for reimbursement of medical services provided to an incarcerated individual. The FFP exclusion does not affect the Medicaid eligibility of an incarcerated juvenile or adult. Additionally, Medicaid reimbursement is available for inpatient services provided to a confined juvenile in medical facilities.

Prior to release from incarceration, the state may make certain that enrolled juveniles in suspended status are placed in payment status to ease the receipt of Medicaid-covered services immediately upon leaving the facility.

An application may be filed prior to discharge for otherwise eligible juveniles not already enrolled in Medicaid. Beginning the process before release allows the state time to enroll so that they may receive Medicaid-covered services upon leaving the facility.

- Under federal law, individuals under 19 years of age are eligible for Medicaid if their family income is equal to or less than the federal poverty level or they are receiving a federal foster care payment. States may extend the age and income eligibility parameters.

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**For more Information**

**Medicare and Medicaid Basics**


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