



EXECUTIVE SUMMARY

Introduction

Currently, one in three American adults - about 78 million people - have a criminal record. Many of these people have just been arrested or charged but were never convicted.

There has been a long-standing controversy about the negative consequences that such criminal records have on people's ability to access jobs, housing and voting.

In some cases, these negative consequences are due to the actions of governments, public housing authorities, and licensing boards. Across the country, there are over 44,000 rules which prohibit people with criminal records from jobs, licenses and public housing. In many states, licensing boards can reject an applicant with a criminal record because they do not meet a "moral character" requirement.

In other cases, the negative consequences of a criminal record are the result of discrimination by private employers, who may implicitly see people as too much of a liability. Studies have found that this discrimination falls hardest on racial minorities with criminal records.

To address these concerns, several proposals have been developed by Members of Congress. These proposals would prohibit employers, licensing boards and public housing authorities from disqualifying people based solely on certain criminal records; make it easier for records of arrests or non-violent drug offenses to be sealed from the public; and restore voting rights to people with felony records once their sentences have been completed.

These proposals have appeared in:

- **Next Step Act of 2019** by Rep. Bonnie Watson-Coleman (H.R. 1893) and Sen. Cory Booker (S. 697)
- **Fair Chance at Housing Act of 2019** by Rep. Alexandria Ocasio-Cortez (H.R. 3685) and former Sen. Kamala Harris (S. 2076).
- **Democracy Restoration Act of 2019** by Rep. Jerry Nadler (H.R. 196) and Sen. Ben Cardin (S. 1068)
- **For the People Act** (H.R. 1) by Rep. John Sarbanes.

To find out how Americans feel about these proposals, the Program for Public Consultation conducted an in-depth survey in which respondents went through a process called a "policymaking simulation" in which they were effectively put in the shoes of a policymaker. They were given a briefing on the issue and evaluate competing arguments before making their recommendation.

To ensure that the briefings were accurate and balanced, and that the arguments presented were the strongest ones being made, the text of the survey was reviewed by experts, including those who favor and those who oppose each proposal. Changes were made in response to their feedback.

Fielding

The survey was conducted online from February 12-22, 2021 with a national probability-based sample provided by Nielsen Scarborough from Nielsen Scarborough's sample of respondents, who were recruited by mail and telephone using a random sample of households. The sample included 2,487 respondents with a margin of error of +/- 2.0%.

Responses were weighted by age, income, gender, education, race and geographic region. Benchmarks for weights were obtained from the US Census' Current Populations Survey of Registered Voters. The sample was also weighted by partisan affiliation.

A further analysis was conducted by dividing the sample six ways, depending on Cook's Political Value Index rating of the respondent's Congressional district. This enabled comparison of respondents who live in very red, somewhat red, leaning red, leaning blue, somewhat blue, and very blue districts. Only the responses from those in very red and very blue districts are shown below, but the full range of respondents can be found in the questionnaire.

Large Majorities Favor Congressional Proposals Limiting Negative Consequences of Criminal Records for Jobs, Housing, Voting

Restricting Use of Criminal Records by Employers and Licensing Boards

1. Eight in ten (81%) favored prohibiting employers and licensing boards from rejecting an applicant or firing an employee on the basis that they were arrested or charged, but never convicted.

Source of Proposal: Next Step Act

The argument in favor asserted that an essential principle of our justice system is that people who are not proven guilty should not be punished. An overwhelming 85% found this convincing (Republicans 78%, Democrats 92%). The argument against made the case that it is perfectly reasonable to use an arrest record to make judgments about an applicant. Just four in ten were convinced, including just a quarter of Democrats, but a modest majority of Republicans (55%).

2. Eight in ten (79%) favored prohibiting employers and licensing boards from using petty, non-violent crimes as the basis for disqualification.

Source of Proposal: Next Step Act

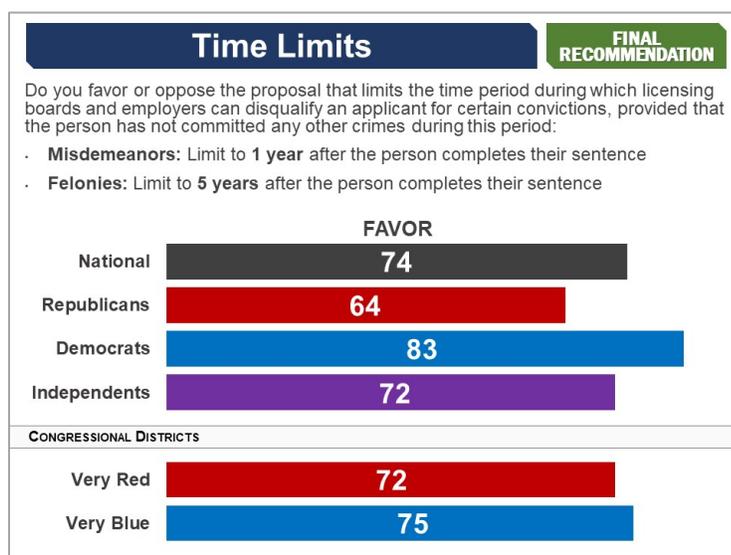
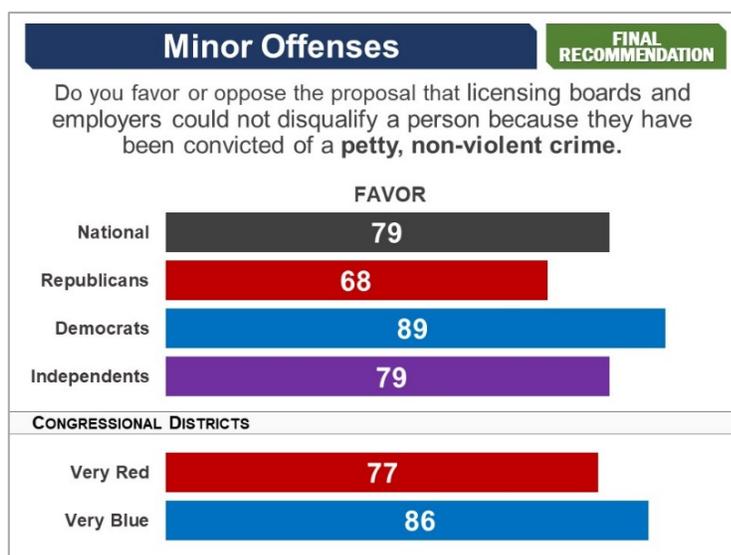
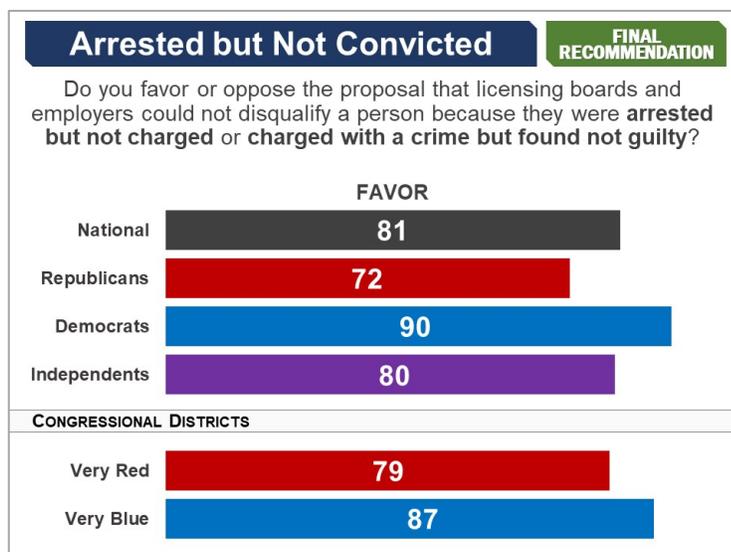
The argument in favor emphasized that punishing someone for a minor crime in their past is unjust and disproportionate; it was found convincing by 82% (Republicans 74%, Democrats 89%). The argument against made the case that a person who knowingly violated the law is more likely to lack good judgement. Less than four in ten were convinced (Republicans 48%, Democrats 25%)

3. Three in four (74%) favored limiting the period of time during which misdemeanors and felonies can be used for disqualification, provided the person has not committed a crime since their sentence was completed.

Source of Proposal: Next Step Act

The first argument in favor stressed that punishment should not go on indefinitely; it was found convincing by 84% (Republicans 79%, Democrats 89%). The first argument against made the case that employers and licensing boards should keep the right to use crimes of the past to make judgements about a person, and was found convincing by 59%, including 69% of Republicans, but just 49% of Democrats.

The second argument in favor laid out how research shows that when people who have served time cannot get a job, they are more likely to return to crime. Eight in ten found this convincing (Republicans 71%, Democrats 89%).



The second argument against said this proposal would be unfair to employers, as they face liability risks if they hire someone with a criminal history. It was found convincing by 59%, including seven in ten Republicans, but just 47% of Democrats.

To address the issue of employer liability respondents also evaluated a proposed rule that would shield employers from liability in the case that an employee they hired with a criminal record commits a crime while on the job. A large bipartisan majority of 78% favored this rule, including three quarters of Republicans and over eight in ten Democrats.

4. Over three quarters (76%) favored prohibiting using as the basis for disqualification, crimes unrelated to a person’s ability to perform the duties and responsibilities of their work.

Source of Proposal: Next Step Act

The argument in favor asserted that it is unjust and nonsensical to deny people a job or a license for a minor non-violent crime unrelated their work; it was found convincing by 83% (Republicans 79%, Democrats 89%). The argument against emphasized the impossibility of drawing a clear line between crimes that are related and unrelated to a job; it was found convincing by less than half (46%), including just 32% of Democrats, but a majority of Republicans (59%).

Restricting Use of Criminal Records by Public Housing Authorities

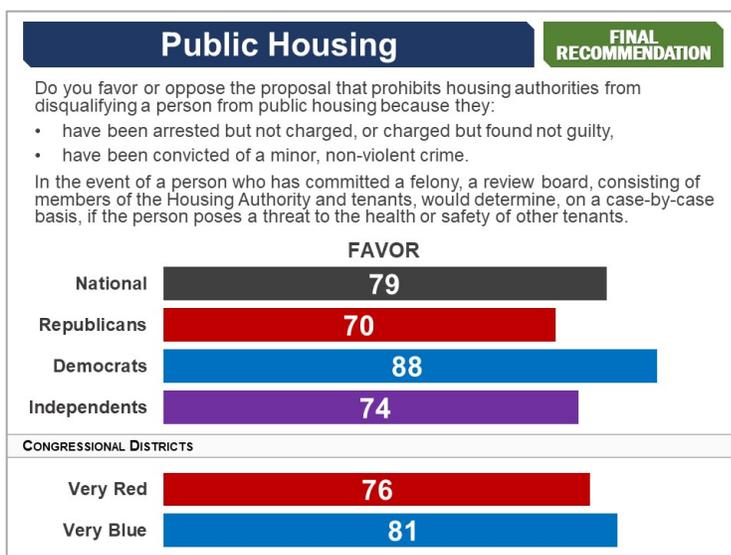
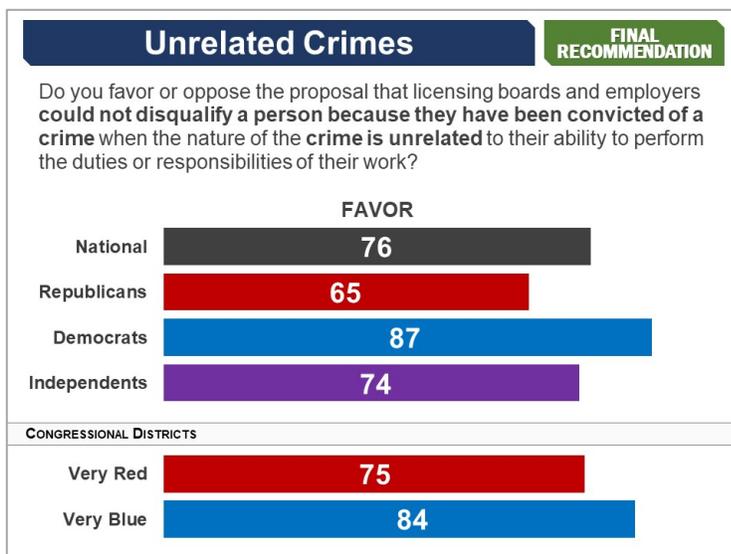
5. Eight in ten (79%) favored a set of new restrictions on the use of criminal records by public Housing Authorities to reject applicants or evict tenants and their families.

Source of Proposal: Fair Chance at Housing Act

The argument in favor laid out the negative externalities of denying people housing, including recidivism, which costs society, and was found convincing by 81% (Republicans 71%, Democrats 91%). The argument against warned that it is best to err on the side of caution and not tell housing authorities how to keep their tenants safe; it was found convincing by around half (49%), including just a third of Democrats, but 63% of Republicans.

Sealing Criminal Records

6. Over three in four favored allowing all people who have just been arrested but not charged, or charged but not convicted, to have their record sealed, for a minor cost. *Source of Proposal: Next Step Act*



The argument in favor emphasized that there is no reason for the public to know about an arrest or charge if there was no conviction; it was found convincing by 85% (Republicans 84%, Democrats 89%). The argument against made the case that it can be difficult to get a conviction, and that if the person did nothing wrong, they can explain that to an employer or landlord. Just four in ten (41%) found this convincing, including just 29% of Democrats, but a bare majority of Republicans (52%)

7. Three in four favored automatically sealing records of non-violent drug offenses five years after the sentence has been completed. Source of Proposal: Next Step Act

The argument in favor underscored that people should not be effectively punished over and over and should eventually be given a fresh start. A large 83% found this convincing (Republican 78%, Democrat 90%). The argument against insisted that hiring or renting to a person with a history of drug-use is risky, even if they had not been caught using in a while. Less than half were convinced (48%), including just 31% of Democrats, but nearly two in three Republicans (64%).

Restoring Voting Rights After Felons Complete Sentence

8. Seven in ten (69%) favored automatically restoring voting rights to people with felony convictions after they have completed their sentence, including 87% Democrats, but just under half of Republicans (48%). However 55% of Republicans found the proposal at least tolerable. Sources of Proposal: Next Step Act; Democracy Restoration Act; and For the People Act

The first argument insisted that people with felony records should not be treated like second-class citizens was found convincing by 78% (Republicans 65%, Democrats 92%). The first argument against claimed just because they served their sentence does not mean former prisoners can be trusted with the responsibilities of voting; just 37% found this convincing, including 20% of Democrats, but 54% of Republicans.

The second argument in favor stressed disenfranchisement is unjust as research shows lower income and minority groups, are sent to prison more readily for the same crimes; 69% found this convincing, including 88% of Democrats, but under half of Republicans (47%). The second argument against emphasized that the federal government should not get involved in telling states how to run their elections; it was found convincing by half, including 69% of Republicans, but just 32% of Democrats.

In a separate question, respondents were asked how acceptable this proposal would be. Seventy four percent said it would be at least tolerable, including 55% of Republicans.

