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Gale A. Brewer, Borough President

Testimony of Gale A. Brewer, Manhattan Borough President On Intro 318 to Prohibit Employment Discrimination Based on One's Arrest Record or Criminal Conviction December 3, 2014

Good morning. My name is Gale A. Brewer and I am the Manhattan Borough President. Thank you to Chair Mealy and to the Councilmembers on the Committee on Civil Rights for the opportunity to testify.

I am proud to have co-introduced Intro 318, or the Fair Chance Act, in April of this year with Councilmembers Jumaane Williams, Corey Johnson, and Ritchie Torres. As the name of the bill implies, the Fair Chance Act is intended that all job applicants be considered fairly, whether or not any of them has a prior criminal record. This population faces unique challenges: within one year after release from incarceration, 60% remain unemployed.

Let me start by telling you the story of Gregory Taylor. Gregory is in his late forties and has lived in New York City for many years. He is a skilled construction worker. Both before and during his years in prison, he has acquired substantial skills and experiences in many areas of construction work. Gregory is a certified iron worker, having completed an apprentice program in 1985. He has also obtained certificates and licenses in steel erection, crane signaling, and rigger operation. Since his release in 2011, he completed a 30-hour OSHA training. Gregory is a problem solver. He is a team player. He is always proactive in improving himself. In short, Gregory Taylor is an ideal job candidate.

Unfortunately, New York City lost this ideal construction worker to Newark, NJ because this East Harlem resident was not able to find a job. This is not for lack of trying: in addition to working with a job placement coach at Exodus Transitional Community, a nonprofit organization that provides re-entry support to the formerly incarcerated, Gregory also participated in a 10-week intensive training that equipped him with job search skills ranging from interview best practices to networking. He joined a union and went to multiple construction sites to look for a job. He even branched out and started applying to administrative positions outside of the construction field, willing to take on any position to get himself back on his feet.

But at the end of the day, Gregory must compete with hundreds of workers who do not have a criminal record. Over the summer, he relocated to New Jersey, where in August of this year, the state became one of the latest jurisdictions to adopt similar legislation to the Fair Chance Act before us today. When he moved, Gregory wasn't sure if he would be able to find a job right away. But he believed that the new law would open doors to people like him, and the opportunity was promising enough for him to relocate to Newark.

The City Council has the opportunity to keep skilled workers in New York City by passing the Fair Chance Act. In fact, New York City's biggest employer, the City of New York, essentially already does this. Executive Order 151, issued in August 2011 by former Mayor Michael Bloomberg, prohibits City agencies and human services contractors from asking if a job applicant has been convicted of a crime until after the first interview. Since implementing Executive Order 151, the percentage of City new hires with criminal records nearly doubled between the end of 2012 and the end of 2013, rising from 11.9% to 23.4%, according to information provided by the NYC Department of Citywide Administrative Services. The increase is the highest among job seekers under the Work Experience Program, which helps economically vulnerable New Yorkers, including those with criminal records, to secure job placements and work toward self-sufficiency.

I would like to emphasize that both Executive Order 151 and the Fair Chance Act are meant to expand the chance of employment for workers who are *already qualified* for the positions they apply for. The City hired those 23.4% of candidates with criminal records because they could do the job. Similarly, private employers do not have to consider unqualified job candidates under the Fair Chance Act because each company's regular hiring process already has protocols in place to screen out those who do not qualify. What the Fair Chance Act does is to level the playing field so that those with a criminal record can be considered for a position among other *equally qualified* candidates.

As Gregory's example shows, inmates often acquire valuable skills that are desirable to employers. Many of them complete GEDs, Bachelor's and even Master's degree while on the inside. Some become experienced food handlers; others learn carpentry. Still others have worked as clinical aides inside psychiatric rehabilitation centers in partnership with the NYS Office of Mental Health. And participants enrolled in New York Theological Seminary's Master of Professional Studies program at Sing Sing Correctional Facility gain fundraising and event coordinating experiences by organizing an annual community food drive for the homeless in partnership with local pantries and nonprofit organizations. These are desirable potential employees with competitive market skills. The Fair Chance Act ensures that they are not overlooked during the hiring process simply because they have to check a box.

Over the past several weeks, Councilmember Jumaane Williams and I have met or spoken with members of New York City's business communities, including the Bronx, Brooklyn, Queens, and Staten Island Chambers of Commerce (we are meeting with the Manhattan Chamber of Commerce next week); the Caribbean American Chamber of Commerce and Industry; Partnership for New York City; the Haitian American Business Network; and various business owners. I can honestly say that none of the business stakeholders I have spoken with objects to the intent of the bill in giving those with a criminal record a fair chance.

The businesses' concerns are mostly centered around expediency and potential legal liability. I understand their concerns. Yet I would say that the Fair Chance Act does not impose the burden of paperwork or the need to re-interview a new pool of candidates as long as an employer decides to hire the candidate that he or she likes. As for concerns for increased legal liability, if the nature of a job does indeed prevent an employer from hiring a

candidate with a criminal record, then the written explanation required under the Fair Chance Act will in fact function as a safeguard against legal action, since the explanation will clarify the reasons for withdrawing the offer and demonstrate that denial is not due to discrimination.

Additionally, I have reached out to San Francisco and both the State of Massachusetts and the City of Boston to find out how implementation of their respective fair chance policies are faring. We wanted to learn from Boston's experience in particular because the CORI law that Boston implemented in 2006 is very similar to our Fair Chance Act: banning the box, no criminal history inquiries until after a conditional offer is made, and a look-back period that is the same as what is proposed under the Fair Chance Act.

I and my staff spoke with enforcement agencies, chambers of commerce, business associations, research institutions, and advocacy groups. We learned two key lessons from other jurisdictions: 1) both San Francisco's and Massachusetts' business communities have expressed the same concerns when their respective version of the Fair Chance Act was first proposed, and 2) once implementation began, none of the enforcement officers, chamber leaders, or research specialists we interviewed has received any opposition from businesses against their locality's fair chance laws.

In fact, the greatest concern expressed among Massachusetts' businesses is the desire for more outreach and education on their state's equivalent of the Fair Chance Act, the CORI Reform. This sentiment was expressed to my staff when we reached out to the Greater Boston Chamber of Commerce and the Retailers Association of Massachusetts; it is also a finding reported in a study conducted by The Boston Foundation and the Crime and Justice Institution on the impact of the CORI Reform two years after implementation.

Extensive outreach and education is something that I am committed to providing for New York City's business communities to successfully implement the Fair Chance Act. I will work with the five borough chambers, business associations, advocacy groups, and other partners to disseminate clear and culturally appropriate education information about the Fair Chance Act to businesses of all sizes.

Thank you again for the opportunity to testify before you today. I am honored to have introduced the Fair Chance Act with my colleagues in government and I urge all City Council Members to vote in favor of Intro 318.