

# Ban the Box Without a State Mandate: Local Policy Variation and Recidivism in Florida

Colin Adams\*

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## Abstract

This paper examines the effects of local ban the box policies, which delay when employers can inquire about an applicant's criminal history, on recidivism in the absence of a statewide mandate. Although many states have adopted ban the box policies at the state level, local governments often implement their own laws independently. In Florida, the absence of a statewide policy allows for clean identification of variation driven solely by municipal and county-level adoption. I exploit this variation across cities and counties within a single state, controlling for individual demographics and local economic conditions. I use administrative data from Florida's Offender-Based Information System (OBIS), which tracks all prison admissions and releases since 1981, and proxy prisoner release location using the address at admission. Using a staggered difference-in-differences model, I estimate the effect of being released to an area with a ban the box policy on the probability of recidivism.

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\*Ph.D. Student in Economics, Florida State University ([colinpadams.com](http://colinpadams.com) | [ca23a@fsu.edu](mailto:ca23a@fsu.edu)). I am grateful to Carl Kitchens and Luke Rodgers for their invaluable advice and support throughout this project.

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# I Introduction

Mass incarceration remains a pressing issue in the United States, which incarcerates individuals at a rate unmatched by any other developed nation with over two million individuals incarcerated on any day (Travis, Western, and Redburn 2014). Over one third of these individuals are expected to recidivate (i.e. be re-incarcerated) within three years of their release (Agan and Makowsky 2023). Reduced employment opportunities due to criminal histories are a likely mechanism perpetuating the failure of rehabilitation<sup>1</sup>. This motivates "ban the box" (BTB) laws which aim to improve employment outcomes for ex-offenders.

BTB laws delay when employers can ask about an applicant's criminal history. This removes the "check this box if you have ever been convicted of a criminal offense" question from job applications, when ban the box policies apply. Hence, employers are unable to reveal criminal histories until an interview with the applicant<sup>2</sup>. Ban the box advocates hope this gives ex-offenders a chance to impress employers before revealing their past, but the literature on this is mixed.

Craigie (2020) uses the National Longitudinal Study of Youth 1997 (NLSY97) and finds public BTB laws to increase the probability of public employment of ex-offenders by thirty percent. She also found a positive effect on wages. Jackson and Zhao (2016) finds the opposite effect in Massachusetts. This is likely due to statistical discrimination based on characteristics unobservable in the data. There is a substantial body of research on statistical discrimination related to ban the box.

Statistical discrimination occurs when employers are unable to observe criminal history. They may instead make employment decisions on observables correlated with crime such as race, gender, and age<sup>3</sup>. Doleac and Hansen (2020) is a seminal paper in this literature. They use the Current Population Survey (CPS) and find BTB laws to decrease employment for young minority men with greater effects for black men. Hirashima (2016) and Shoag and Veuger (2021) find similar evidence of statistical discrimination using the American Community Survey (ACS). Agan and Starr (2018) find additional evidence of statistical discrimination using a field experiment in New York and New

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<sup>1</sup>Employment and outside opportunities have long been central to theories of criminal behavior (e.g. Becker 1968 and Ehrlich 1973).

<sup>2</sup>There are some states and cities in which this is delayed further to a conditional job offer. These are fairly uncommon and every municipality in Florida allows employers to ask in the interview (Avery and Lu 2021).

<sup>3</sup>Agan and Starr (2018) found that employers care most about recent crime. This makes young, possible ex-offenders, especially vulnerable to statistical discrimination.

Jersey. However, recent papers find no effect on statistical discrimination (e.g. [Burton and Wasser 2024](#) and [Kaestner and Wang 2024](#)).

Since 1998, thirty-eight states (including DC) have adopted statewide ban the box policies. Most states have "public BTB" only requiring government jobs to ban the box. While twelve have "private BTB" laws mandating private firms ban the box in addition to public employers<sup>4</sup>. Florida has neither a statewide public nor private BTB law. Banning the box is left to cities, counties, and municipalities as they deem fit. Fourteen of which have enacted public BTB laws since 2009 which I list in table 1.

Table 1: Ban the Box Implementation Timeline

City/County	BTB Implementation
Jacksonville	2009
Clearwater	2013
Tampa	2013
Pompano Beach	2014
Daytona Beach	2015
Ft. Myers	2015
Gainesville	2015
Miami-Dade County	2015
Orlando	2015
St. Petersburg	2015
Tallahassee	2015
Broward County	2016
Sarasota	2016
Tamarac	2020

*Note:* All ban the box policies listed are public only. Implementation years obtained from [Avery and Lu \(2021\)](#).

Most similar to my paper is [Sherrard \(2020\)](#) which uses a similar methodology paired with the

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<sup>4</sup>Figure 1 in the [appendix](#) shows all thirty-seven states broken down by public or private BTB.

Bureau of Justice Statistics’ National Corrections Reporting Program (NCRP). He finds no effect of release into areas with ban the box policies on recidivism in aggregate, but finds significant heterogeneity in effects by demographic groups. Black ex-offenders, especially young black ex-offenders, had higher recidivism rates. White ex-offenders, by contrast, experience lower recidivism rates due to ban the box. He credits this to statistical discrimination where high crime demographic groups are seen as criminals when criminal histories are unobserved. The opposite is true for those in low crime demographic groups which are seen as noncriminals even if they have a criminal history.

Using data from Florida’s Offender-Based Information System (OBIS), which tracks all prison admissions, stays, and releases since 1981, I measure the effect of being released to an area with a public BTB law in place on the probability of recidivism. Looking at municipality variation within a state which has never passed a statewide BTB law is a novel contribution to the literature on ban the box. The effects of such policies on ex-offenders specifically are also underexplored with most studies looking at the effects on statistical discrimination (e.g. [Doleac and Hansen 2020](#), [Kaestner and Wang 2024](#), and [Shoag and Veuger 2021](#)).

## II Data and Methodology

I use public data from Florida’s Offender-Based Information System which includes all Florida prisoners since 1981. It includes their residential address at the time of admission which I use as a proxy for release<sup>5</sup>. This is common in the literature (e.g. [Yang 2017](#) and [Agan and Makowsky 2023](#)). Other demographic information is available which I control for, including age, race, and gender. I use a staggered difference-in-differences model as in [Callaway and Sant’Anna \(2021\)](#) due to the adoption of BTB policies over time throughout Florida. This model is shown in equation 1 below.

$$\begin{aligned} Recidivate_{ict} = & \beta_0 + \beta_1 BTB_c \times Implemented_{ct} + \beta_2 BTB_c \\ & + \beta_3 Implemented_{ct} + X'_i \gamma + Z'_{ct} \lambda + \epsilon_{ict} \end{aligned} \tag{1}$$

Here,  $Recidivate_{it}$  is an indicator equal to one if individual  $i$ , released in city  $c$  is readmitted

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<sup>5</sup>It used to include prisoner release location. I am working to find a way to get access to the older version of this dataset to get a better measure of where they were released.

to prison within three years of release  $t$ .  $BTB_c$  is an indicator for cities,  $c$ , which ever have a BTB policy of any kind. In practice, these areas only ever implemented public BTB policies in Florida.  $Implemented_{ct}$  is a time dummy equal to one if city  $c$  has implemented any BTB policy at or before time  $t$ , since no area in my sample ever removed a BTB law.  $X_i$  is a vector of demographic controls for individual  $i$  and  $Z_{ct}$  is a vector for city controls which vary over time. City controls include unemployment rate and the minimum wage in city of release. Lastly, I cluster standard errors by city.

Since some BTB policies are at the county and others the city-level, I code individuals as treated ( $BTB_c \times Implemented_{ct} = 1$ ) if they are in a city with a BTB policy or are in a county with a BTB policy but a city without one. Thus,  $c$  as used above, always denotes the city of release although the policy may be at the county level since cities within the county are still subject to the county's law.

This model relies on the assumption that recidivism in BTB areas would have continued in the same trajectory as non-BTB areas without the policy (i.e. the parallel trends assumption).  $\beta_1$  is my coefficient of interest and represents the change in the probability of recidivism for individuals released to a city with a BTB policy. If significant and negative, an ex-offender released to a city with a BTB policy is  $\beta_1\%$  less likely to be readmitted to prison due to the ban the box policy in their area of release.

### III Discussion

Thirteen states still do not have a statewide Ban the Box policy. In the absence of state action, many cities have enacted their own laws in an effort to improve employment opportunities for individuals with criminal records. Beyond supporting ex-offenders, reducing crime also eases the burden on public resources. Policymakers hope that ban the box and other "fair chance" laws<sup>6</sup> help lessen the stigma associated with a criminal history. If I estimate economically and statistically significant results, then I can measure the expected cost that BTB policies save these cities. This

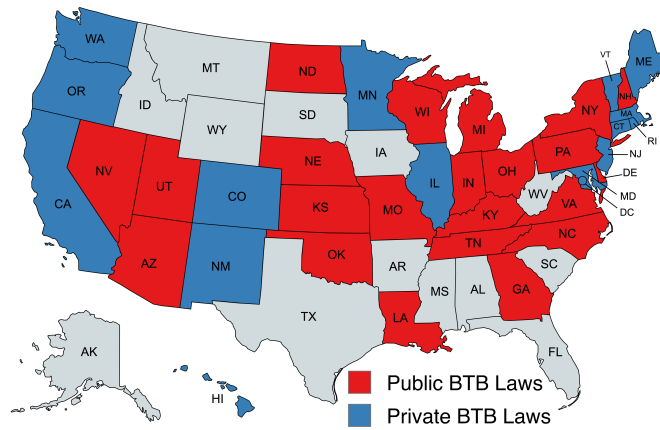
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<sup>6</sup>Fair chance hiring laws are policies designed to improve employment opportunities for ex-offenders. In addition to ban the box laws this includes expungement expansions such as clean slate laws, fair chance licensing reform, and individualized assessment laws.

may provide useful guidance for policymakers in other states that are considering whether to adopt similar reforms.

## IV Appendix

Figure 1: Ban the Box Policies by State



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*Note:* Based on [Avery and Lu \(2021\)](#).

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