



# Fair Chance Housing: Lessons in Implementation

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# Introduction

A person's conviction history should never be a barrier to housing. Housing provides a foundation to engage in opportunities such as education and employment, making it a critical piece of one's life, especially after release from incarceration.<sup>1</sup> Formerly incarcerated people point to housing as one of the most important factors in helping them stay out of prison after release.<sup>2</sup> Despite research finding that a conviction history does not predict a person's housing success, some landlords fear that people with conviction histories will pose a threat to safety and property.<sup>3</sup>

The barriers to housing that people with conviction histories face place emotional and financial strain on families and destabilize communities. Because people leaving incarceration are regularly denied access to safe and affordable housing due to their conviction histories, they often rely on their families as the primary source of stable housing after release.<sup>4</sup> But they are four to seven times more likely to be unemployed compared to members of the general public, so they often can't make enough money to contribute to the household.<sup>5</sup>

As a result, people leaving incarceration often face homelessness and housing instability.<sup>6</sup> Approximately one-third of formerly incarcerated people lack stable housing after release.<sup>7</sup> People who experience homelessness have frequent interactions with police, who arrest them for misdemeanors often associated with homelessness, such as sleeping in public spaces and trespassing, reinforcing a cycle of homelessness and incarceration.<sup>8</sup> Moreover, housing restrictions based on landlords' reluctance to accept tenants with conviction histories also force people who are otherwise qualified for housing to resort to more precarious housing settings such as

**It's horrifying waking up each day, not knowing if you're going to have a place to live . . . it's unnecessary and it's unfair and it's inhumane . . . because if anybody needs anything, they need housing. . . . [I]f you want people to rehabilitate themselves to be successful in society, then you have to give people the tools that they need to be successful and productive.**

—Cook County resident

shelters, placing undue stress on systems and agencies that are already overburdened and have limited resources.<sup>9</sup> People will continue to face barriers absent protections that end housing discrimination for people with conviction histories.

To ensure that people are able to access housing after criminal legal system involvement, the Vera Institute of Justice (Vera) is advancing policy changes in several states, building on emerging lessons from the field. This research brief sheds light on how the passage of fair chance housing laws has impacted communities in Cook County (Illinois), New Jersey, and Washington, DC. Vera interviewed policy advocates, housing providers, enforcement agencies, policymakers, and other stakeholders to determine if people's ability to secure housing has changed, the impact on housing provider operations, and the factors required to ensure that policies work.

# Background on Policies That Limit Housing Discrimination for People with Conviction Histories

Policymakers in jurisdictions across the country are taking important steps toward expanding access to housing for their families, friends, and neighbors with conviction histories. These policies aim to protect prospective renters from discrimination while giving housing providers a framework to screen tenants with conviction histories. The laws can target specific types of housing. For example, the Illinois Housing Authorities Act limits the use of criminal records when making decisions for *public* housing, whereas Cook County's Just Housing Amendment applies to *all*

rental housing within Cook County.<sup>10</sup> However, each of the policies has similar provisions, including

- **Two-step process and conditional offer.** Housing providers follow a two-step process when screening applicants with conviction histories. First, the housing provider conducts a prequalification screening based on credit, income, and other factors. Second, after the housing provider makes a conditional offer, it then conducts a criminal background check.
- **Defined lookback periods.** Defined lookback periods limit the time period following a criminal legal system event (for example, conviction or incarceration) during which housing providers can consider these histories in determining housing admission. For example, housing providers in a jurisdiction with a three-year lookback period for felony convictions from the date of application may only consider convictions for felonies that have occurred within the three years preceding the date of the application.
- **Individualized assessment.** An individualized assessment helps housing providers consider mitigating factors to determine tenancy suitability for people with conviction histories. Factors considered include the nature, severity, and recency of the incident or conduct; the length of time that has passed since a conviction; tenancy history; ties to the community; and evidence of rehabilitation (for example, securing employment).
- **Enforcement mechanisms.** Several jurisdictions' laws identify a government agency tasked with enforcing the law. For example, if landlords violate New Jersey's Fair Chance in Housing Act, they may be liable for civil penalties for an amount based on the number of violations found, collectible and enforced by the New Jersey Office of the Attorney General.<sup>11</sup>

The following jurisdictions have policies that protect formerly incarcerated people's rights when they apply for rental housing.

- **Cook County, Illinois: Just Housing Amendment (effective 2020)<sup>12</sup>**
  - Cook County's Just Housing Amendment prohibits housing discrimination based on a person's criminal history and requires landlords considering a person's criminal history to perform an individualized assessment prior to denying them any application for housing. The amendment applies to all rental housing within Cook County, and housing providers may only consider convictions that occurred within the past three years, as well as certain convictions with sex offense registry requirements.
  
- **Illinois: Public Housing Access Bill (effective 2021)<sup>13</sup>**
  - The Illinois Public Housing Access Bill limits the ability of public housing authorities to refuse housing to people with criminal histories. The law includes provisions for a six-month lookback period.
  
- **Jackson, Michigan: Fair Chance Housing Ordinance (effective 2022)<sup>14</sup>**
  - Jackson's Fair Chance Housing Ordinance prohibits landlords from disqualifying applicants for rental housing based solely on their conviction and arrest records. The ordinance prohibits housing providers from asking about conviction histories during the initial screening process, delays criminal background checks until a conditional lease is offered to the applicants, and allows applicants to show evidence of rehabilitation before a final denial by a housing provider.

- **New Jersey: Fair Chance in Housing Act (effective 2022)<sup>15</sup>**
  - New Jersey’s Fair Chance in Housing Act limits a landlord’s ability to consider an applicant’s criminal history on an initial housing application, in an interview, or in other ways before making an offer. Housing providers must follow a tiered system of lookback periods based on conviction types and conduct an individualized assessment as a part of the review process.
  
- **New York City: Fair Chance for Housing Act (effective 2025)<sup>16</sup>**
  - New York City’s Fair Chance for Housing Act limits how housing providers conduct criminal background checks when considering housing applicants. Housing providers must consider other relevant factors such as credit, income, or tenant history before considering a conviction history. New York City’s lookback periods are five years for felony convictions and three years for misdemeanors.
  
- **Washington, DC: Fair Criminal Record Screening for Housing Act (effective 2017)<sup>17</sup>**
  - Washington, DC’s Fair Criminal Record Screening for Housing Act prohibits most rental housing providers from asking about a housing applicant’s criminal background before granting a conditional offer of housing.

# Methods

This brief draws on interviews Vera conducted from January to August 2024 across Cook County, Illinois; New Jersey; and Washington, DC, aimed at understanding how each jurisdiction was implementing recently passed fair chance housing laws. Vera conducted a total of 29 interviews with housing providers (5); jurisdiction residents with conviction histories (9); and external stakeholders (15), such as advocates, enforcement agents, reentry service providers, and legislators.

# Findings

Stakeholders interacted with fair chance housing laws in several ways, from being involved in the initial design to benefiting from their enactment and changing internal processes to allow formerly incarcerated people a place to live. People agreed that—while not a panacea for challenges to housing access—the fair chance housing policies are a step in the right direction to create pathways for people to be housed after involvement with the criminal legal system. Beyond the direct benefits for formerly incarcerated people, these laws introduce an opportunity to further shift the discourse and narrative about people with conviction histories and what it means to support their transition into the community.

The following sections highlight the experiences of residents, housing providers, and stakeholders involved in the laws' implementation. Residents spoke about facing housing instability after incarceration and the impact, or lack thereof, of the laws on their ability to secure a home. Housing providers spoke to the laws' minimal impact on their operations and the lack of impact on safety. Finally, a diverse group of stakeholders spoke about their



roles in ensuring their jurisdiction was following its policy, as well as areas for improvement.

## SECURING HOUSING AFTER INCARCERATION

Residents with conviction histories in all three jurisdictions described significant barriers to housing access both before and after the passage of fair chance housing laws. Some residents reported stories of denials that may have actually been illegal under the new fair chance housing policies, but these residents were either unaware of the law or unclear whether it applied to their circumstances (for example, whether the housing complex they applied to was large enough for the law to apply). In conversations, residents often revealed a lack of awareness regarding their newfound rights under fair chance housing policies. When informed about the details of the fair chance housing policy in their jurisdiction, residents, reflecting on their experiences, suggested that landlords may be unaware of these laws or are finding ways to screen out applicants with conviction histories despite the passage of protective policies.

For many, securing housing was most challenging immediately following their release from incarceration. Some were living in transitional housing (for example, halfway houses), while others stayed with family or friends. During this time, residents were grateful to be supported and housed but yearned to have places of their own. Although they preferred temporary living situations to living in the streets, these carried unique issues of their own. For example, although residents living in reentry housing often found the resources their program provided to be useful, some also found the rules and shared living arrangements to be obstacles to self-sufficiency, especially as more time passed since their release. Among some of the issues cited were negative interactions with other program participants

**You would be surprised how a single line of information can change people's perception or image of how they view you. I have learned that lesson the hard way and so I'm just really trying to weigh my options as much as humanly possible before I make any decision.**

—Washington, DC, resident

and overly burdensome program requirements that were either not applicable (such as drug treatment for people with no history of substance use disorder) or overly restrictive (such as strict curfews).

Residents living with family or friends described a different set of challenges. In some cases, residents expressed feeling like a burden to their loved ones and wanting to demonstrate growth and self-sufficiency by living on their own. Some residents enjoyed living with family or friends but faced barriers in making this arrangement work long-term: many residents could not be added to the lease due to their conviction histories or chose precarious living situations such as subletting month to month. These living situations were particularly complicated for people released on parole, as people on parole can often be required to be on a lease in order for their living arrangement to satisfy parole conditions. Indeed, one resident described being stuck in a bind as both someone released on parole and a caretaker for an elderly parent. This resident was not able to get added to their parent's lease and faced an impossible dilemma: comply with their conditions of parole and live in a shelter or risk violating parole in order to provide adequate care to their loved one.

Over time, some residents managed to find apartments for themselves. These residents described the importance of having a place to call home: having access to rental housing made it easier for these residents to live and work in a neighborhood of their own choosing, pursue career and educational opportunities, and build lives for themselves. Indeed, every resident Vera spoke to, regardless of their current living conditions, emphasized the utmost importance—and difficulty—of finding safe, quality, and affordable housing.

## **HOUSING PROVIDERS' PERSPECTIVES OF POLICIES**

Fair chance housing laws require housing providers to follow specific processes when screening potential tenants. In jurisdictions where these laws have passed, housing providers Vera spoke to reported having acclimated to these new procedures. One

provider that oversees a large number of housing units stated that the change in law has led the housing provider to admit tenants it previously would have denied. These newly accepted tenants have posed no risk to people or property. No housing provider mentioned any increase in adverse incidents since the passage of the law. Housing providers also spoke about how the passage of the fair chance housing laws catalyzed a reevaluation of existing tenant screening practices, which often had remained unchanged for many years. The implementation process of the law brought about thoughtful consideration of housing access for people with conviction histories. These policies are helping people to find places to live while prompting housing providers to reevaluate why and how they assess who will be a good tenant.

Fair chance housing laws did not result in significant capacity burdens for housing providers, and many found that training and public education were integral to effectively implement these laws. Housing providers adjusted their operations to increase communication to applicants and conduct individualized assessments, both of which required internal training for staff. Housing providers also supported the individual assessment because it provides an opportunity for applicants to elaborate on criminal background check reports and demonstrate rehabilitation. Additionally, legal aid and tenants' rights organizations provided trainings designed to ensure compliance and educate communities about their newfound rights in order to support effective implementation. Several housing providers suggested that other housing providers were not in compliance with the laws due to lack of awareness and that public education is key for effective implementation.

**I liked the idea of the individualized assessment as well . . . because everything can't be seen by looking at a generated [criminal background check] report. . . . [A]llowing that person to have that opportunity to say "Hey, while it may be on my record, this is what happened. This is what I've been doing since." I think it's always good to give people the opportunity to explain their situation.**

—Washington, DC, housing provider

## IMPLEMENTATION AND IMPACT

Government agencies and community organizations such as those that provide legal services strive to ensure that the law is being followed, though this can be challenging without built-in enforcement mechanisms. Legal service providers play an important role in helping prospective tenants understand their rights under the fair chance housing laws and take legal action against housing providers if they violate tenants' rights. An enforcement mechanism, such as an oversight agency, is critical in jurisdictions that enact these policies in order to effectively implement the law. In some instances, tenants whose rights were violated were able to secure settlements from housing providers, although such settlements may not guarantee housing. In addition to supporting tenants in litigation, enforcement agencies also send letters to landlords alleging violations, which prompt some housing providers that had initially rejected applicants to reverse their decisions.

Violations occur at different points in the rental application process, but most occur before the individualized assessment, a later stage of the process under the fair chance housing laws. Housing providers have been found to advertise blanket criminal record bans, conduct preemptive inquiries about criminal records, and have lookback periods that are longer than the laws allow. People Vera interviewed reported instances of prospective tenants who were denied housing because of decades-old conviction records; in other instances, a criminal background check will include records that are older than the lookback period, and prospective tenants will be denied because of those records. Categorical denials are still routine, revealing the need to further educate housing providers on fair chance housing laws.

Advocates Vera interviewed who helped pass these policies stated that the law was well designed because it isolated the criminal background check from other components of the rental application

**I can think of one client [who had] a felony from 1989 and that was the only thing on his record, and he was denied.**

—Washington, DC, legal service provider

process. The individualized assessment offers a framework for housing providers to accept tenants because it provides reasons as to why a person would qualify. An important requirement of the laws is the written notices of denial. The notices require housing providers to document the reasons for the denial, allowing people who were denied the opportunity to examine the records that the housing provider reviewed and challenge the decision if it violated the law. Stakeholders observed that strong enforcement directly impacted housing provider compliance, highlighting the importance of having robust enforcement mechanisms in the law.

## Conclusion

Although there are differences in how jurisdictions operationalize fair chance housing policies, stakeholders can agree that having a nondiscriminatory housing law in place is positive for society. Laws that facilitate increased access to housing for people with conviction histories may promote housing stability and decrease recidivism, because housing is a key predictor of successful reentry.<sup>18</sup> Such laws minimize disruptions to housing provider operations and help housing providers make complex decisions about whom to admit to their properties by dictating an implementation process. These laws help community stakeholders overcome their biases and stereotypes about people with criminal legal system involvement, introducing a way to view a person holistically. Critically, people are benefiting from fair chance housing laws by getting housed.

The most robust state policy—New Jersey’s Fair Chance in Housing Act—was considered and passed during a time of increased societal awareness about racial justice issues spurred by the murder of George Floyd. But current events should not dictate when commonsense policies are considered. The foundational nature of housing for populations at risk of homelessness makes it

that much more important to enact policies that end discrimination against people who have conviction histories. When barriers to housing are removed, people who were otherwise excluded can return to the mainstream economy, reclaiming their roles as neighbors, family members, and participants in the community. The policies offer a fair chance and an opportunity for people to find a place to call home.

## ENDNOTES

- 1 Amanda Geller and Marah A. Curtis, “A Sort of Homecoming: Incarceration and the Housing Security of Urban Men,” *Social Science Research* 40, no. 4 (2011), 1196–1213, 1196, [https://www.researchgate.net/publication/46443188\\_A\\_Sort\\_of\\_Homecoming\\_Incarceration\\_and\\_the\\_Housing\\_Security\\_of\\_Urban\\_Men](https://www.researchgate.net/publication/46443188_A_Sort_of_Homecoming_Incarceration_and_the_Housing_Security_of_Urban_Men); and John McGinty and Pamela Blumenthal, “How Housing Matters for Economic Mobility,” Urban Institute, May 8, 2015, <https://www.urban.org/urban-wire/how-housing-matters-economic-mobility>. See also Christy A. Visher and Shannon M. E. Courtney, *One Year Out: Experiences of Prisoners Returning to Cleveland* (Washington, DC: Urban Institute, 2007), <https://perma.cc/EVX3-5RFA>.
- 2 Rebecca L. Naser and Nancy G. La Vigne, “Family Support in the Prisoner Reentry Process: Expectations and Realities,” *Journal of Offender Rehabilitation* 43, no. 1 (2006), 93–106, 101, <https://perma.cc/U7C2-XNV7>.
- 3 Daniel K. Malone, “Assessing Criminal History as a Predictor of Future Housing Success for Homeless Adults with Behavioral Health Disorders,” *Psychiatric Services* 60, no. 2 (2009), 224–230, 227–229, <https://perma.cc/8ASP-C98U>. See also Calvin Johnson, “Tenant Screening with Criminal Background Checks: Predictions and Perceptions Are Not Causality,” Edge: Office of Policy Development and Research, May 17, 2022, <https://perma.cc/ZX8E-M4Y8>.
- 4 Marta Nelson, Perry Deess, and Charlotte Allen, *The First Month Out: Post-Incarceration Experiences in New York City* (New York: Vera Institute of Justice, 1999), 8–11, <https://perma.cc/J37Z-FSH8>; and Naser and La Vigne, “Family Support in the Prisoner Reentry Process,” 2006, 97–101.
- 5 Carrie Pettus and Stephanie Kennedy, *Housing Stability After Incarceration* (Tallahassee, FL: Florida State University, College of Social Work, Institute for Justice Research and Development, 2022), 8–9, <https://perma.cc/QE8Y-P8P2>. See also Lucius Couloute and Daniel Kopf, “Out of Prison & Out of Work: Unemployment among Formerly Incarcerated People,” Prison Policy Initiative, July 2018, <https://perma.cc/8J34-VND7>.
- 6 Lucius Couloute, “Nowhere to Go: Homelessness among Formerly Incarcerated People,” Prison Policy Initiative, August 2018, <https://perma.cc/2JST-EEJC>.
- 7 Pettus and Kennedy, *Housing Stability After Incarceration*, 2022, 4.
- 8 Valerie A. Clark, “Predicting Two Types of Recidivism among Newly Released Prisoners: First Addresses as ‘Launch Pads’ for Recidivism or Reentry Success,” *Crime & Delinquency* 62, no. 10 (2014), 1364–1400, 1370, <https://journals.sagepub.com/doi/10.1177/0011128714555760>; Leah A. Jacobs and Aaron Gottlieb, “The Effect of Housing Circumstances on Recidivism: Evidence from a Sample of People on Probation in San Francisco,” *Criminal Justice & Behavior* 47, no. 9 (2020), 1097–1115, 1099, <https://journals.sagepub.com/doi/abs/10.1177/0093854820942285>; and Visher and Courtney, *One Year Out*, 2007, 11–13. See generally Tristia Bauman, Rajan Bal, Karianna Barr, et al., *Housing Not Handcuffs 2019: Ending the Criminalization of Homelessness in U.S. Cities* (Washington, DC: National Law Center on Homelessness and Poverty, 2019), 50, <https://perma.cc/A7JU-5HDL>.
- 9 Economic Development and Small Business Subcommittee on Housing, “A Presentation on Fair Chance Housing in Michigan” (video) (Ann Arbor, MI: Michigan House of Representatives, May 11, 2023), 43:55, <https://house.mi.gov/VideoArchivePlayer?video=HSECO-051123.mp4>. Aisha Wilson, engagement specialist for Nation Outside—Lansing chapter, testified that people who are qualified for housing often face discrimination based on their conviction histories.

Wilson testified that she and her young son were living in a rental property where the housing provider violated multiple tenants' rights, and she was forced to leave. Although Wilson had the resources to rent a home, she was denied housing numerous times and ultimately resorted to accessing the homeless shelter system.

- 10 Compare 310 ILCS 10, Sec. 8.10a (criminal history record and housing data), <https://perma.cc/T5WP-XB67> with Cook County Code of Ordinances, Sec. 42-38 (housing), Ord. No. 19-2394, <https://perma.cc/3MT8-AZXJ>.
- 11 N.J. Stat. Ann. § 46:8-52 et seq., <https://perma.cc/MKG4-LT8Y>.
- 12 Cook County Code of Ordinances, Sec. 42-38, Ord. No. 19-2394. See also Cook County Government, "Just Housing Amendment to the Human Rights Ordinance," <https://perma.cc/CCT7-33TM>.
- 13 Ill. Pub. Act No. 101-0659, § 25(e-5)(1), <https://perma.cc/MPS7-6QWY>.
- 14 Fair Chance Housing Ordinance of Jackson, Michigan, 2022. Art. VIII, Sec. 14-600 et seq., Ord. No. 2022-05, <https://perma.cc/G39X-FKQM>.
- 15 N.J. Stat. Ann. § 46:8-52 et seq., <https://perma.cc/MKG4-LT8Y>.
- 16 New York City Council, "Prohibiting Housing Discrimination on the Basis of Criminal History," Law No. 2024/024, <https://perma.cc/P3DF-72C4>.
- 17 Code of the District of Columbia, "Chapter 35B. Fair Criminal Record Screening for Housing," § 42-3541.01 et seq., <https://perma.cc/S4Q7-4B32>.
- 18 Kimberly Burrowes, "Can Housing Interventions Reduce Incarceration and Recidivism?" Urban Institute, February 27, 2019, <https://perma.cc/S5GE-CNZQ>; and Calvin Johnson, "Why Housing Matters for Successful Reentry and Public Safety," Edge: Office of Policy Development and Research, April 19, 2022, <https://perma.cc/UG2C-AQTK>.



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