# Fair Chance Housing

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## **Road Map**

# **1.** Current state

# 2. Goals of Fair Chance Housing

# **3. Details of Legislation**

## Current State: The Problem of Mass Incarceration

- Approximately 30% (173,714) of Seattle residents over the age of 18 have an arrest or conviction record and 7% (43,428) people, have a felony record.
- An average of 2,000 people a day are detained in the King County jails.
- Each year, an average of 1,400 women and men return home to King County once released from the Washington State Department of Corrections.

## Current State: Racial Disparities in Criminal Justice

### **Arrests in King County**

in 38 black individuals will be arrested
in 56 Native Americans will be arrested
in 200 white individuals will face arrest.

#### **Juvenile Justice**

Less than 13% of King County youth are black but black youth comprise 50% of the youth held in King County 's juvenile detention center.

#### **Disparities in Sentencing**

In WA, people of color receive longer sentences than similarly situated white defendants.

# Current State: Racial disparities in incarceration



# Current State: The criminal record housing barrier

More than half of the national homeless population has a history of incarceration.

**80%** of national survey respondents were denied housing because of their criminal record.

Four out of five landlords screen out prospective tenants with criminal records.

Yet studies show that **criminal history is not predictive of successful tenancy**.

## Current State: HUD Guidance: blanket bans discriminate

**2016 Federal Guidance:** Because of the disproportionate impact of criminal records on people of color, landlords who refuse to rent to tenants with criminal records violate the Fair Housing Act.

**Screening** criteria must be shown to be necessary to serve a "substantial, legitimate, nondiscriminatory interest."

Landlords should consider several factors, such as the nature and age of individual for any conviction, before using criminal history as a basis to deny housing.

# Fair Chance Housing Legislation

# **Goals of Fair Chance Housing**

## **Racial equity**

Racial disparities in the criminal justice system and racial bias in tenant selection lead to compounded impacts for communities of color.

## **Family reunification**

Nearly half of all children in the U.S. have one parent with a criminal record. Black children are 7.5 times more likely and Hispanic children are 2.6 times more likely than are white children to have a parent in prison.

## **Building inclusive communities**

A person without stable housing is 7 times more likely to reoffend after returning from prison.

## **Addressing homelessness**

One in five people who leave prison become homeless soon thereafter.

# FCH: restricts use of criminal history

## Landlords <u>may not</u> consider:

- Arrests that did not lead to conviction
- Pending criminal charges
- Convictions that have been expunged, vacated or sealed
- Juvenile records
- Status of a juvenile applicant/tenant on the Sex Offender Registry
- Convictions older than 2 years

# FCH: allows consideration of recent convictions with justification

### Landlords <u>may</u> consider:

- Convictions less than 2 years old
- Status of an adult applicant/tenant on the Sex Offender Registry

## Justification:

 A landlord must have a legitimate business reason to deny, evict or take other adverse action based on a conviction older than 2 years or on status of an adult applicant on the Sex Offender Registry.

## FCH: Legitimate Business Reason Required

To establish a Legitimate Business Reason, a landlord must:

- **1. Demonstrate a nexus** between the specific criminal conviction and resident safety and/or property; AND
- 2. Consider an applicant's history including:
  - nature/severity of the conviction
  - number/types of convictions within the 2 year period
  - age of the individual at the time of conviction
  - evidence of good tenant history before/after the conviction occurred
  - any supplemental information related to the person's rehabilitation, good conduct or facts/circumstances surrounding the conviction provided by the applicant

# FCH: Additional Details

- Prohibits language in advertisements that categorically exclude people with arrest or conviction records
- Requires notice of this law to be included on the rental application
- Requires landlord provide name/address of consumer reporting company so applicant may address erroneous records
- Prohibits retaliation against an applicant/tenant if a claim is filed

# FCH: What housing applies

Fair Chance Housing applies to all rental housing in Seattle except:

- Shared occupancy units (renting or subleasing a room)
- Buildings with 4 or fewer units <u>where the owner lives</u> <u>onsite</u>, including accessory and detached accessory dwelling units
- Some federally assisted housing where federal law requires banning peop
  - convicted of methamphetamine production in public housing, or
  - subject to lifetime sex offender registration

## FCH: Seattle Office of Civil Rights Enforcement

## **Investigation by SOCR**

- Applicant/Tenant contacts SOCR, does intake, and signs a complaint
- SOCR Investigator contacts Landlord (Respondent)
- SOCR Investigator conducts interviews and gathers evidence

## **Possible Outcomes:**

- No Reasonable Cause evidence does not support a violation
- **Reasonable Cause** evidence supports a violation
- **Settlement** a voluntary, negotiated agreement
- Administrative Closure or Withdrawal

## **Civil Penalties:**

- First Offense: up to \$11,000
- One or more offenses in 5 years: up to \$27,500
- Two or more offenses in 7 years: up to \$55,000

## **First in Time**

### Landlords must provide <u>notice</u> of:

- All screening criteria, including criminal history criteria
- How to request additional time to complete application

### **Additional Information:**

 If the landlord needs more information to make a decision, the landlord must give the applicant 72 hours to provide additional information

Landlords must offer tenancy to first person who meets their screening criteria.

# **Application of FCH with First in Time**

## Landlord chooses to screen for registered sex offenders.

- 1. Advertisement must list all screening criteria, including screening for sex offender registration.
- 2. Person with Sex Offender Registration is first applicant and meets all other screening criteria.
- 3. Landlord informs applicant of status and gives applicant 72 hours to provide additional information about sex offender registration.
- 4. Applicant provides
  - positive letter of reference from past landlord
  - documentation that sex offender registration required after conviction of public urination 7 years prior at age 20
- 5. Landlord makes determination that there is no nexus between the applicant's sex offender registration and safety of property/residents and enters into lease with applicant.