

Minnesota Fair Chance Access to Housing Act: Frequently Asked Questions

What is the Minnesota Fair Chance Access to Housing Act?

The Minnesota Fair Chance Access to Housing Act limits the use of background checks when someone applies for rental housing. It would ensure that Minnesotans with arrest and conviction histories have a fair chance to secure housing.

Why does Minnesota need this legislation?

Access to housing reduces crime and keeps our communities safe. It substantially increases the likelihood that a person returning home from incarceration will be able to find a job, avoid additional convictions, and receive support from their family. A 2021 review analyzing 18 studies from around the world found that stable housing was associated with decreased criminal activity in every study.¹

The research is clear that housing makes us safe, yet people with conviction histories are shut out of housing opportunities in Minnesota.² Most housing providers use background checks to deny applicants even though they do not give us accurate information about an applicant's safety risk or ability to be a good tenant.³ A background check provides information about a person at the time of their last conviction, but it does not define a person or show who they have become during and after incarceration (for example, gains in education, employment, and stability). Furthermore, research shows that most people with convictions in their past do not go on to have another conviction.⁴ Considerations like a person's ability to pay rent, ties to the community, employment, and personal references can provide a much more accurate picture.

With this law, Minnesota will ensure that housing providers assess rental applicants on factors relevant to housing success, which will reduce crime and make our communities safer.

How many people would this legislation impact?

More than one million Minnesotans have some type of criminal legal system involvement.⁵ And there are currently more than 13,000 people in jail or prison in the state of Minnesota; many of them will eventually be released and need a place to live.⁶

This issue does not only impact people with conviction histories, but it also extends to thousands of families who face barriers to housing. Thirteen percent of Minnesota students has had a parent in prison.⁷ Increasing access to stable housing for families has been found to reduce children's absences in school, improve behavioral health issues, and improve nutritional outcomes.⁸

What would the Fair Chance Access to Housing Act do?

The Fair Chance Access to Housing Act ensures that housing providers assess rental applicants on more than just their conviction histories.

In summary, the Fair Chance Access to Housing Act will:

- prohibit housing providers from asking rental applicants about their conviction histories during the initial screening process;
- postpone any background check until the applicant receives a conditional offer;
- limit the use of screening to specific types of convictions within established timeframes; and
- allow applicants to undergo an individualized review of their conviction histories and offer evidence of rehabilitation prior to denial by the housing provider.

What about the safety of other tenants?

Previous criminal legal system involvement does not indicate that someone will be an undesirable tenant and neighbor. Factors like employment, references, and ability to pay rent are much more informative. And a conviction history does not mean that a person will commit an additional crime. The majority of people have only one conviction, meaning that a conviction history does not accurately predict an applicant's safety risk to other tenants.⁹

Increasing access to housing for people with conviction histories will keep other tenants safe. Study after study finds that people who are stably housed are less likely to commit crimes.¹⁰ For example, one study looking at women with felony convictions who were experiencing poverty found that stable state-sponsored housing and other economic supports reduced the odds of being arrested for a new crime or violating parole by 83 percent.¹¹

Is this a racial justice issue?

The use of background checks in rental application processes harms Black communities by worsening existing racial disparities. In Minnesota, Black people are disproportionately over-arrested and incarcerated. Black people make up only 8 percent of the state's population, yet they make up nearly 40 percent of the state's prison population.¹² This discrimination carries over into the community as people are released from jail and prison and are then shut out of housing.¹³

Didn't the recently passed Clean Slate legislation address this issue?

This legislation will build on the successes of Clean Slate. It is needed because not everyone qualifies for Clean Slate. Further, even if a person does qualify for Clean Slate, they must wait two to five years to expunge their record.¹⁴ People cannot wait that long to find a stable home, nor can we afford that kind of instability in our communities.

Where do Fair Chance Housing policies already exist?

Minneapolis passed a local fair chance housing ordinance in 2019.¹⁵ A statewide law would strengthen this protection. Washington, DC and New York City have also passed fair chance housing legislation.¹⁶ New Jersey recently enacted statewide Fair Chance Housing laws and has been successful in curbing housing discrimination against people with conviction histories.¹⁷ By passing the Fair Chance Access to Housing Act, Minnesota can lead the nation with the strongest statewide protections in the country.

Are housing providers liable if they rent to people with conviction histories?

No. A housing provider will not be held liable if they rent to someone with a conviction history who then commits a crime. A provision within the Act explicitly protects housing providers from liability in civil actions should this situation occur.

Endnotes

- ¹ Phillippa Carnemolla and Vivienne Skinner, “Outcomes Associated with Providing Secure, Stable, and Permanent Housing for People Who Have Been Homeless: An International Scoping Review,” *Journal of Planning Literature* 36, no. 4 (2021), 508–525, doi.org/10.1177/0885412221101291.
- ² Brian Pittman, Stephanie Nelson-Dusek, Michelle Decker Gerrard, and Ellen Shelton, *Homelessness in Minnesota: Detailed Findings from the 2018 Minnesota Homeless Study* (St. Paul, MN: Wilder Research, 2020), 39, perma.cc/CM4D-FKFE.
- ⁴ Shawn D. Bushway, Brian G. Vegetabile, and Nidhi Kalra, et al., *Providing Another Chance: Resetting Recidivism Risk in Criminal Background Checks* (Santa Monica, CA: RAND Corporation, 2022), 52–53, rand.org/pubs/research_reports/RRA1360-1.html.
- ⁵ Becki R. Goggins and Dennis A. DeBacco, *Survey of State Criminal History Information Systems* (Sacramento, CA: SEARCH Group, 2020), 2022, 33, perma.cc/WNG8-7S7P.
- ⁶ Vera Institute of Justice, “Incarceration Trends,” updated August 21, 2023, trends.vera.org. To access this data, search “Minnesota, United States” in the search bar in the upper righthand corner, then scroll down to “Jail and Prison Incarceration” and toggle to “Total population.”
- ⁷ Minnesota Department of Health, “Survey: Nearly 1 in 5 Greater Minnesota Teens Affected by Parental Incarceration,” Press release (Minnesota, MN: Minnesota Department of Health, March 28, 2023), perma.cc/SG9X-FV6X.
- ⁸ See Daniel Gubits, Marybeth Shinn, Michelle Wood, et al., *Family Options Study: 3-Year Impacts of Housing and Services Interventions for Homeless Families* (Washington, DC: U.S. Department of Housing and Urban Development, Office of Policy Development and Research, 2016), xxviii, perma.cc/7LPB-UJE6; and Diana Becker Cutts, Alan F. Meyers, Maureen M. Black, et al., “US Housing Insecurity and the Health of Very Young Children,” *American Journal of Public Health* 101, no. 8 (2011), 1508–1514, 1511, perma.cc/YP4K-SWSS.
- ⁹ Bushway, Vegetabile, and Kalra, et al., *Providing Another Chance*, 52–53, 2022.
- ¹⁰ Carnemolla and Skinner, *Outcomes Associated with Providing Secure, Stable, and Permanent Housing*, 2021.
- ¹¹ Kristy Holtfreter, Michael D. Reisig, and Merry Morash, “Poverty, State Capital, and Recidivism among Women Offenders,” *Criminology & Public Policy* 3, no. 2 (2004), 185–208, 201, doi.org/10.1111/j.1745-9133.2004.tb00035.x.
- ¹² Vera Institute of Justice, “Incarceration Trends,” updated August 21, 2023, trends.vera.org. To access this data, search “Minnesota, United States” in the search bar in the upper righthand corner, then scroll down to “Racial Disparities in Incarceration.”
- ¹³ See Greater New Orleans Fair Chance Housing Action Center, *Locked Out: Criminal Background Checks as a Tool for Discrimination* (New Orleans: Greater New Orleans Fair Housing Action Center, 2015) (discussing this issue in Louisiana), perma.cc/H7UY-CXZ2; and Equal Rights Center, *Unlocking Discrimination* (Washington, DC: Equal Rights Center, 2016), perma.cc/G8AT-Y2AH.
- ¹⁴ Minnesota Legislature, Clean Slate Act, Minnesota HF 2023, 2023, perma.cc/A9X4-A3V3.
- ¹⁵ City Council of the City of Minneapolis, “Renter Protections Ordinance,” 2019, <https://lms.minneapolismn.gov/Download/FileV2/20980/Renter-Protections-Ordinance.pdf>.
- ¹⁶ Council of the District of Columbia, “Fair Criminal Record Screening for Housing Act of 2016,” Act 21-677, 2017, perma.cc/F9LH-GVWL; and New York City Council, “Fair Chance for Housing Act,” Int 2047-2020, 2021, legistar.council.nyc.gov/LegislationDetail.aspx?GUID=727F0B98-C1D6-4A6D-A12B-53356D35C065&ID=4624864.
- ¹⁷ Ashley Balcerzak, “NJ Warns 59 Landlords over Violating Law on Housing Rights for Formerly Incarcerated,” NorthJersey.com (USA Today), February 24, 2023, perma.cc/2ZYD-X7VV.