



What types of evidence will the HRC look at to determine whether discrimination on the basis of a prior arrest or conviction has occurred?

When investigating allegations of discrimination, the HRC will look at the whole record: the questions asked; the information provided; and how the housing provider established that the conviction is substantially housing related. The HRC will also look at whether or not the housing provider has other reason(s) for rejecting the housing applicant

Won't this proposed legislation make San Francisco more unsafe?

On the contrary, this legislation will make San Francisco safer because it will improve opportunities for stable housing for people with past convictions. In an effort to ensure safe housing and workplaces, housing providers and employers often adopt overbroad policies that exclude individuals with a prior arrest or conviction. These unfair practices create lifelong barriers for people who would make good tenants and employees. Moreover, such policies actually compromise public safety. Studies have shown that access to employment and housing opportunities lowers recidivism rates, thus increasing public health and safety.

About the Human Rights Commission

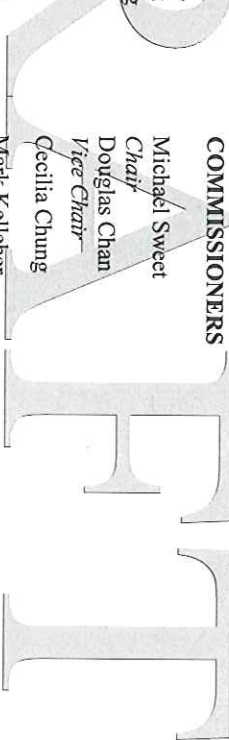
The Human Rights Commission works to provide leadership and advocacy to secure, protect and promote human rights for all people. Its broad powers and duties include: Mediation and conciliation of intergroup disputes and tensions; Enforcement of local anti-discrimination laws and affirmative action monitoring. Implementation and enforcement of the Equal Benefits Ordinance; Ensuring compliance by City departments and contractors with the provisions of the Local Business Enterprise Ordinance; Implementation of federal and local fair housing protection; Development and administration of the City's Hate Violence Reduction Program

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For more information please contact:

Nadia Babella
Zoë Polk
San Francisco Human Rights Commission
25 Van Ness Avenue, Suite 800
San Francisco, CA 94102
Phone: (415) 252-2500
Fax: (415) 431-5764



HOW WILL THIS LEGISLATION AFFECT HOUSING PROVIDERS?



Frequently Asked Questions : Prior Arrest and/or Conviction Record Non Discrimination Legislative Proposal

Tel: (415) 252-2500



FAQ's about Nondiscrimination Legislation for Prior Arrest & Conviction Records



Will this law require me to conduct a background check on applicants?

No. You do not have to conduct a criminal background check on applicants, as there is no evidence to suggest that applicants with a prior arrest or conviction are any worse as tenants than other applicants without a prior arrest or conviction. Many landlords already do an eviction check on applicants; this practice will not be affected by this legislation.

Will this law require me to rent to all applicants with a prior arrest or conviction?

No. First determine if the applicant is otherwise qualified. Only then may you run a background check. You will not have to rent to an applicant with a prior conviction if you determine that the conviction is "substantially housing related." This law will prohibit a housing provider from considering a prior arrest that did not result in a conviction. Note, under California law, a background check report cannot include an arrest that did not result in a conviction.

What does "substantially housing related" mean?

To determine if a conviction is "substantially housing related," a housing provider must look at a number of factors including the nature of the housing, the circumstances that led to the conviction,

the amount of time that has passed since the conviction, and evidence of rehabilitation and successful tenancy in other locations. When performing the analysis, a housing provider should interview the applicant and consider all of the information that he or she presents. It would not be sufficient for a housing provider to deny an applicant on the basis of a background check alone. In addition, a conviction that has been dismissed under California Penal Code sections 1203.4 or 1203.4a may never be considered.

Will this law require me to continue renting to tenants who commit a crime while renting from me?

This law will not protect current criminal behavior. This proposal would not prohibit a landlord from following existing lawful practices to ensure that tenants are obeying nuisance or drug laws.

How will I know how to follow this law?

If you do screen applicants for prior convictions, there are a few simple things that you can do to follow this law:

First, your advertisements and postings may state that you will be conducting a criminal background check, but they cannot indicate a blanket ban against people with prior arrests or convictions. Blanket policies would violate this law because the law requires an individualized determination that any past conviction is housing-related, for each applicant.

Second, you should remove questions about prior arrests or convictions from your initial application to comply with the requirement that you may inquire about prior convictions only after determining an applicant is otherwise qualified.

Third, before taking adverse action against an applicant, you should provide the applicant with a copy of the background check report, explanation of how that specific conviction

is housing-related, and give him or her a chance to present additional information and request reconsideration.

Finally, you should consider the individual circumstances of each applicant in deciding whether or not a particular conviction is substantially housing related. If your reason for not admitting an otherwise qualified applicant is based in whole or in part on a prior conviction, documenting your decision and your analysis will help you to demonstrate that you complied with the law.

If this legislation is passed, HRC will write compliance guidelines for housing providers. These guidelines will provide definitions and examples in order to facilitate understanding and compliance with the new law.

How will I defend myself if a complaint is made against me?

When a person files a discrimination charge with HRC, the evidence must show that illegal discrimination took place. In other words, the applicant has responsibility for presenting convincing evidence of discrimination, not the housing provider. Our investigators gather evidence by conducting interviews, obtaining witness statements, and reviewing written information.

The process is administrative and designed so that the parties do not need to hire an attorney or spend an unreasonable amount of time to respond to the charge. Many charging parties seek non-financial remedies such as education and training.