



**LD 1201: Resolve, Directing the
Maine State Housing Authority To
Engage Stakeholders in an
Examination of Fair Chance
Housing Policy Options**



A report to the Joint Standing Committee on Labor and Housing,
130th Maine Legislature
by the Maine State Housing Authority (MaineHousing)

August, 2022

Background

In April 2021 the Maine Legislature’s Joint Standing Committee on Labor and Housing issued a divided report with the majority voting *ought to pass* and the minority *ought not to pass* on LD 1201, “Resolve, Directing Maine State Housing Authority To Engage Stakeholders in an Examination of Fair Chance Housing Policy Options” sponsored by Rep. Rachel Talbot Ross.

MaineHousing engaged the Vera Institute of Justice (Vera), a national non-profit that works to improve justice systems to inform us of national best practices on the subject. On February 28, 2022 MaineHousing and Vera cohosted a stakeholder meeting “Fair Chance Housing for People with Conviction Histories.” The meeting included the representatives from the following groups:

1. Formerly incarcerated individuals;
2. Housing providers;
 - a. Avesta Housing;
 - b. Bath Housing Authority;
 - c. Community Housing of Maine;
3. Landlords or representatives of statewide organizations representing landowners and property managers;
 - a. Maine Real Estate Management Association (MEREMA);
 - b. Mid Maine Landlord Association;
4. Representatives from a statewide organization that represents the interests of currently incarcerated or formerly incarcerated individuals;
 - a. Maine Department of Corrections (DOC);
 - b. Maine Prisoner Advocacy Coalition;
 - c. Maine Inside Out;
5. Representatives from a statewide civil legal aid and economic justice organization;
 - a. American Civil Liberties Union of Maine;
6. Representative of civil rights organizations whose primary mission is racial equity and justice; and
 - a. Maine Equal Justice Partners;
 - b. The Southern Maine Worker’s Center;
7. Representatives of organizations that advocate for residents of the State:
 - a. Community Housing of Maine.

Why Fair Chance Housing is Important

Access to adequate housing that is safe, stable, and affordable is a fundamental need for all persons and families in order to flourish individually and within a community. The difficulty in finding affordable housing suitable to a households needs has been well documented. A well-functioning housing market provides a mix of housing that households can access according to their budgets and preferences (Schuetz 2022). The barriers faced by justice involved individuals in a tight housing market are more acute than the average households as, they are often screened out because of their conviction history. Some are forced to take substandard housing while others are forced to jeopardize their family’s tenancy by rejoining a household without being on the lease. These barriers create revolving doors of homelessness and incarceration: formerly incarcerated people being 10

times more likely than the general public to be unhoused, with a rate of 203 people experiencing homelessness per 10,000 (Bureau of Justice Assistance and Vera Institute of Justice, 2022). As illustrated in Figure 1, housing is the key pillar to accessing services and opportunities that are critical to all but are a necessity for reentry of justice involved individuals to achieve any measure of success.

In 1968, the United States enacted the Fair Housing Act, in part to help correct the results of policies such as redlining, which prevented mostly Black households who resided in neighborhoods deemed hazardous for investment from accessing credit. Fair chance housing policies are an outgrowth of the continued need to

affirmatively further fair housing. When discussing fair chance housing or similar policies it is important to look at our shared history and develop a broadly shared understanding of it; doing so will enable us to consider practical steps to fulfill our obligations (Rothstein 2017).

Maine's racial makeup is predominately white. The most recent decennial Census puts the exact makeup at 95 percent white and less than two percent Black (U.S. Census 2020). Whereas the population of Maine's prisons in 2021 was 11 percent Black (Maine Department of Corrections 2021). The racial disparities found in Maine's prison system trickles out into the community as people are released. With Black people disproportionately represented among formerly incarcerated people, housing denials based on their conviction history are likely to have a disparate impact on Black people (Kanovsky, 2016). Thus, fair chance housing is an important component of Fair Housing and promoting racially equitable housing policies and practices.

What we heard from stakeholders

On February 28, 2022 we heard from a diverse set of stakeholders who shed light on the lived experience of justice involved individuals. One individual described their experience living in an apartment in northern Maine without heat and infested with rodents. This individual filled out countless applications - often times with fees attached either for processing the application or for a background check -but were denied every opportunity despite having stable income and good references. With housing a condition of their release, many formerly incarcerated individuals are often forced to accept substandard living conditions.

The impacts of COVID-19 on the rental market in Maine have been widespread. Many small-scale landlords who would personally show their apartments and take applications in person, giving potential tenants an opportunity to make a good impression moved to screening services early during the pandemic. This change coupled with the eviction moratorium made it harder for justice

Figure 1: Housing is critical to accessing other critical opportunity structures in our society



Source: Kirwan Institute For The Study of Race and Ethnicity at The Ohio State University.

involved individuals to find housing. Landlords told us that when it became harder to evict the natural response was to reduce risk by increasing screening.

National best practices and models

Vera Institute of Justice's Opening Doors to Public Housing Project helps Public Housing Authorities (PHA) revise their admissions policies and develop innovative programs [to remove barriers to housing for people with conviction histories](#). The examples below are programs that have been developed through consultation with stakeholders, assessment of the population, and reentry services. It is not recommended that any organization attempt to replicate these programs without engaging in the foundational work (Bae, et al. 2017). These programs move to account for the totality of an applicant's situation and consider the progress made during incarceration rather than the standard admission decision based on a background check (Bae, et al. 2017). In addition to national models, there is an example from Maine working to address Fair Chance housing.

Delaware Family Reentry Program (FRP)

During the meeting, the Delaware State Housing Authority presented on the FRP. The program aims to expand stable and affordable housing to formerly incarcerated individuals by prioritizing reunification with family members living in housing subsidized by one of Delaware's five public housing authorities: Delaware State Housing Authority, Dover Housing Authority, New Castle County Housing Authority, Newark Housing Authority, and Wilmington Housing Authority.

In 2017, [Delaware](#) convened the Committee on Criminal Justice Reform to make recommendations for the state to reduce homelessness among people leaving prison and expand housing for people who were formerly incarcerated. The program was launched in 2020. The impetus was to address the individuals being released from prison into homelessness and help reunite families living in subsidized housing. The program seeks to place individuals through an application and referral process into an existing unit where there is a family member already living. Referrals come from the Department of Corrections or community organizations and the application comes from both the justice involved individual and the family member residing in the housing. The dual application ensures the family member is okay with the client moving back in temporarily or permanently with them.

The individual is not immediately added to the lease, and they are considered a guest while participating in the program. This enables them to live in a public housing unit for one to two years. A contract would be signed by the formerly incarcerated individual and the client and would be monitored for their compliance on their release requirements. Since they are considered a guest, their income would not be included in the household's annual gross income. This gives the client a leg up, a place to live, and does not economically challenge the family. At the end of the contract period the individual can move out without harming the family's income or be added to the lease if the family approves.

The program was developed from 2018 to 2020 in consultation with Delaware PHAs, Department of Corrections, advocacy groups and the Vera Institute. The program has had a slow start, but shows promise.

Burlington, VT Offender Re-Entry Housing Program

The Burlington Housing Authority (BHA) started their reentry program in 2005 and was developed to help formerly incarcerated individuals find and maintain stable housing in BHA's service area. Funded entirely by the Vermont Department of Corrections and works with community justice centers that offer supplemental case management (Bae, et al. 2017). The program has three full time staff, a budget to support move-in related and other housing expenses and a guarantee program that will provide up to \$1,500 to landlords in the event of damage.

Similar to the Delaware program BHA attempts to reunite participants with family living in public housing. Participants that do not have family members to reside with, BHA works with local landlords or transitional housing (Bae, et al. 2017). In addition to housing navigation services participants are required to have an employment plan or be receiving Supplemental Security Income or Social Security Disability Insurance and regularly meet with an Offender Re-Entry Housing specialist for the first year.

Layman Way Recovery Center, Alfred, Maine

The Layman Way Recovery Center did not initially begin with Fair Chance Housing in mind, but another social issue facing our community; the opioid epidemic. Originally a collaborative effort of York County Government, York County District Attorney's Office and York County Shelter Programs, Inc., it serves a 24 bed addiction treatment center. The purpose of which is to offer immediate access to addiction treatment services for individuals who are involved in the criminal justice system and might otherwise be subjected to long periods of pretrial incarceration at the York County Jail. Successful graduation from the six-month residential program can result in bail conditions being eliminated and potential under certain circumstances to have records sealed or expunged.

A continuing issue that has plagued the program from its inception six-years ago is many are often discharged back to the York County Shelter. To address this the county is using American Rescue Plan funds to build a continuum of care facility that will have a detox, long-term care, short-term care, and half-way house. In addition to this facility the Sanford Housing Authority is in the planning stages of a 40 unit permanent housing project meant for people leaving the York County Jail, experiencing homelessness, and for people leaving the treatment center. Sanford Housing Authority is planning on providing Project Based Vouchers for all the units. All of these services are planned to take place on the York County Jail campus. The partners have recruited other civic minded housing and service organizations to expand the geographic reach of the programs beyond the York County Jail campus.

Housing First

The Housing First model provides permanent housing as quickly as possible to persons experiencing homelessness, with supportive services to be provided afterward. It has been shown to be an effective manner to treat individuals equitably and enable long-term success and reintegration into the community. There are several examples of cities and counties that have implemented "Housing First" programs. [Seattle, Washington](#) pioneered the Housing First model in the 1990s when it

launched an innovative approach to ending homelessness among the community's most vulnerable adults by providing access to supportive housing. [Cuyahoga County, Ohio](#), began its Housing First initiative in 2002 to assist people reintegrating into their communities. Cuyahoga Housing First offers permanent, rent-subsidized housing as well as medical, mental health, recovery, and job programs.

Non-legislative responses

Engaging stakeholders to build a shared understanding of the need is the foundational work to any successful adoption of Fair Chance Housing policies and programs.

Tenant Selection Process for MaineHousing Financed Projects

MaineHousing provides financing and compliance oversight for over 20,000 rental units, but does not directly manage any tenant selection process in affordable multifamily housing. As part of our compliance role, MaineHousing's Asset Management department ensures that our partners' tenant selection process meets Federal standards and does not violate Fair Housing.

To determine if MaineHousing can do more to encourage partners to adopt Fair Chance principles, a process review will be undertaken to study what is required in and what practices can be updated to be responsive to Fair Chance principles. This work will first be done internally. Then MaineHousing will explore opportunities with housing providers and other interested parties to pilot suitable best practice models.

As MaineHousing begins its internal review, there are several states in the U.S. that it can look to for best practices on implementation of changes to criminal background check criteria found in the Qualified Allocation Plans (QAP) that govern Low Income Housing Tax Credits (LIHTC) properties. One recent example of changes to a criminal background policy was made by the Louisiana Housing Corporation (LHC). In 2020, LHC adopted a new criminal background policy that limits housing providers from considering criminal records that did not result in a conviction or were expunged, vacated, or acquired when the applicant was a youth. Additionally, it requires housing providers to compare an applicant's record to evidence of good behavior, participation in social service or counseling programs, job training or employment, or recommendations from local leaders. It also ensures that older convictions do not follow an applicant for years. When screening, the plan has a five-year lookback period for violent convictions older than five years or three years for violent misdemeanor convictions and nonviolent crimes.

Work with Maine's Public Housing Authorities

Maine's PHAs manage over 16,000 public housing units and housing choice vouchers and are natural partners to help serve populations that have difficulties securing housing. As part of reviewing tenant selection process in MaineHousing financed multifamily housing we will encourage our PHA partners to adopt tenant selection policies that embrace Fair Chance principles in their multifamily operations.

Capacity building of housing navigation services

Community organizations that serve people with conviction histories are a possible conduit for easier entry to housing. Landlords may be more willing to lease up a justice involved individual if they have someone to call if they are having issues. Developing capacity of organizations to provide housing navigation services could result in additional lease ups of justice involved individuals.

Beyond housing navigation services, master leasing should be explored. Master leasing allows a service organization to hold a lease with a property owner and then sublet the unit. There are models of service organizations entering into these arrangements to serve their target population. This type of lease partially solves the availability of units that will accept a tenant with a past conviction and because the service organization is the lease holder the landlord does not have to engage with the tenant if any issue arises.

Work with State agencies

Multiple state agencies have varying levels of interest in Fair Chance Housing. Maine DOC has the most in-depth knowledge of the community whereas Maine Department of Health and Human Services (HHS) and MaineHousing provide services. MaineHousing's Communications and Planning Department will explore potential partnerships and synergies with DOC and HHS to adopt a shared understanding of the issue and develop open lines of communication to better serve the justice involved community.

Legislative Efforts

During our stakeholder outreach certain criminal justice reforms such as, reclassifying misdemeanor violations into civil offenses and the sealing or expunging of offenses that are no longer crimes were mentioned as ways to lessen the impact of criminal background checks when applying for employment and housing. MaineHousing does not take a position on these issues as they are not in our professional purvey. Historically, similar efforts have been presented to the Legislature and have failed.

MaineHousing believes in the Legislative process to improve the lives of Mainers. From our stakeholder outreach and research into the subject MaineHousing believes the foundational work to improve housing access for these individuals will be best accomplished through non-legislative means in the short-term. Additional legislation may be practical in the future, but more work needs to be done building trust and understanding between housing providers, service organizations, and the justice involved community before more targeted legislation has broad support from housing providers.

There are a few national models of legislation that expands housing for people with conviction histories that Maine could follow if it decides to pursue legislation in the future. Below are two instances of housing legislation that was passed in Illinois and New Jersey that focused on the private rental market and public housing.

In 2021, Illinois passed a first of its kind bill that created admission mandates for all public housing authorities in the state. The legislation established a six-month lookback period from the application date, prohibited the use of arrests and misdemeanors as grounds for denials, and established data submission requirements that must be made to the state of Illinois each year.

New Jersey passed a housing bill that targeted the private **housing market**. The Fair Chance Housing Act creates a process where landlords run a criminal background check on an eligible applicant once a conditional offer is made. The bill also established a procedure where a candidate may provide proof of rehabilitation or an extenuating circumstance before a denial is made. If the landlord chooses to reject an applicant, they must provide documentation supporting their decision in writing.

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