

## **Proposal to address the impacts of arrests and convictions in housing and employment.**

### **Responding to Concerns**

Since community groups, the Seattle Office for Civil Rights (SOCR) and the Seattle Human Rights Commission (SHRC) began exploring this issue, we've heard from a variety of stakeholders. Here are responses to some of the concerns that people have voiced.

**Concern – time limits:** The difficulty of finding employment and housing is most critical when someone is just coming out of prison. Will this proposal be similar to the ordinance in Madison, WI that has a two-year waiting period before its protections go into effect? To be effective there should not be any time-limit.

**Response:** No waiting period is stipulated. The proposal requires employers and housing providers to look at the nature of the conviction and its relation to a job or occupancy in their review of applicants, or when developing screening policies.

**Concern – time and money to defend charges:** Housing providers and landlords spend time and money responding to discrimination charges that turn out to be “no cause” (discrimination is not proven and the charge is dismissed). How can this new proposal be implemented in a way that doesn't overly burden landlords or put smaller landlords without a lot of resources out of business?

**Response:** SOCR enforces anti-discrimination law through fair and impartial investigations. 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.

**Concern – process / timeline:** My husband will be released from prison soon. We have children and are trying to find a place to live but we keep being turned away simply because of his record. When will this proposal actually become law?

**Response:** Following the community forum on March 16, SOCR will advise the Mayor's Office on policy options. SHRC and other community organizations also are considering asking City Council to take action. The process could take several months.

Meanwhile, a number of the organizations who have raised this issue may be able to help you and your family look for housing. Contact Brenda Anibarro at 206-684-4514 for more information.

**Concern – Insurance rates:** Won't my property insurance rates increase if this proposal becomes law?

**Response:** We don't think so. That hasn't happened in Madison, Wisconsin, where landlord membership organizations say they have found no impact on insurance rates for housing providers due to their similar ordinance on arrest and conviction records, according to the local Department of Civil Rights.

**Concern – will this help my client?** I work on a daily basis with so many homeless men and women with past criminal backgrounds. Finding housing and a job is so important for them to get back on their feet. One client I work with has been able to hold a job down for a year but can't find housing that will accept her because of her record. Will a law like this help her?

**Response:** It might. This law would prohibit discrimination in employment and housing when the conviction does not relate to the job or tenancy or pose a threat to the safety of others. The proposal does not apply to all situations; nor does it solve the larger problem of finding stable jobs and affordable housing for all people with past records. We believe it would provide important legal protections for those who have served their time and do not pose a threat to the safety of others or whose conviction does not relate to the job or housing sought.

**Concern – tenant selection:** As a landlord, I usually receive multiple applications for my available units. I often have to notify perfectly qualified prospective tenants that I have selected another tenant. If one of the non-selected tenants happens to have a conviction record and files a discrimination complaint, how can I possibly defend my position of tenant selection?

**Response:** You will still be able to select the most qualified person as a tenant for your apartments. This proposal would not require a landlord to accept an applicant with a conviction or arrest record over another applicant who is more qualified. If your reason for not admitting an otherwise qualified applicant is **solely** based on their record, however, then documenting your decision and rationale (connection to tenancy or threat of safety to residents/public) would help you to demonstrate that you considered the applicant and complied with the law. In Madison, WI where this law has been in effect since the 1970's, landlords who have provided this documentation have been able to show that their actions were non-discriminatory.

**Concern – liability:** What if the person I accept into the property commits a crime against another tenant and the victim sues me? Won't this law make me liable?

**Response:** This proposal clearly states that a landlord is not required to rent to a person who poses a threat to the safety of others. The best way to ensure against liability is to practice responsible screening. Madison, WI has had a similar law in place since the 1970s, and has reported that there have been no issues concerning liability.

**Concern – recidivism:** Will this proposal help reduce the number of repeat offenders? I worry that making it so hard for people with arrests or certain criminal convictions to find housing and employment just makes it likelier that people will commit more crimes.

**Response:** This proposal originally was raised by people who had been denied housing and jobs because of their records. Removing barriers to employment and housing for people who do not pose a threat to the safety of others is a way to ensure a decrease in recidivism and greater public safety overall.

**Concern – public safety:** Would this law mean that landlords would have to accept people with a record of violent or sexual offenses as tenants?

**Response:** No. The proposal that we are exploring would prevent housing providers from discriminating **solely** on the basis of a conviction or arrest. If a landlord feels that an applicant's record poses a threat to the safety of residents, s/he would still have the discretion to deny housing.

**Concern – increased screening:** If this proposal passes, isn't more screening likely to occur? Landlords will tighten their credit analysis to keep people with records out.

**Response:** The goal of a law like this is to end discrimination against people whose past record does not relate to their tenancy or employment, nor pose a threat to public safety. Landlords would be prevented from tightening credit checks for people with criminal records. SOCR will work with community members, tenant advocacy groups and rental and business associations to educate the public and to help landlords and employers develop fair policies.

**Concern – defending a civil rights complaint:** My problem with this proposal is that it's up to landlord to justify why a conviction related to denial. The onus shouldn't be on the landlord.

**Response:** When a person files a discrimination charge with SOCR, the evidence must show that illegal discrimination took place. In other words, the onus is on the charging party, not the respondent. Our investigators gather evidence by conducting interviews, obtaining witness statements, and reviewing written information. In Madison, WI, where this law has been in place since the 1970's, housing providers and landlords who have kept a record of reason for denial and made clear the connection to tenancy have successfully demonstrated that they did not discriminate when they denied housing.

**Concern – abatement:** How would this new law interplay with state laws like property abatement? If you make an exception for someone with a record, would you be liable for abatement?

**Response:** The proposal includes an exception for landlords and employers who are complying with existing laws regarding criminal background check requirements. A landlord is not required to rent to a person with a record if there is a threat of harm or if the conviction relates to occupancy. Further, it does not protect **existing** criminal behavior. This proposal would not prohibit a landlord from conducting existing lawful practices such as unit inspections to ensure tenants are complying with nuisance or drug laws.