



Douglas Smith, MSSW, Policy Analyst

Work: (512) 441-8123, ext. 102

Cell: (512) 960-0534

dsmith@TexasCJC.org

www.TexasCJC.org

FACT SHEET 2015

SB 1473

## Legally Protect Landlords Who Provide Housing to People with Criminal Records

### *Limiting Negligent Actions Against Landlords will Improve Housing Options For Individuals with Criminal Histories, Increasing Their Stability and Overall Public Safety*

#### PEOPLE WITH CRIMINAL RECORDS NEED STABLE HOUSING TO CONTRIBUTE TO SOCIETY AND KEEP TEXAS COMMUNITIES SAFE

Approximately 4.7 million adults in Texas have a criminal record for offenses ranging from misdemeanors to felony offenses.<sup>1</sup> In the electronic age, where criminal backgrounds are easily accessible by potential employers and landlords, having any sort of criminal arrest or conviction on one's record can have enduring consequences. At a glance, landlords reviewing leasing applications can deny housing to families based on criminal justice system involvement of any type. Studies have shown that four out of five landlords employ criminal background checks to screen out rental property applicants who have questionable items in their background.<sup>2</sup> **In a survey of landlords and property managers, 66 percent indicated that they would not approve an application from an individual with a criminal history.**<sup>3</sup>

While many public housing providers are prohibited by law from renting to people with certain convictions, most public housing authorities exceed federal requirements in this regard and often deny housing to entire families when any member of the household has a criminal background.<sup>4</sup> As a result, the number of housing options available to someone with a criminal record is reduced significantly. Many find that their only option is the private rental market; yet most private landlords are hesitant to rent or lease property to individuals with a criminal record, citing the fear of being sued if that person commits a crime on their property. In a *Fort Worth Star-Telegram* article, John Mitchell, Executive Director of the Apartment Association of Tarrant County, confirmed that **property owners will become more willing to rent to those with criminal backgrounds only when risks of lawsuits are reduced.**<sup>5</sup>

The actual risks are largely overblown. Studies have shown that reducing discrimination in housing minimizes criminal justice system involvement and mitigates risk for re-incarceration.<sup>6</sup> **Therefore, leasing property to someone with a criminal history who meets the application criteria actually serves to decrease the risk that he or she will commit a new offense.** Moreover, there are many factors that further mitigate risk for property owners. Individuals without a re-arrest or new conviction for a period of seven years are no more likely to commit a crime than those who have no history of criminal justice system involvement.<sup>7</sup> Other factors may include successful completion of substance abuse treatment, a history of stable employment, and/or a network of stable and law-abiding friends who can attest to the applicant's character. Landlords who do not rely solely on criminal background checks, but take the time to meet applicants to discuss these factors, deserve the assurance that renting to someone with a criminal background will not expose them to risks of litigation.

#### KEY FINDINGS

- **Housing stability has been identified as one of the most critical factors in preventing recidivism and parole violation.**<sup>8</sup> Every time a formerly incarcerated person moves following release from prison increases the likelihood of re-arrest by 25 percent.<sup>9</sup>

*Continued on reverse.*

- **Increasing housing options for formerly incarcerated individuals can help alleviate Texas' large homeless populations.** A 2012 study by the National Alliance to End Homelessness reported that Texas had five urban areas ranked in the top 60 in the nation in regard to homeless populations: the **Houston** area ranked 13<sup>th</sup> with 9,217 homeless people; **Dallas/Ft. Worth** ranked 29<sup>th</sup> with 5,865 people; **San Antonio** ranked 33<sup>rd</sup> with 3,222 people; **Austin/Round Rock** ranked 37<sup>th</sup> with 2,362 people; and **El Paso** ranked 60<sup>th</sup> with 1,331 people.<sup>10</sup>

#### COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTION: SUPPORT SB 1473 BY SENATORS GARCIA AND WATSON

- **SB 1473 will provide landlords with limited protection against liability solely for renting or leasing to someone with a criminal record, thus increasing housing opportunities among these individuals.** This policy will help individuals with records stabilize their living situation, be better able to support their families, and live law-abiding lives in our communities.

**NOTE:** Causes of action are not precluded for offenses committed by renters or leasees if the landlord knew or should have known of the conviction **and** the conviction was for a sexually violent offense, or a violent act that falls under Section 3(g), Article 42.12, Code of Criminal Procedure.

- **SB 1473 will improve public safety. Increasing the number of housing options available to people with criminal backgrounds will help them remain stable and law-abiding.** This policy will decrease housing relocation and the threat of homelessness for a large proportion of the nearly 4.7 million Texans impacted by housing discrimination based on their criminal history.

#### Citations

<sup>1</sup> Helen Gaebler, *Criminal Records in the Digital Age: A Review of Current Practices and Recommendations for Reform in Texas*, The University of Texas School of Law, 2013, 2,

<http://www.utexas.edu/law/centers/publicinterest/research/criminalrecords.pdf>.

<sup>2</sup> Rebecca Vallas and Sharon Dietrich, *One Strike and You're Out: How We Can Eliminate Barriers to Economic Security and Mobility for People with Criminal Records*, Center for American Progress, 2014,

<https://www.americanprogress.org/issues/poverty/report/2014/12/02/102308/one-strike-and-youre-out/>.

<sup>3</sup> Helen Gaebler, *Criminal Records in the Digital Age*, 6.

<sup>4</sup> Tran-Leung, Marie Claire, "When Discretion Means Denial for People with Criminal Records in Federally Subsidized Housing," *The Shriver Brief*, 2011, <http://www.theshriverbrief.org/2011/09/articles/community-justice/when-discretion-means-denial-for-people-with-criminal-records-in-federally-subsidized-housing/>.

<sup>5</sup> Mitch Mitchell, "Ex-offenders say housing, jobs are tough to find," *Fort Worth Star-Telegram*, May 28, 2012, <http://www.mcclatchydc.com/2012/05/29/150348/ex-offenders-says-housing-jobs.html>.

<sup>6</sup> S. Metraux and D. Culhane, "Homeless Shelter Use and Reincarceration Following Prison Release," *Criminology & Pub 3* (2004): 139-160.

<sup>7</sup> Tran-Leung, Marie Claire, "Beyond Fear and Myth: Using the Disparate Impact Theory Under Fair Housing Act to Challenge Housing Barriers Against People with Criminal Records," *Journal of Poverty Law and Policy*, Vol. 45, Numbers 1-2 (2011): 9, <http://povertylaw.org/sites/default/files/webfiles/tran-leung.pdf>.

<sup>8</sup> Helen Gaebler, *Criminal Records in the Digital Age*, 6.

<sup>9</sup> Jamie Watson, et al., *A Portrait of Prisoner Reentry in Texas*, The Urban Institute, 2004, <http://www.urban.org/publications/410972.html>.

<sup>10</sup> National Alliance to End Homelessness, *The State of Homelessness in America 2012*, 46-47, [http://b3cdn.net/naeh/9892745b6de8a5ef59\\_q2m6yc53b.pdf](http://b3cdn.net/naeh/9892745b6de8a5ef59_q2m6yc53b.pdf).