



Legislative Testimony
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Written Testimony Supporting House Bill 5242, An Act Concerning Collateral Consequences of a Criminal Record and Housing Opportunities

Senator Moore, Representative Felipe, Ranking Members Sampson and Scott, and members of the Housing Committee:

My name is Jess Zaccagnino, and I am the policy counsel of the American Civil Liberties Union of Connecticut (ACLU-CT). I am here to testify in support of House Bill 5242, An Act Concerning Collateral Consequences of a Criminal Record and Housing Opportunities.

The ACLU-CT believes in a society where all people, including those who have been convicted or accused of a crime, have equal opportunity to contribute to society and build successful and fulfilling lives. People involved in our criminal legal system who finish their sentences have paid their debt to society. They deserve to live their lives in Connecticut's communities without barriers to being happy, productive, law-abiding residents.

Instead of enabling people living with records, Connecticut law makes life much harder for them. There are over 550 barriers to full civic participation that are written into our state's law,¹ many of them related to housing. These barriers are not relics from the distant past. New barriers are passed out of this legislature nearly every year. This is how collateral consequences build up to an impenetrable barrier—slowly, one idea at a time.

¹ National Inventory of Collateral Consequences of Conviction, https://niccc.csgjusticecenter.org/database/results/?jurisdiction=260&consequence_category=&narrow_category=&triggering_offense_category=&consequence_type=&duration_category=&page_number=1; see also Kelan Lyons, *Council Begins Study of Discrimination Against People with Criminal Records*, CT MIRROR (Aug. 22, 2019), <https://ctmirror.org/2019/08/22/council-begins-study-of-discrimination-against-people-with-criminal-records/>.

In turn, people living with criminal records have an extremely difficult time finding housing: people who have been incarcerated are almost ten times more likely to be homeless than the general public.² People who have been incarcerated more than once are 13 percent more likely to experience homelessness.³ At the same time, policies that criminalize homelessness, like laws against loitering or panhandling, increase the likelihood that people with a criminal record will come into contact with the system yet again.⁴ Stable housing is the base of ensuring successful reentry, yet our state makes it very difficult for people to actually obtain housing by constructing numerous collateral consequences related to housing.⁵ Data from the Prison Policy Initiative found that a large amount of people who have come into contact with the criminal legal system struggle to find stable and safe places to live. They write, “discrimination by public housing authorities and private property owners, combined with affordable housing shortages, continues to drive the exclusion of formerly incarcerated people from the housing market.”⁶ One major issue driving this discrimination is that landlords and public housing authorities have the ability to determine their own screening criteria for their rentals, which very often includes queries into a person’s criminal record. This grants landlords and housing authorities broad discretion to continue to punish people with criminal records, even after their sentences are over. This form of discrimination can have disastrous results for the individual housing applicant and for their community writ large: “it can reduce access to healthcare services (including addiction and mental health treatment), make it harder to secure a job, and prevent formerly incarcerated people from accessing educational programs.”⁷

² Lucius Couloute, *Nowhere to Go: Homelessness Among Formerly Incarcerated People*, PRISON POLICY INITIATIVE (August 2018), <https://www.prisonpolicy.org/reports/housing.html>.

³ *Id.*

⁴ *Id.*

⁵ For example, Conn. Gen. Stat. § 8-116c makes some people ineligible to move into housing as an elderly person, Conn. Gen. Stat. § 17b-812-12 makes people ineligible to reside in the same household as a person participating in rental assistance programs, and Conn. Gen. Stat. § 8-45a makes large groups of people ineligible to reside in rented public housing units.

⁶ *Id.* See also Lynn M. Clark, *Landlord Attitudes Toward Renting to Released Offenders*, 71 FED. PROBATION 31 (June 2007), https://www.uscourts.gov/sites/default/files/71_1_4_0.pdf; Andrew Aurand, et al., *Out of Reach: The High Cost of Housing*, NAT'L LOW INCOME HOUSING COALITION (2018), https://nlihc.org/sites/default/files/oor/OOR_2018.pdf.

⁷ Couloute, *supra* note 10.

This accretion of collateral consequences can create a daily nightmare for people with records just trying to find work. Because of legal barriers to employment and persistent stereotypes, in 2018, the unemployment rate among formerly incarcerated people nationwide is 27 percent⁸—more than 6.5 times the overall unemployment rate in Connecticut at the same time.⁹ Economists estimate that the U.S. gross national product is reduced by \$78 billion and \$87 billion because so many formerly incarcerated job seekers are kept out of the workforce.¹⁰ This creates significant hardships: 45 percent of men released from incarceration do not have any earnings at all in the first calendar year after their release.¹¹ Of those with earnings, the median income is just over \$10,000 in their first year out of incarceration.¹² Wages never recover for most people, since incarceration is linked to decreases in subsequent annual earnings of, on average, 52 percent.¹³ Collateral consequences related to housing and labor are cyclical, each in turn preventing it more difficult for people to find stable jobs and housing.

These harmful effects are not distributed equally across society. Racial disparities in Connecticut's criminal legal system¹⁴ are also replicated when people return home from incarceration. Because Black and Latino men are disproportionately incarcerated,¹⁵ they are likewise disproportionately rejected when they return to the

⁸ Lucius Couloute & Daniel Kopf, *Out of Prison & Out of Work: Unemployment Among Formerly Incarcerated People*, PRISON POLY INITIATIVE (July 2018), available at <https://www.prisonpolicy.org/reports/outofwork.html>.

⁹ *Labor Market Information*, CONN. DEP'T LAB. (last accessed Mar. 2, 2022), <https://www1.ctdol.state.ct.us/lmi/unempratectus.asp>.

¹⁰ Cherrie Bucknor & Alan Barber, *The Price We Pay: Economic Costs of Barriers to Employment for Former Prisoners and People Convicted of Felonies*, CTR FOR ECON. & POL'Y RES., at 1 (June 2016), available at <https://cepr.net/images/stories/reports/employment-prisoners-felonies-2016-06.pdf>.

¹¹ Adam Looney & Nicholas Turner, *Work and Opportunity Before and After Incarceration*, Brookings Inst. (Mar. 14, 2018), available at <https://www.brookings.edu/research/work-and-opportunity-before-and-after-incarceration/>.

¹² *Id.*

¹³ Terry-Anne Craigie, Ames Grawert, Cameron Kimble & Joseph E. Stiglitz, *Conviction, Imprisonment, and Lost Earnings: How Involvement with the Criminal Justice System Deepens Inequality*, BRENNAN CTR. FOR JUSTICE (Sept. 15, 2020), available at <https://www.brennancenter.org/our-work/research-reports/conviction-imprisonment-and-lost-earnings-how-involvement-criminal>.

¹⁴ U.S. Commission on Civil Rights, *Briefing on Racial Disparities and Prosecutorial Practices in the Connecticut Criminal Justice System* (Apr. 2019), available at <https://www.usccr.gov/press/2019/03-25-Flyer-Criminal-Justice.pdf>.

¹⁵ According to the Sentencing Project, Connecticut is the fifth-worst state for Black men, with 1 in 19 incarcerated, making them 9.4 times likelier to be incarcerated than white men. Latino men in Connecticut are 3.9 times more likely to be incarcerated than white men. Ashley Nellis, *The Color of Justice: Racial and Ethnic Disparity in State Prisons*, The

community and seek to build a life worth living. Poor chances of finding stable housing has an outsized impact on Black and brown people. There are also significant racial and gender disparities between people who are sheltered (staying in a facility like a homeless shelter) and those who are *unsheltered* (living without a fixed residence). The Prison Policy Initiative found that while women are more likely to become homeless overall when compared to men, but that men are more likely to be unsheltered than women.¹⁶ Black men have “much higher” rates of unsheltered homelessness compared to white and Latino men, and women of color tend to experience unsheltered homelessness at higher rates than white women.¹⁷ Black women have the highest rate of sheltered homelessness: almost four times more than white men and two times more than Black men.¹⁸

When people with records cannot find safe and affordable housing, it hurts more than just those individuals. More than half of incarcerated people in Connecticut are parents¹⁹—meaning these barriers to reentry also harm Connecticut children when their parents return to society and cannot find housing for them and their families. A criminal conviction often is a conviction for an entire family. Familial problems become community problems. When someone with a criminal conviction has a fair chance at earning a job, they are less likely to commit another crime.²⁰ Mass incarceration and its collateral consequences hurt each and every one of us by limiting the potential of our communities. We should also remember that more than half of adults in the U.S. have a family member who has been incarcerated.²¹ The people that the state of Connecticut is turning into a permanent underclass are not nameless people from the parts of the state we never visit—they are our sons and

Sentencing Project (June 14, 2016), available at <https://www.sentencingproject.org/publications/color-of-justice-racial-andethnic-disparity-in-state-prisons/>.

¹⁶ Couloute, *supra* note 10.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Roger Senserrich, *Our New Report: Children with Incarcerated Parents*, CT ASS'N FOR HUMAN SERVS. (June 12, 2016), available at http://www.cahs.org/our_new_report_children_with_incarcerated_parents.

²⁰ The availability of suitable jobs in the labor market a person reenters when leaving incarceration “significantly reduces the risk of returning to prison.” Crystal S. Yang, *Local Labor Markets and Criminal Recidivism*, 147 J. PUB. ECON. 16, 16 (2017).

²¹ *Half of Americans Have Family Members Who Have Been Incarcerated*, EQUAL JUSTICE INITIATIVE (Dec. 11, 2018), available at <https://eji.org/news/half-of-americans-have-family-members-who-have-been-incarcerated/>.

daughters, fathers and mothers, brothers and sisters, family, neighborhood, and friends.

Passing a bill that reduces collateral housing consequences for people with criminal records is the right thing to do, and the vast majority of Connecticut voters support it. Eighty-five percent of Connecticut voters, including 72 percent of Republicans, agree that people who have been convicted of a crime and have served their sentence should have a fair shot at getting their lives back on track without having their convictions held against them. What's more, 57 percent of Connecticut voters explicitly support the legislature passing a law like House Bill 5242 that prohibits discrimination on a person's record of arrest or conviction in employment, housing, education, insurance, credit, and other public programs and penalizes those who have discriminated against them.²² Connecticut residents know that a person's record of arrest or conviction alone does not tell you whether they will be a good tenant.

The evidence shows that when people who are living with a criminal record are given a fair chance to find housing, earn a job, get insurance, and reintegrate into society, we all succeed. Every person living with a criminal record, who has served out their sentence and reentered society should have an equal opportunity to build a successful and fulfilling life. This is true for people who are just beginning their reentry process and people who have been back in their communities for decades, regardless of whether they have been convicted of a misdemeanor or a felony and irrespective of whether they have been convicted of a violent or non-violent offense.

House Bill 5242 would prevent housing providers from using blanket housing denials based on criminal history and requires an individualized assessment of applicants within the limits of federal law. The bill does not entirely prevent landlords from

²² Benenson Strategy Group, *Criminal Justice Poll 2020*, ACLU OF CONNECTICUT (Feb. 5, 2020), available at https://www.acluct.org/sites/default/files/field_documents/2020-2-19_aclu_ct_smart_justice_polling_release_topline_clean_slate.pdf.

considering a person's criminal record for (1) felony convictions in the past three years and (2) felony convictions if a person was just released from incarceration in the past year if the period of incarceration was for three or more years. The bill outlines an individualized assessment for housing providers to follow before they may deny an application because of a criminal conviction. A housing provider must consider (1) the nature and severity of the crime; (2) the relationship, if any, that the crime has to the prospective tenancy; (3) information about the applicant's rehabilitation; and (4) the amount of time since conviction. Rental applications could not be denied based on (1) an official or unofficial record of arrest, charge, or other criminal allegation that is not followed by a conviction, (2) a violation of a condition of parole that isn't otherwise a criminal act; (3) erased records; (4) convictions that occurred when the applicant was a minor. Before a housing provider can deny an application, they must provide written notice that an application requires further review because of a criminal conviction. The housing provider must allow the applicant at least 5 business days to respond and provide evidence including, but not limited to: (1) the nature and severity of the criminal conduct; (2) facts and circumstances surrounding the conduct; (3) age of the applicant at the time of the conduct; (4) time elapsed; (5) evidence that the applicant has maintained a good tenant history; (6) employment history; (7) any other information about rehabilitation, good character, or good conduct; and (8) any other evidence that the criminal conduct is unlikely to reoccur.

The bill would vitally prohibit housing providers from advertising a preference, limitation, or discrimination based on criminal conviction status unless required to do so by federal law. The bill prohibits discrimination in the terms, conditions, or privileges of a rental because of a person's criminal history and misrepresentations about the availability of a rental unit. The bill allows people to file a complaint with the Commission on Human Rights and Opportunities within 180 days of the discriminatory allegation, and requires CHRO to investigate within 100 days of filing and to make a determination no later than one year of filing. Finally, the bill clarifies that unless otherwise stated by an existing state or federal law, that a public housing

authority shall limit its consideration of an applicant's criminal history to prevent conflicts of laws. House Bill 5242 does not apply to owner-occupants who are renting a room in their single-family house or an apartment in a building with four units or less, nor does it conflict with existing mandatory federal exclusions from federally subsidized housing when mandated by federal law.

The ACLU-CT offers a few points of feedback on the bill as drafted, shared by the Commission on Human Rights and Opportunities. First, to be consistent with all other sections of this chapter, the owner-occupant exception should apply to *two* or fewer units rather than *four*. Second, the proper statute for limitations by which a CHRO complaint must be filed is 300 days, not 180 days.

The evidence shows that when people who are living with a criminal record are given a fair chance to find housing, earn a job, get insurance, and reintegrate into society, we all succeed. Every person living with a criminal record, who has served out their sentence and reentered society should have an equal opportunity to build a successful and fulfilling life. This is true for people who are just beginning their reentry process and people who have been back in their communities for decades, regardless of whether they have been convicted of a misdemeanor or a felony and irrespective of whether they have been convicted of a violent or non-violent offense. People involved in our criminal legal system who finish their sentences have paid their debt to society. They deserve to live their lives in Connecticut's communities without barriers to being happy, productive, law-abiding residents.

All people in Connecticut have paid the price of mass incarceration, yet we cannot afford the cost. Let's work to build stronger individuals and stronger communities by eliminating barriers to housing for people living with a criminal record. The ACLU-CT strongly urges you to pass House Bill 5242.