



# Oregon Law Center

**Sybil Hebb**  
503.936.8959  
shebb@oregonlawcenter.org

522 SW Fifth Avenue, Suite 812  
Portland, OR 97204

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**To: Senate Committee on Housing and Development**  
**From: Sybil Hebb, Oregon Law Center**  
**Date: February 10<sup>th</sup>, 2021**  
**Re: SB 291-4**

Chair Jama, Vice-Chair Linthicum, and members of the committee:

On behalf of the Oregon Law Center, I submit this testimony in support of SB 291-4, the Governor's Racial Justice Council's bill to ensure fairness in housing admissions.

The Oregon Law Center (OLC) is a state-wide non-profit law firm whose mission is to achieve justice for low-income communities of Oregon by providing a full range of the highest quality civil legal services. Helping families maintain safe, stable housing is a critical part of our work. Without stable housing, it is difficult or impossible to hold down a job, keep children in school, access neighborhood amenities, and stay healthy.

Across the state, in urban and rural areas, access to safe, stable, and affordable housing has become one of the most important issues facing our clients. Communities of color experience some of the greatest rates of housing instability in the state, due to systemic and structural racism manifest in zoning laws, screening policies, access to capital, and other structures with disproportionate impacts. The Oregon Law Center is committed to solutions to housing disparities, and to improving access to opportunities for all Oregonians.

Senate Bill 291-4 is designed to remove a barrier to housing stability for Oregonians with criminal history. Too often, current law allows applicants for rental housing to be summarily denied access, based on criminal history that may bear no rational relationship to the ability to be a good tenant. While facially neutral, screening policies that deny applicants based on criminal history statistically have a disparate impact on communities of color, on people with disabilities, and on people who are houseless. Such policies perpetuate inequity in housing, undermine fair housing principles, and deny access to opportunity.

Senate Bill 291-4 will reduce disparities currently codified in Oregon law. The bill will improve the guidelines by which landlords may consider and assess an applicant's prior arrest and conviction history. The bill will ensure greater fairness in housing admissions by:

- Prohibiting consideration of most arrests that do not result in conviction, or that result in a deferred sentence or diversion;
- Prohibiting consideration of convictions for acts that are no longer considered criminal in Oregon;
- Requiring an individualized assessment of criminal conviction history.

The bill requires landlords to determine whether an applicant's particular history is relevant to their ability to be a good tenant, taking into account:

- The nature and severity of the incidents;
- The number and type of incidents;
- The time that has elapsed since the incident; and
- The age of the applicant at the time of the incident.

This approach is similar to that included in prior federal fair housing guidance, and to guidance issued by the U.S. Equal Employment Opportunity Commission (EEOC) in the employment context. The EEOC guidance provides that employer decisions based on convictions must be "job-related", taking into account the age and severity of the offense and evidence of rehabilitation.<sup>1</sup> These changes are necessary to ensure fairness in access to housing for all people, but especially for communities of color.

It is well-established that racial disparities persist throughout our state and federal criminal justice systems.<sup>2</sup> Latinx and Black communities are disproportionately subject to harsh responses in policing, arrest, conviction, and sentencing.<sup>3</sup> Categorical denials of access to housing based on criminal history thus have a disproportionate impact on Oregonians of color. These denials of housing opportunity have devastating and generational impact.

Nearly 1 in 3 Americans adults have some kind of criminal history.<sup>4</sup> Under our current systems, many studies have shown that formerly incarcerated people are at greater risk of homelessness than the general public.<sup>5</sup> We cannot allow a third of our population, who have paid their debt to society, to be summarily shut out of the safety and opportunity of stable housing.

SB 291 provides a balanced approach. It will allow landlords to screen their tenants and consider individualized information that is relevant to their tenancy. Landlords would still be able to ask about applicants' conviction history, and could reject an applicant if, after consideration of supplemental evidence, they find that the applicant would pose a threat to the security or safety of others. But the bill will reduce disparities and restore justice by ensuring that tenants looking for safe housing for themselves and their families will receive fair treatment.

Passage of this bill is one important step in reducing structural inequities in our housing markets, and will ensure greater housing opportunity for all communities. We appreciate the work of the Governor's Racial Justice Council on this concept, and urge continued commitment to the implementation of solutions designed to ensure that all of Oregon's communities can survive and thrive in stable homes.

Thank you for your work and for your commitment to Oregonians.

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<sup>1</sup> <https://www.eeoc.gov/pre-employment-inquiries-and-arrestconviction#:~:text=Federal%20law%20does%20not%20prohibit,they%20use%20criminal%20history%20information.>

<sup>2</sup> <https://www.documentcloud.org/documents/6559824-Multnomah-R-E-D-Analysis-2019-Final-November-19.html>; <https://www.oregonlive.com/crime/2019/11/blacks-continue-to-be-overrepresented-in-nearly-every-step-of-multnomah-countys-criminal-justice-system-report-finds.html>; <https://www.prisonpolicy.org/profiles/OR.html>

<sup>3</sup> [https://www.hud.gov/sites/documents/HUD\\_OGCGUIDAPPFHASTANDCR.PDF](https://www.hud.gov/sites/documents/HUD_OGCGUIDAPPFHASTANDCR.PDF)

<sup>4</sup> <https://www.hud.gov/sites/documents/15-10HSGN.PDF>, citing Bureau of Justice Statistics, U.S. Dep't of Justice, Survey of State Criminal History Information Systems, 2012, 3 (Jan. 2014), available at <https://www.ncjrs.gov/pdffiles1/bjs/grants/244563.pdf>

<sup>5</sup> <https://www.prisonpolicy.org/blog/2021/02/10/homelessness/>