

## **Housing Rights for People with Prior Justice Involvement: Know Your Rights under Cook County's Just Housing Amendment**

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### **What's the law?**

Passed in 2019, the [Just Housing Amendment \(JHA\) of Cook County](#) amends the Cook County Human Rights Ordinance by prohibiting housing discrimination based on prior justice involvement.

### **What is the reasoning behind the law?**

The law ensures that over one million residents with arrest and conviction records and their families have a fair chance to find a good place to call home in Cook County.

### **What are housing providers no longer allowed to do in Cook County?**

Housing providers (e.g. landlords, property managers, public housing authorities) cannot exclude people with records in ads for available units, offers to show a listing, or invitations to apply for a lease. They cannot ask you about your prior justice involvement (e.g. arrests, convictions, felonies) on the initial application – they can only ask about recent convictions after sending you a notice that you are approved pending a background check. They cannot *automatically* deny a new lease, or lease renewal, based on an applicant's arrest or conviction record. They cannot treat tenants with those records differently in the lease itself (e.g. higher rent, fewer privileges, more rules, etc.).

### **Can housing providers deny a new lease or a lease renewal based on a record?**

In some cases, yes, but only for convictions from the prior 3 years based on a three-step process:

**STEP 1:** The provider determines and notifies the applicant that they qualify in every other way for the unit (e.g. credit score, rental history, etc.) and that a background check comes next.

**STEP 2:** Then and only then, the provider can check for **convictions from the prior 3 years**. The provider sends the background check results within 5 business days and gives the applicant 5 business days to dispute the results, explain the results, and submit evidence of rehabilitation.

**STEP 3:** Using any information submitted by the applicant, the provider conducts an individualized assessment to decide if the conviction and surrounding circumstances raise a "demonstrable risk" to safety in the building. The provider sends the applicant a written denial within 3 days explaining the reasons for the decision and how the applicant can challenge the decision.

### **What goes into the individualized assessment?**

An individualized assessment gives you a chance to discuss your arrest or conviction record and provide additional information. The provider considers (1) the nature, severity, and recency of the conduct, (2) nature of the sentencing, (3) number of convictions, (4) time since the most recent conviction, (5) age at the time of the most recent conviction, (6) evidence of rehabilitation from the applicant, (7) the applicant's tenant history, (8) whether the conviction was related to the applicant's disability (if any), and whether a reasonable accommodation could be provided, and (9) any other relevant factors.

**Must housing providers consider evidence of rehabilitation?**

Yes, but they are allowed to verify the evidence. Examples: completion of a returning citizens' program, job readiness training, supportive services for transitions back to society, completion of an education program, report from a prison or other such facility, employment, and personal recommendations.

**What records cannot be considered by providers?**

Arrests, charges, or citations; participation in a diversion or deferral program; sealed, expunged, or pardoned records; juvenile records and conviction records older than three years old. Providers may consider conviction records from the last three years, but only after giving you an opportunity to discuss your record and share more information.

**Are there exceptions?**

Yes. The provider may deny housing without an individualized assessment based on (1) a required sex offense registration or (2) a required residency restriction for a child sex offense. Still, providers cannot unilaterally say "no sex offenders" in their ads for a unit. Narrow exceptions may apply to subsidized housing (e.g. convicted for manufacturing methamphetamines on federally subsidized housing).

**When can a landlord still deny your application?**

(1) When your application does not meet the typical qualifications, like income requirements, credit score, or prior landlord references; (2) when the denial is based on a current sex offender registration or child sex offender residency restriction; or (3) when the provider determines that a conviction from the prior three years, taken in context, poses a genuine safety risk after giving you a chance to discuss it.

**What can the applicant for new or continued housing do if they get rejected?**

5-5-3. Within 5 business days of receiving a background check, the provider must deliver a copy to the applicant (in person, by certified mail, or by text or email). The applicant then has 5 business days to submit evidence disputing the accuracy or relevance of the background check results, evidence of rehabilitation, or other mitigating factors. The provider then has 3 business days from receipt of the dispute information to perform an individualized assessment and accept or deny the application.

**What if the applicant thinks the housing provider violated the JHA?**

You may be able to have your rejection reversed or receive a payment of damages from the violating provider. Cook County has a [process for investigating possible violations](#) through its Commission on Human Rights. If you believe a housing provider has discriminated against you, you have 180 days from the time the incident took place to file a complaint with the Commission:

<https://www.cookcountyil.gov/agency/commission-human-rights-0>

312-603-1100 (voice) • 312-603-1101 (TDD)

**What if you need free legal assistance?**

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