



Legislative Testimony

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**Written Testimony
Supporting Senate Bill 105,
An Act Establishing a Right to Housing, with Amendments;
Opposing Senate Bill 109,
An Act Concerning a Landlord's Ability to Consider the Criminal
Record of Prospective Tenants unless Amended;
Opposing House Bill 5122,
An Act Considering Consideration of Criminal Convictions of a
Prospective Tenant unless Amended;
Supporting House Bill 5129,
An Act Concerning a Transition Program for Incarcerated Persons
Being Released from Prison, with Amendments**

Senator Anwar, Representative McGee, Ranking Members Hwang and Zullo, and distinguished members of the Housing Committee:

My name is Kelly McConney Moore, and I am the policy counsel for the American Civil Liberties Union of Connecticut (ACLU-CT). I am submitting this testimony on four bills:

- (1) Senate Bill 105, An Act Establishing a Right to Housing, which we support with amendments to protect the right to housing for people with a criminal record,
- (2) Senate Bill 109, An Act Concerning a Landlord's Ability to Consider the Criminal Record of Prospective Tenants, which we oppose unless the bill is amended to require a specific and fair individualized assessment of all housing applicants beyond just a person's criminal history and specify that housing discrimination on the basis of a person's criminal record alone is not permissible,
- (3) House Bill 5122, An Act Considering Consideration of Criminal Convictions of a Prospective Tenant, which we oppose unless the amended to clarify that a

person's criminal record can never be the sole reason for denying them housing, and

(4) House Bill 5129, An Act Concerning a Transition Program for Incarcerated Persons Being Released from Prison, which we support with amendment.

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 who were previously involved in our criminal legal system who have paid their debt to society have earned the ability to live their lives in Connecticut's communities free from discrimination that can impede their progress. Connecticut is stronger and safer when a person who is formerly incarcerated has a fair chance at accessing a job, housing, and education.

When people with criminal records seek housing, we believe that a housing provider has the obligation to consider the person individually. Blanket bans should not be used, and we should have laws that make clear that a person's criminal record cannot be the sole reason for denying them housing. We remain concerned that lookback periods – while potentially beneficial for people whose convictions are many years old – can be detrimental to the most vulnerable people, such as those in transition or recently reentered.

We recognize and celebrate the efforts of the Housing Committee, through these bills, to tackle the collateral consequences of criminal records that hold Connecticut families back. These bills are all attempts to address these issues, in whole or in part, and we applaud those efforts. All four bills, however, should be improved. Two – Senate Bill 105 and House Bill 5129 – are not specific enough about the problems faced in housing by people with a criminal record. They should be amended to be more specific about addressing and eliminating the barriers people with a criminal record face when seeking housing. We recommend supporting those bills with such amendments. Senate Bill 109 and House Bill 5122, meanwhile, address the very specific problem of housing discrimination against people with a criminal record, but do so while imposing excessive and punitive lookback periods during which discrimination is freely permitted. These discrimination periods render

otherwise good bills harmful. Thus, we oppose these bills unless the excessive ban periods are eliminated and replaced with a standard individualized assessment of all housing applicants in which a criminal record cannot be the sole reason a person is denied housing.

Senate Bill 105, An Act Establishing a Right to Housing

The ACLU-CT believes that every person has a fundamental right to safe and stable housing. But, in its current form, Senate Bill 105 does not adequately address the challenges faced by some of the most housing-unstable members of our communities: people living with a criminal record. We urge this Committee to support this bill with amendments to specifically protect this population.

People who are formerly incarcerated are nearly ten times more likely to be homeless than other members of the public.¹ Rates of homelessness are especially high among people of color and women with criminal records.² Across the country, almost 50,000 people every year enter homeless shelters directly from incarceration.³ For people reentering their communities after incarceration, being homeless or unstably housed heighten the risk of reoffending.⁴

The reasons for this appallingly high rate of homelessness among people with criminal records are complex and many, but discrimination by landlords, inadequate reentry services, and underfunded transition services upon a person's end of sentence are contributors. Connecticut needs to invest in housing programs and services specifically for people leaving incarceration. The state also needs to remove barriers that make it impossible for a person to rejoin their family at the end of their sentence.⁵

¹ Memo to Members, "Formerly Incarcerated People Are Nearly 10 Times More Likely to Be Homeless." National Low Income Housing Coalition (Aug. 20, 2018), *available at* <https://nlihc.org/resource/formerly-incarcerated-people-are-nearly-10-times-more-likely-be-homeless>.

² Lucius Couloute, "Nowhere to Go: Homelessness among Formerly Incarcerated People." Prison Policy Initiative (Aug. 2018), *available at* <https://www.prisonpolicy.org/reports/housing.html>.

³ Mindy Mitchell, "Homelessness and Incarceration Are Intimately Linked. New Federal Funding Is Available to Reduce the Harm of Both." National Alliance to End Homelessness (Mar. 29, 2018), *available at* <https://endhomelessness.org/homelessness-incarceration-intimately-linked-new-federal-funding-available-reduce-harm/>.

⁴ Patricia McKernan, "Homelessness and Prisoner Re-Entry: Examining Barriers to Housing." Volunteers of America, *available at* <https://www.voa.org/homelessness-and-prisoner-reentry>.

⁵ See, e.g., Regs., Conn. State Agencies §§ 8-68f-12, 17b-812-12(c)(4) (2019).

There is also no remedy in Senate Bill 105 for redress when people's rights to housing are violated on the basis of their criminal record history. Connecticut statutes make employment discrimination on the basis of a criminal record actionable,⁶ but the Commission on Human Rights and Opportunities does not have authority to investigate complaints of housing discrimination on the basis of a criminal record. Without such a remedy, the right to housing established by Senate Bill 105 will not exist for people living with a criminal record.

While codifying a fundamental right to housing is a laudable intention that the ACLU-CT supports, Senate Bill 105 does not go far enough to protect the members of our communities who are among the most likely to become homeless. It should be amended to specifically address a right to housing for people with a criminal record, including removing barriers to obtaining housing, improving reentry and transition services, and providing a remedy for people with a criminal record who experience housing discrimination. We urge this Committee to support Senate Bill 105 with an amendment specifically protecting the right of housing for people with a criminal record.

Senate Bill 109, An Act Concerning a Landlord's Ability to Consider the Criminal Record of Prospective Tenants

All people in Connecticut, regardless of whether they have a criminal record, have the right to safe and stable housing. Yet at any given time, approximately 25 percent of the state's homeless population has a criminal record.⁷ This is due, in no small part, to unfounded discrimination on the part of housing agencies and landlords.

When affordable housing is insufficient, as it is in this state,⁸ strict admissions policies on the basis of criminal records are one way to decrease the numbers of

⁶ See Conn. Gen. Stats. § 46a-80 (2019).

⁷ Kelan Lyons, "Council Begins Study of Discrimination against People with Criminal Records." CT Mirror (Aug. 22, 2019), *available at* <https://ctmirror.org/2019/08/22/council-begins-study-of-discrimination-against-people-with-criminal-records/>.

⁸ "In Connecticut in 2018, 140,531 households were deemed 'extremely low income' . . . but only 51,050 affordable rental units were available. That's less than one affordable unit for every three extremely low-income households." Emily Munson, Justin Papp, Mary O'Leary, & Hannah Dellinger,

qualified applicants.⁹ These often appear as complete bans on people with a criminal record.¹⁰ Unfortunately, such blanket bans do not bear a rational relationship to safety or landlords' financial interests. To the contrary, recent research indicates that most criminal offenses have little to no impact on housing outcomes.¹¹ Even for those few offenses with an impact, that impact declines rapidly over time until it is statistically insignificant within 2-5 years.¹² Senate Bill 109, though, proposes up to a seven-year window of disqualification for people with felony convictions and up to a three-year ban for people with misdemeanor convictions. These time frames are not evidence based, and they do not promote safe communities.

We recognize the intention of Senate Bill 109 is to provide a safe haven from discrimination for anyone whose criminal record is past the lookback period. Our concern, though, is that it actually establishes a period in which discrimination and blanket bans are permissible. If this bill were amended to make clear that a person cannot be denied housing solely on the basis of their criminal conviction, and that a person has to be individually assessed when seeking housing, our concerns would be alleviated.

Because homelessness and housing insecurity are linked to higher recidivism rates,¹³ public safety dictates that we should try to encourage stable housing for people with criminal records, rather than discourage it by codifying permissible discrimination periods. Unfortunately, Senate Bill 109 would create such

"Connecticut's Affordable Housing Shortage hits Hard." AP News (Dec. 26, 2018), *available at* <https://apnews.com/b5f3b99cdef84211a8043add0a6e984b>.

⁹ See "No Second Chance: People with Criminal Records Denied Access to Public Housing." Human Rights Watch (Nov. 2004), *available at* <https://www.hrw.org/report/2004/11/17/no-second-chance/people-criminal-records-denied-access-public-housing>.

¹⁰ See, e.g., Reed Canaan, "Applicants with Criminal Record Not Welcome at Some Rentals and Advocates Say It's Discrimination." NPR News (Sept. 11, 2019), *available at* <https://vpm.org/news/articles/6820/applicants-with-criminal-record-not-welcome-at-some-rentals-and-advocates-say>.

¹¹ Cael Warren, "Success in Housing: How Much Does Criminal Background Matter?" at 17. Wilder Research (Jan. 2019), *available at* https://www.wilder.org/sites/default/files/imports/AEON_HousingSuccess_CriminalBackground_Report_1-19.pdf.

¹² *Id.* at 15.

¹³ See *supra* Note 4.

discouragements. Because of this, the ACLU-CT urges this Committee to oppose Senate Bill 109, An Act Concerning a Landlord's Ability to Consider the Criminal Record of Prospective Tenants, unless it is amended to eliminate punitive lookback periods in which housing discrimination might be seen as permitted, to prohibit discrimination in housing solely on the basis of a person's criminal history, and to require that people seeking housing be individually evaluated.

House Bill 5122, An Act Considering Consideration of Criminal Convictions of a Prospective Tenant

House Bill 5122 is similar in effect to Senate Bill 109. It has several differences from Senate Bill 109, specifically that it (1) provides a remedy in the form of permitting complaints to the Commission on Human Rights and Opportunities or actions in Superior Court, for housing discrimination on the basis of a criminal conviction, and (2) requires an individualized assessment before a housing provider may deny housing on the basis of a criminal conviction. These provisions would create safer and stronger communities by making it more difficult for a housing provider to discriminate against a person on the basis of a criminal conviction.

House Bill 5122, though, has a significant downside as compared to Senate Bill 109. The seven- and three-year lookback periods set forth in S.B. 109 are even longer in this bill, which proposes a three-year lookback period for misdemeanors and a ten-year lookback period for felonies. The shorter permissible discrimination periods in Senate Bill 109 were not evidenced-based and the discrimination periods set out in this bill are even less anchored in reality. A ten-year period for permissible discrimination against people living with felony convictions is nakedly punitive. It could extend the punishment a person faces many years beyond their original term of incarceration.

As written, House Bill 5122 could permit housing providers to discriminate against people with criminal records for up to ten years after incarceration and allows lifetime housing discrimination against people with certain convictions. Unfortunately, these excessive and unsupported measures render this otherwise good bill unworkable. Accordingly, the ACLU-CT urges this Committee to

oppose House Bill 5122 unless amended to make clear that a criminal record can never be the sole reason for denying a person housing.

House Bill 5129, An Act Concerning a Transition Program for Incarcerated Persons Being Released from Prison

The ACLU-CT believes that formerly incarcerated people should have equal access to housing. Housing is incredibly important for formerly incarcerated people, as it enables a stable environment for them to reconnect with their support systems and communities. Furthermore, without stable and safe housing, it can be difficult for people reentering society to obtain and keep employment. Lack of stable housing can also contribute to increased recidivism for people who are formerly incarcerated.¹⁴

House Bill 5129 addresses this important topic by mandating that, prior to a person's end of sentence and release from incarceration, the Department of Correction and the Department of Housing, in tandem, will conduct a mental health assessment and provide the person with access to 2-1-1 to obtain housing. This recognition of the needs of people at the end of their sentences is encouraging, but insufficient.

In Connecticut, affordable housing is scarce.¹⁵ Merely providing access to 2-1-1 is not enough to ensure that people leaving incarceration will have adequate shelter. With safe and stable housing tied so deeply to post-incarceration outcomes, identifying resources is not enough to meet the needs of people leaving incarceration or their communities. A lack of housing may also prevent people from being released on parole as expected, due to people not having a place to go in the community upon release. To ensure that incarcerated people do not serve longer sentences than necessary, access to housing in the community must be increased in a purposeful way. The bill would also benefit from added clarity about the population it is intended to address.

¹⁴ See Patricia McKernan, "Homelessness and Prisoner Re-Entry: Examining Barriers to Housing." Volunteers of America, *available at* <https://www.voa.org/homelessness-and-prisoner-reentry>.

¹⁵ See Emily Munson, Justin Papp, Mary O'Leary, & Hannah Dellinger, "Connecticut's Affordable Housing Shortage hits Hard." AP News (Dec. 26, 2018), *available at* <https://apnews.com/b5f3b99cdef84211a8043add0a6e984b>.

For these reasons, the ACLU-CT recommends that House Bill 5129 be amended to identify additional, specific housing resources for people transitioning from incarceration to the community. Additionally, the bill should identify and qualify alternative forms of transitional housing, like sponsors in the community or family. Identifying the need and certain resources is a great step which would only be strengthened by amending this bill. The ACLU-CT, therefore, recommends that this Committee support House Bill 5129 with an amendment to identify resources, qualify alternative housing options for people transitioning into society after incarceration, and clarify which supervised populations it intends to address.

Thank you.