

Please Support HB1207:

While federal law prohibits discrimination against protected classes of individuals, and it is illegal to discriminate against a tenant who has a felony drug conviction, they can discriminate against someone with a felony record for drug sale or manufacture. While it is very unfair in many cases to deny housing to someone for a very old conviction, there is no law against it.

During the 2020 Virginia General Assembly Session, we advocated for, and successfully addressed a similar discriminatory practice with the passage of HB1207 which dealt with the eligibility for food stamps and TANF for drug related felonies. This became the law in Virginia on July 1, 2020. HB1207 seeks to address this matter in Virginia's rental housing industry by mirroring HUD's lead.

HUD recognized the fact that under the federal Fair Housing Act, federal law does not prohibit criminal background screening, but the problems caused by these actions taken by housing providers significantly contributes to unhoused/homeless persons, and in many cases, frustration leading to violations of probation and recidivation. Therefore, in 2016 and 2022 HUD released guidance regarding the Fair Housing Act as it applies to housing policies and criminal background checks.

“Many formerly incarcerated individuals, who have paid their debt to society, face continued penalties outside of the courts by being excluded from much of the housing market. HUD recognizes that racial and ethnic disparities in the criminal legal system including disproportionate and unequal rates of arrests and convictions, and harsher sentencing of African Americans and Latinx populations. The result of this disparity is a disproportionate burden on these protected classes, which can be a violation of the Fair Housing Act.”

To address this, HUD sent new guidelines to all its housing providers that receive federal funds for the development, operation, or maintenance of rental housing. The guidance prohibits:

- Denying housing based on arrest records
- Blanket bans on anyone with a criminal record
- Conducting background checks inconsistently, performing them on some and not others based on stereotypes or fear
- Consider individuals on a case-by-case basis and evaluate the nature and severity of the crime, and consider the length of time that has passed since the crime was committed
- Make a determination based on facts and evidence, and not a perceived threat.

HUD has also developed a consumer reporting process to report perceived discrimination.

HB1207 seeks to mirror HUD's efforts in Virginia by convening a stakeholder workgroup working with the Virginia Department of Housing and Community Development (VDHCD) to develop a model criminal history screening program to be implemented by (VDHCD) for properties in Virginia that receive state funding for development, operation and or maintenance of their properties.

We hope this august body will see the value in this effort and unanimously pass this bill along to the full committee.

Thank you.