

116TH CONGRESS  
1ST SESSION

# S. 2076

To reform the screening and eviction policies for Federal housing assistance in order to provide fair access to housing, and for other purposes.

---

IN THE SENATE OF THE UNITED STATES

JULY 10, 2019

Ms. HARRIS (for herself and Mr. BOOKER) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

---

## A BILL

To reform the screening and eviction policies for Federal housing assistance in order to provide fair access to housing, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fair Chance at Hous-  
5 ing Act of 2019”.

6 **SEC. 2. DATA COLLECTION; COMPLIANCE; DEFINITIONS.**

7 Subtitle F of the Quality Housing and Work Respon-  
8 sibility Act of 1998 (42 U.S.C. 13661 et seq.) is amend-  
9 ed—

1 (1) in section 578(c) (42 U.S.C. 13663(c)), by  
2 striking “section 579(a)(2)” and inserting “section  
3 579B(3)”;

4 (2) by redesignating section 579 as section  
5 579B;

6 (3) by inserting after section 578 (42 U.S.C.  
7 13663) the following:

8 **“SEC. 579. DATA COLLECTION.**

9 “(a) APPLICATIONS.—

10 “(1) IN GENERAL.—The Secretary shall require  
11 each public housing agency and owner to submit a  
12 report to the Secretary on an annual basis that con-  
13 tains the following information for the preceding 12-  
14 month reporting period:

15 “(A) The number of applications for ad-  
16 mission to federally assisted housing or a feder-  
17 ally assisted housing program reviewed by the  
18 public housing agency, including by the review  
19 panel of the public housing agency, or owner.

20 “(B) The number of applications for ad-  
21 mission to federally assisted housing or a feder-  
22 ally assisted housing program reviewed by the  
23 public housing agency, including by the review  
24 panel of the public housing agency, or owner for  
25 covered criminal conduct.

1           “(C) The number of denials of applications  
2           for admission to federally assisted housing or a  
3           federally assisted housing program rendered by  
4           the public housing agency or owner on the basis  
5           of covered criminal conduct.

6           “(D) The number of denials described in  
7           subparagraph (C) pursuant to which the appli-  
8           cant filed a request for informal review.

9           “(E) The number of denials described in  
10          subparagraph (C) that were overturned fol-  
11          lowing informal review.

12          “(F) The information required under sub-  
13          paragraphs (A) through (E) disaggregated by  
14          the race of the applicant, the ethnicity of the  
15          applicant, the sex of the applicant, and whether  
16          the applicant had a disability as defined by sec-  
17          tion 504 of the Rehabilitation Act of 1973 (29  
18          U.S.C. 794).

19          “(2) CONFIDENTIALITY.—The information col-  
20          lected pursuant to paragraph (1) shall be subject to  
21          the same confidentiality requirements of section  
22          576(b)(2)(F) that are applicable to information  
23          gathered in the process of screening for criminal  
24          convictions.

1       “(b) TERMINATIONS.—The Secretary shall require  
2 each public housing agency and owner to submit a report  
3 to the Secretary on an annual basis that contains the fol-  
4 lowing information for the preceding 12-month reporting  
5 period:

6           “(1) The number of terminations of tenancy  
7 and terminations of assistance initiated by the public  
8 housing agency or owner.

9           “(2) The number of terminations of tenancy  
10 and terminations of assistance rendered by the pub-  
11 lic housing agency or owner on the basis of covered  
12 criminal activity.

13           “(3) For each termination of tenancy or assist-  
14 ance based on covered criminal conduct, the specific  
15 type or types of covered criminal conduct involved,  
16 including the disposition of any criminal charges  
17 against the tenant or participant.

18           “(4) The information required under para-  
19 graphs (1) through (3) disaggregated by the race of  
20 the applicant, the ethnicity of the applicant, the sex  
21 of the applicant, and whether the applicant had a  
22 disability as defined by section 504 of the Rehabili-  
23 tation Act of 1973 (29 U.S.C. 794).”;

24           (4) by inserting after section 579, as added by  
25 paragraph (3), the following:

1 **“SEC. 579A. COMPLIANCE.**

2 “A public housing agency or owner of federally as-  
3 sisted housing, as applicable, shall be solely responsible for  
4 compliance with the requirements of this subtitle, notwith-  
5 standing the use of any third party for such purposes. In  
6 a case of failure of a public housing agency or owner to  
7 comply with the requirements of this subtitle, the Sec-  
8 retary may withhold funds made available for the federally  
9 assisted housing program under which the failure to com-  
10 ply occurred from the agency or owner.”; and

11 (5) in section 579B, as so redesignated—

12 (A) by striking “(a) DEFINITIONS.—”;

13 (B) by striking paragraph (1) and insert-  
14 ing the following:

15 “(1) CONVICTION.—

16 “(A) IN GENERAL.—The term ‘conviction’  
17 means judgment of guilt or nolo contendere or  
18 any disposition arising therefrom.

19 “(B) EXCLUSIONS.—Such term does not  
20 include—

21 “(i) an arrest or any disposition there-  
22 from that did not result in a conviction;

23 “(ii) any criminal disposition for an  
24 offense committed prior to the defendant’s  
25 18th birthday;

1           “(iii) a conviction that has been ex-  
2           punged, sealed, or subject to similar judi-  
3           cial relief;

4           “(iv) a disposition received through  
5           successful completion of diversion, deferred  
6           adjudication, deferred entry of judgment,  
7           drug court, or similar judicial program  
8           under State law; or

9           “(v) any other criminal disposition not  
10          deemed a conviction under State or Fed-  
11          eral law.”;

12          (C) by redesignating paragraphs (2) and  
13          (3) as paragraphs (3) and (4), respectively;

14          (D) by inserting after paragraph (1) the  
15          following:

16          “(2) COVERED CRIMINAL CONDUCT.—

17                  “(A) ADMISSION TO FEDERALLY ASSISTED  
18          HOUSING.—

19                          “(i) IN GENERAL.—The term ‘covered  
20                  criminal conduct’ means, with respect to  
21                  admission to federally assisted housing,  
22                  criminal conduct—

23                                  “(I) for which the applicant or a  
24                                  member of the household of the appli-  
25                                  cant has been convicted of a felony

1 under State or Federal criminal law;  
2 and

3 “(II) that threatens the health or  
4 safety of other tenants, the employees,  
5 or the owner or public housing agen-  
6 cy.

7 “(ii) EXCLUSIONS.—Notwithstanding  
8 any other provision of law, such term does  
9 not include, with respect to admission to  
10 federally assisted housing—

11 “(I) a conviction for a drug of-  
12 fense for which the person served a  
13 sentence of less than 10 years;

14 “(II) an offense or offenses re-  
15 lated to fees or back payments associ-  
16 ated with incarceration;

17 “(III) any other legal financial  
18 obligation; or

19 “(IV) a conviction for which the  
20 person was sentenced only to proba-  
21 tion.

22 “(B) TERMINATION OF TENANCY OR AS-  
23 SISTANCE.—

24 “(i) IN GENERAL.—The term ‘covered  
25 criminal conduct’—

1           “(I) means, with respect to ter-  
2           mination of tenancy or assistance,  
3           criminal conduct committed by the  
4           tenant or any member of the house-  
5           hold of the tenant while receiving  
6           Federal housing assistance, that  
7           threatens the health or safety of other  
8           tenants, the employees, or the owner  
9           or public housing agency; and

10           “(II) includes criminal conduct  
11           described in section 16(f)(1) of the  
12           United States Housing Act of 1937  
13           (42 U.S.C. 1437n(f)(1)).

14           “(ii) EXCLUSIONS.—Such term does  
15           not include, with respect to termination of  
16           tenancy or assistance—

17           “(I) a misdemeanor;

18           “(II) an arrest for an offense for  
19           which the applicant was not subse-  
20           quently adjudicated or convicted;

21           “(III) any juvenile adjudication  
22           or conviction, including convictions  
23           where a juvenile was tried as an adult;



1           “(IV) a conviction that has been  
2 expunged, sealed, or subject to similar  
3 judicial relief under State law;

4           “(V) criminal citations or infrac-  
5 tions regardless of classification;

6           “(VI) non-criminal citations;

7           “(VII) a disposition received  
8 through successful completion of di-  
9 version, deferred adjudication, de-  
10 ferred entry of judgment, drug court,  
11 or similar judicial program under  
12 State law;

13           “(VIII) a conviction for which  
14 the person was sentenced only to pro-  
15 bation;

16           “(IX) an offense or offenses re-  
17 lated to fees or back payments associ-  
18 ated with incarceration;

19           “(X) child support payments or  
20 back pay associated with barriers, in-  
21 cluding incarceration, homelessness,  
22 unemployment, or disability; or

23           “(XI) disciplinary infractions  
24 committed by elementary or secondary  
25 school students, or school related

1 issues that are not criminal in nature,  
 2 but may have led to justice involve-  
 3 ment.”;

4 (E) in paragraph (3), as so redesignated—

5 (i) in subparagraph (G), by inserting  
 6 “or” after the semicolon at the end;

7 (ii) in subparagraph (H), by striking  
 8 “; or” and inserting a period; and

9 (iii) by striking subparagraph (I); and

10 (F) in paragraph (4), as so redesignated,

11 by adding after the period at the end the fol-

12 lowing: “For purposes of sections 576 and 577,

13 such term does not include an owner of feder-

14 ally assisted housing described in paragraph

15 (3)(B).”.

16 **SEC. 3. SCREENING OF APPLICANTS FOR FEDERALLY AS-**  
 17 **SISTED HOUSING.**

18 (a) SCREENING OF APPLICANTS.—Section 576 of the  
 19 Quality Housing and Work Responsibility Act of 1998 (42  
 20 U.S.C. 13661) is amended to read as follows:

21 **“SEC. 576. SCREENING OF APPLICANTS FOR FEDERALLY**  
 22 **ASSISTED HOUSING.**

23 “(a) AUTHORITY TO DENY ADMISSION FOR CRIMI-  
 24 NAL CONDUCT.—Except as otherwise provided by this sec-  
 25 tion and in addition to any other authority to screen appli-

1 cants, in selecting among applicants for admission to fed-  
2 erally assisted housing or a federally assisted housing pro-  
3 gram, including persons seeking to join a household cur-  
4 rently receiving Federal housing assistance, a public hous-  
5 ing agency or owner of such housing (as applicable) may  
6 deny an applicant admission to the program or to federally  
7 assisted housing based on any criminal conduct only if the  
8 agency or owner determines, based on an individualized  
9 review of the totality of the circumstances, that the appli-  
10 cant or any member of the household of the applicant was  
11 engaged in covered criminal conduct, within a reasonable  
12 period of time preceding the date on which the applicant  
13 household would otherwise be admitted to the federally as-  
14 sisted housing or to the program.

15 “(b) INDIVIDUALIZED REVIEW OF THE TOTALITY OF  
16 THE CIRCUMSTANCES.—

17 “(1) REQUIREMENT.—Before denying admis-  
18 sion to an applicant pursuant to subsection (a), a  
19 public housing agency or owner of federally assisted  
20 housing shall conduct an individualized review of the  
21 totality of the circumstances regarding the criminal  
22 conduct at issue.

23 “(2) REVIEW PANEL FOR PUBLIC HOUSING AND  
24 TENANT-BASED RENTAL ASSISTANCE APPLICANTS.—

25 “(A) IN GENERAL.—

1                   “(i) GUIDANCE FOR REVIEW  
2                   PANEL.—The Secretary shall issue guid-  
3                   ance requiring each public housing agency  
4                   to establish a review panel to conduct the  
5                   individualized review required under para-  
6                   graph (1) with respect to applications for  
7                   federally assisted housing specified in sub-  
8                   paragraphs (A) and (B) of section  
9                   579B(3).

10                   “(ii) MITIGATING EVIDENCE.—An ap-  
11                   plicant may present mitigating evidence for  
12                   the review panel to determine whether the  
13                   applicant should be admitted.

14                   “(B) MEMBERSHIP.—Each review panel  
15                   described in this paragraph shall include not  
16                   less than 1 resident representative.

17                   “(C) NOTICE.—Applicants shall be notified  
18                   in writing of their panel review not less than 14  
19                   days before date of the review, and notice shall  
20                   be provided in accordance with subsection (c).

21                   “(D) CONVICTION INFORMATION.—

22                   “(i) IN GENERAL.—A public housing  
23                   agency shall produce a detailed criminal  
24                   conviction report to be used by the review  
25                   panel in the review process.

1           “(ii) CORRECTION OF ERRORS.—If an  
2           applicant identifies an error on the crimi-  
3           nal conviction report used by the review  
4           panel, the applicant shall have the oppor-  
5           tunity to defer his or her application prior  
6           to panel review to correct the report.

7           “(iii) SHARING.—A report described  
8           in this subparagraph shall be shared only  
9           with the applicant and members of the re-  
10          view panel.

11          “(E) BURDEN OF PROOF.—A public hous-  
12          ing agency may not deny admission to an appli-  
13          cant unless the agency determines, by a prepon-  
14          derance of the evidence, that the criminal con-  
15          duct of the applicant renders the applicant unfit  
16          for housing.

17          “(F) CONFIDENTIALITY.—

18                 “(i) REQUIREMENT.—All information  
19                 gathered in the process of screening for  
20                 criminal convictions shall be kept confiden-  
21                 tial and shall not be released unless the  
22                 applicant agrees in writing or the release  
23                 of the information is otherwise required by  
24                 law.

1           “(ii) POLICY.—Public housing agen-  
2           cies shall establish a formal confidentiality  
3           policy with respect to screening for crimi-  
4           nal convictions.

5           “(G) DECISION-MAKING PROCESS.—A re-  
6           view panel described in this paragraph shall—

7                   “(i) review the circumstances of an  
8                   applicant and other available information,  
9                   including any information the applicant  
10                  chooses to bring to the attention of the re-  
11                  view panel; and

12                   “(ii) not later than 7 days after the  
13                  date on which the review begins, the review  
14                  panel shall review all relevant information  
15                  and determine whether, by a preponder-  
16                  ance of the evidence, the criminal record of  
17                  the applicant renders the applicant unfit  
18                  for housing.

19           “(H) APPEALS.—

20                   “(i) IN GENERAL.—Each applicant  
21                  shall have a right to appeal a decision by  
22                  a review panel under this paragraph to  
23                  deny admission to housing, in accordance  
24                  with any applicable regulations.

1           “(ii) APPEAL.—An applicant shall  
2           have 14 days to appeal the determination  
3           made under subparagraph (G)(ii) and a re-  
4           quest for such an appeal shall be made in  
5           writing.

6           “(iii) HEARING.—Pursuant to a re-  
7           quest made under clause (ii), the public  
8           housing agency shall hold an informal  
9           hearing and decide whether to uphold the  
10          initial determination within 7 days after  
11          the hearing.

12          “(iv) RESERVATION OF ASSIST-  
13          ANCE.—The public housing agency shall  
14          hold the dwelling unit open or shall reserve  
15          the assistance under the federally assisted  
16          housing program, as the case may be, dur-  
17          ing the entire time of the appeals process  
18          under this subparagraph.

19          “(3) NON-DISCRIMINATION.—When conducting  
20          an individualized review under this section, a public  
21          housing agency or owner of federally assisted hous-  
22          ing shall comply with applicable civil rights require-  
23          ments under the Fair Housing Act (42 U.S.C. 3601  
24          et seq.), title VI of the Civil Rights Act of 1964 (42  
25          U.S.C. 2000d et seq.), section 504 of the Rehabilita-

1       tion Act of 1973 (29 U.S.C. 794), and titles II and  
2       III of the Americans with Disabilities Act of 1990  
3       (42 U.S.C. 12131 et seq., 12181 et seq.).

4               “(4) REVIEW FACTORS.—In conducting the re-  
5       views required under paragraph (1), the public hous-  
6       ing agency or owner shall consider the following fac-  
7       tors holistically, such that no single factor is dispo-  
8       sitive:

9               “(A) SEVERITY.—The severity of the  
10       criminal offense or offenses committed.

11              “(B) TIME ELAPSED.—The amount of  
12       time elapsed since the criminal offense or of-  
13       fenses were committed.

14              “(C) EVIDENCE OF REHABILITATION.—  
15       Evidence of rehabilitation, including—

16              “(i) the satisfactory compliance of a  
17       person with all terms and conditions of pa-  
18       role or probation, provided that the failure  
19       of the person to pay fines, fees, and res-  
20       titution shall not be considered noncompli-  
21       ance with terms and conditions of parole  
22       or probation;

23              “(ii) educational attainment or voca-  
24       tional or professional training, or employ-



1           ment since conviction, including training  
2           received or employment while incarcerated;

3           “(iii) completion of or active partici-  
4           pation in rehabilitative treatment, includ-  
5           ing alcohol or drug treatment;

6           “(iv) letters of recommendation from  
7           community organizations, counselors, case  
8           managers, teachers, community leaders,  
9           parole officers, and probation officers who  
10          have observed the person;

11          “(v) the familial relationship of a per-  
12          son with a person who may be currently  
13          residing in the dwelling unit in federally  
14          assisted housing that the applicant is ap-  
15          plying for residence in; or

16          “(vi) the age of the person at the time  
17          of the conviction.

18          “(D) REDUCTION IN SENTENCE.—Whether  
19          the applicant received a reduced sentence for  
20          the criminal offense or offenses committed.

21          “(E) NATURE OF OFFENSE.—The nature  
22          of the criminal offense, which shall include the  
23          following:

1           “(i) OFFENSES RELATED TO AN INDI-  
2 VIDUAL’S DISABILITY STATUS.—Whether  
3 the criminal offense or offenses—

4                   “(I) were committed by a mem-  
5 ber of the household who is an indi-  
6 vidual with disabilities who is entitled  
7 to a reasonable accommodation under  
8 the Fair Housing Act (42 U.S.C.  
9 3601 et seq.) or section 504 of the  
10 Rehabilitation Act of 1974 (29 U.S.C.  
11 794); and

12                   “(II) are related to or resulted  
13 from a symptom of a disability of the  
14 member of the household who com-  
15 mitted the criminal offense or of-  
16 fenses.

17           “(ii) PROXIMITY TO ASSISTED HOUS-  
18 ING.—Whether the criminal offense or of-  
19 fenses occurred on or near the federally as-  
20 sisted housing to which the application of  
21 the applicant relates, if applicable.

22           “(iii) OFFENSES RELATED TO AN IN-  
23 DIVIDUAL’S STATUS AS A VICTIM OF DO-  
24 MESTIC VIOLENCE.—Whether the criminal  
25 offense or offenses committed arose from

1 the status of a member of the household as  
2 a victim of domestic violence, dating vio-  
3 lence, sexual assault, or stalking, as those  
4 terms are defined in section 40002 of the  
5 Violence Against Women Act of 1994 (34  
6 U.S.C. 12291).

7 “(F) OTHER MITIGATING INFORMATION.—  
8 Any other mitigating information provided by  
9 the applicant, or provided on behalf of the ap-  
10 plicant, including any information regarding the  
11 rehabilitation or good conduct of the member of  
12 the household who committed the criminal of-  
13 fense or offenses.

14 “(5) GUIDANCE.—The Secretary shall issue  
15 guidance for public housing agencies and owners to  
16 implement the requirement to conduct individualized  
17 reviews in accordance with this section.

18 “(c) NOTICES.—The Secretary shall require each  
19 public housing agency and owner of federally assisted  
20 housing to provide—

21 “(1) to each new applicant and each applicant  
22 upon selection from the wait list for admission to  
23 federally assisted housing or to a federally assisted  
24 housing program, at the time of application and se-  
25 lection from the wait list, written notice of the policy

1 of the agency or owner pursuant to this subtitle or  
2 any other provision of law regarding denial of admis-  
3 sion for criminal conduct, which shall include—

4 “(A) notice of the authority under sub-  
5 section (a) to deny admission based on covered  
6 criminal conduct and notice of the specific rea-  
7 sonable time period to which such authority ap-  
8 plies;

9 “(B) notice of the requirement under sub-  
10 section (b) to consider the totality of the cir-  
11 cumstances and the right under subsection  
12 (b)(4) to present mitigating evidence; and

13 “(C) when applicable—

14 “(i) a criminal conviction report that  
15 the public housing agency plans to provide  
16 to the review panel to be used in the indi-  
17 vidualized review of the applicant or a  
18 member of the household of the applicant;  
19 and

20 “(ii) notice of right of a tenant to ap-  
21 pear at the review panel and correct inac-  
22 curacies in his or her criminal conviction  
23 report; and

1           “(2) to an applicant, upon denial of an applica-  
2           tion for admission to federally assisted housing or to  
3           a federally assisted housing program—

4                   “(A) written notice of—

5                           “(i) the reason for the denial, includ-  
6                           ing the specific criminal conduct on which  
7                           the denial is based; and

8                           “(ii) the actions that the applicant  
9                           may take to appeal the denial; and

10                   “(B) a copy of any documents that the  
11                   public housing agency or owner used to support  
12                   its determination of criminal conduct.

13           “(d) OPPORTUNITY TO REMOVE CULPABLE HOUSE-  
14           HOLD MEMBER.—

15                   “(1) IN GENERAL.—In the case of any covered  
16                   criminal conduct described in subsection (a) war-  
17                   ranting denial of admission to federally assisted  
18                   housing, the public housing agency or owner shall,  
19                   before denying admission to the entire applicant  
20                   household, provide the applicant household with the  
21                   option of removing from the household the member  
22                   or members who would be cause for the denial in  
23                   order for the remainder of the household to be eligi-  
24                   ble for admission, and may only deny admission if

1 the applicant household refuses to exercise that op-  
2 tion.

3 “(2) NOTICE.—A public housing agency or  
4 owner shall provide the applicant household with  
5 written notice of the option required under para-  
6 graph (1) within a reasonable time before notice of  
7 an adverse action relating to covered criminal con-  
8 duct described in subsection (a).

9 “(e) PROHIBITION ON DRUG AND ALCOHOL TEST-  
10 ING.—Notwithstanding any other provision of law, a pub-  
11 lic housing agency or owner of federally assisted housing  
12 may not require drug or alcohol testing of any applicant  
13 for admission to federally assisted housing or a federally  
14 assisted housing program as a condition of that housing  
15 assistance.

16 “(f) COMPLIANCE WITH LIMITED ENGLISH PRO-  
17 FICIENCY REQUIREMENTS.—Any notice required under  
18 this section to be provided to an applicant or applicant  
19 household shall be provided in multiple languages, con-  
20 sistent with guidance issued by the Secretary in accord-  
21 ance with Executive Order 13166 (42 U.S.C. 2000d–1  
22 note; relating to access to services for persons with limited  
23 English proficiency).”.

24 (b) GUIDANCE.—Not later than 180 days after the  
25 date of enactment of this Act, the Secretary of Housing

1 and Urban Development, after consultation with the At-  
 2 torney General and an opportunity for public comment on  
 3 the proposed guidance, shall issue the following guidance:

4 (1) INDIVIDUALIZED REVIEWS REGARDING THE  
 5 TOTALITY OF THE CIRCUMSTANCES.—Guidance re-  
 6 quired under paragraph (5) of section 576(b) of the  
 7 Quality Housing and Work Responsibility Act of  
 8 1998 (42 U.S.C. 13661(b)), as amended by sub-  
 9 section (a) of this section, regarding reviews re-  
 10 quired under paragraph (1) of such section 576(b).

11 (2) MODEL NOTICE TO APPLICANTS.—Guidance  
 12 setting forth model notification forms for use by  
 13 public housing agencies and owners of federally as-  
 14 sisted housing in meeting the requirements of sub-  
 15 section (c) of section 576 of the Quality Housing  
 16 and Work Responsibility Act of 1998 (42 U.S.C.  
 17 13661), as added by subsection (b) of this section.

18 **SEC. 4. REQUIREMENTS FOR TERMINATION OF TENANCY**  
 19 **AND ASSISTANCE FOR COVERED CRIMINAL**  
 20 **CONDUCT BY TENANTS OF FEDERALLY AS-**  
 21 **SISTED HOUSING.**

22 (a) REQUIREMENTS FOR TERMINATION.—Section  
 23 577 of the Quality Housing and Work Responsibility Act  
 24 of 1998 (42 U.S.C. 13662) is amended to read as follows:

1 **“SEC. 577. REQUIREMENTS FOR TERMINATION OF TEN-**  
2 **ANCY AND ASSISTANCE FOR COVERED CRIMI-**  
3 **NAL CONDUCT BY TENANTS OF FEDERALLY**  
4 **ASSISTED HOUSING.**

5 “(a) **AUTHORITY TO TERMINATE FOR CRIMINAL**  
6 **CONDUCT.**—A public housing agency or owner of federally  
7 assisted housing may not terminate the tenancy of any  
8 tenant of federally assisted housing, or assistance for a  
9 household under any federally assisted housing program,  
10 based on any criminal conduct unless the agency or owner,  
11 as applicable, determines in accordance with this section  
12 that the conduct is covered criminal conduct, as defined  
13 in section 579B.

14 “(b) **INDIVIDUALIZED REVIEW OF THE TOTALITY OF**  
15 **THE CIRCUMSTANCES.**—

16 “(1) **REQUIREMENT.**—In determining whether  
17 to terminate tenancy or assistance to any household  
18 based on covered criminal conduct by a household  
19 member or any guest or other person under the con-  
20 trol of a household member, a public housing agency  
21 or an owner of federally assisted housing shall con-  
22 duct an individualized review of the totality of the  
23 circumstances regarding the criminal conduct at  
24 issue, taking into consideration the need of the  
25 household for housing and the health and safety of  
26 the community.



1           “(2) MITIGATING FACTORS.—In conducting re-  
2 views required under paragraph (1), a public hous-  
3 ing agency or owner shall consider all factors pre-  
4 sented, including all of the factors specified in sec-  
5 tion 576(b)(4), as appropriate, except that, for pur-  
6 poses of this paragraph—

7           “(A) subparagraph (C)(v) of such section  
8 shall be applied by substituting ‘a member of  
9 the household’ for ‘the applicant’; and

10           “(B) subparagraph (E)(ii) of such section  
11 shall be applied by substituting ‘in which the  
12 household resides’ for ‘to which the application  
13 of the applicant relates (if applicable)’.

14           “(3) NONDISCRIMINATION.—When conducting  
15 an individualized review under this section, a public  
16 housing agency or owner of federally assisted hous-  
17 ing shall comply with applicable civil rights require-  
18 ments under the Fair Housing Act (42 U.S.C. 3601  
19 et seq.), title VI of the Civil Rights Act of 1964 (42  
20 U.S.C. 2000d et seq.), section 504 of the Rehabilita-  
21 tion Act of 1973 (29 U.S.C. 794), and titles II and  
22 III of the Americans with Disabilities Act of 1990  
23 (42 U.S.C. 12131 et seq., 12181 et seq.).

1           “(4) INVESTIGATIONS AND EVIDENCE PRE-  
2           SENTED BY PUBLIC HOUSING AGENCY OR OWNER OF  
3           FEDERALLY ASSISTED HOUSING.—

4           “(A) FORCED ENTRY.—If conducting an  
5           investigation into alleged criminal conduct com-  
6           mitted by a tenant or member of household of  
7           the tenant, the public housing agency or owner  
8           of federally assisted housing may not enter the  
9           rental property unless entry is authorized by  
10          the tenant or a member of the household of the  
11          tenant.

12          “(B) EVIDENCE PRESENTED BY PUBLIC  
13          HOUSING AGENCY OR OWNER OF FEDERALLY  
14          ASSISTED HOUSING.—If presenting evidence  
15          during the individualized review to demonstrate  
16          that a household member or any guest or other  
17          person under the control of a household mem-  
18          ber engaged in covered criminal conduct, the  
19          public housing agency or owner of federally as-  
20          sisted housing may only present substantiated  
21          evidence.

22          “(5) GUIDANCE.—The Secretary shall issue  
23          guidance for public housing agencies and owners to  
24          implement the requirement to conduct individualized  
25          reviews in accordance with this subsection.

1       “(c) OPTION TO REMOVE CULPABLE HOUSEHOLD  
2 MEMBER.—

3           “(1) IN GENERAL.—In the case of any covered  
4 criminal conduct warranting termination of tenancy  
5 or assistance, the public housing agency or owner—

6           “(A) shall, before proceeding with eviction  
7 or termination proceedings against the entire  
8 tenant household, provide the tenant with the  
9 option of removing from the household the  
10 member that is culpable for the conduct that  
11 warrants the termination in order for the re-  
12 mainder of the household to continue to reside  
13 in the assisted unit; and

14           “(B) may only proceed with eviction pro-  
15 ceedings if the tenant refuses to exercise the op-  
16 tion described in subparagraph (A).

17           “(2) LEASE OR VOUCHER BIFURCATION.—A  
18 public housing agency or owner or manager of feder-  
19 ally assisted housing may bifurcate a lease for the  
20 housing or voucher in order to evict, remove, or ter-  
21 minate assistance to any individual who is a tenant  
22 or lawful occupant of the housing and who engages  
23 in covered criminal conduct without evicting, remov-  
24 ing, terminating assistance to, or otherwise penal-

1       izing other household members who are tenants or  
2       lawful occupants of the housing.

3               “(3) EFFECT OF EVICTION ON OTHER TEN-  
4       ANTS.—

5               “(A) IN GENERAL.—If a public housing  
6       agency or owner or manager of federally as-  
7       sisted housing evicts, removes, or terminates as-  
8       sistance to an individual under paragraph (2),  
9       and the individual is the sole tenant eligible to  
10      receive assistance under a federally assisted  
11      housing program, the public housing agency or  
12      owner or manager of the federally assisted  
13      housing shall provide any remaining tenant an  
14      opportunity to establish eligibility for the feder-  
15      ally assisted housing.

16              “(B) EXTENSION.—If a tenant described  
17      in subparagraph (A) cannot establish eligibility,  
18      the public housing agency or owner or manager  
19      of the housing shall provide the tenant a rea-  
20      sonable time of not less than 120 days, as de-  
21      termined by the Secretary, to find new housing  
22      or to establish eligibility for housing under an-  
23      other Federal housing program.

24              “(4) AVAILABILITY OF REMEDIES.—Paragraphs  
25      (1), (2), and (3) shall not supersede any protections

1 or remedies available under the Violence Against  
2 Women Act of 1994 (34 U.S.C. 12291 et seq.).

3 “(d) PROHIBITION ON DRUG AND ALCOHOL TEST-  
4 ING.—Notwithstanding any other provision of law, a pub-  
5 lic housing agency or owner of federally assisted housing  
6 may not require drug or alcohol testing of any tenant of  
7 federally assisted housing or member of the household of  
8 the tenant as a condition of tenancy in that housing or  
9 continued receipt of that assistance.”.

10 (b) EFFECTIVE DATE.—Section 577 of the Quality  
11 Housing and Work Responsibility Act of 1998, as amend-  
12 ed by subsection (a) of this section, shall take effect and  
13 apply on the date of enactment of this Act.

14 **SEC. 5. EVICTION STANDARDS, LEASE TERMS, AND OTHER**  
15 **LIMITATIONS FOR PUBLIC HOUSING.**

16 Section 6 of the United States Housing Act of 1937  
17 (42 U.S.C. 1437d) is amended—

18 (1) in subsection (k), by striking the matter fol-  
19 lowing paragraph (6);

20 (2) in subsection (l)—

21 (A) in paragraph (5), by inserting “, sub-  
22 ject to paragraph (6)” before the semicolon at  
23 the end;

24 (B) by striking paragraph (6) and insert-  
25 ing the following:

1           “(6) provide that the public housing agency  
2           may not terminate the tenancy based on any crimi-  
3           nal conduct unless the agency determines, in accord-  
4           ance with section 577 of the Quality Housing and  
5           Work Responsibility Act of 1998 (42 U.S.C. 13662),  
6           that the conduct is covered criminal conduct (as de-  
7           fined in section 579B of such Act);”;

8           (C) in the second paragraph designated as  
9           paragraph (7) (relating to occupancy in viola-  
10          tion of section 576(b) of the Quality Housing  
11          and Work Responsibility Act of 1998; as added  
12          by section 575(b)(4) of such Act (Public Law  
13          105–276; 112 Stat. 2635))—

14           (i) by striking “any occupancy in vio-  
15          lation of section 576(b) of the Quality  
16          Housing and Work Responsibility Act of  
17          1998 (relating to ineligibility of illegal  
18          drug users and alcohol abusers) or”;

19           (ii) by striking “(relating to termi-  
20          nation of tenancy and assistance for illegal  
21          drug users and alcohol abusers)”;

22           (iii) by redesignating such paragraph  
23          as paragraph (8); and

24          (D) in paragraph (9)—

1 (i) in subparagraph (A), by striking “;  
2 or” at the end and inserting a period;

3 (ii) by striking “if such tenant—” in  
4 the matter preceding subparagraph (A)  
5 and all that follows through “(A) is flee-  
6 ing” and inserting “if such tenant is flee-  
7 ing”; and

8 (iii) by striking paragraph (2);  
9 (3) in subsection (t)—

10 (A) in the subsection heading, by striking  
11 “OBTAINING” and inserting “PROHIBITION ON  
12 OBTAINING”;

13 (B) by striking paragraphs (1), (2), and  
14 (3) and inserting the following:

15 “(1) PROHIBITION.—

16 “(A) IN GENERAL.—A public housing  
17 agency—

18 “(i) may not require a person who ap-  
19 plies for admission to public housing to  
20 provide consent that authorizes the agency  
21 to receive information from a drug abuse  
22 treatment facility that is related to—

23 “(I) whether the applicant is cur-  
24 rently engaging in the illegal use of a  
25 controlled substance; or

1                   “(II) the progress of the appli-  
2                   cant in rehabilitation; and

3                   “(ii) and may not request an appli-  
4                   cant to provide the consent described in  
5                   clause (i).

6                   “(B) WRITTEN CONSENT.—An applicant  
7                   may voluntarily provide the information de-  
8                   scribed in subparagraph (A), provide signed  
9                   written consent for the agency to receive that  
10                  information, or provide signed written consent  
11                  for a drug abuse treatment facility to provide  
12                  that information to an a public housing agency,  
13                  for purposes of an individualized review under  
14                  section 576(b) of the Quality Housing and  
15                  Work Responsibility Act of 1998 (42 U.S.C.  
16                  13661(b)), and an agency provided with that  
17                  information shall consider the information in  
18                  conducting the individualized review.

19                  “(C) RULE OF CONSTRUCTION.—Nothing  
20                  in this paragraph may be construed to penalize  
21                  or to authorize any penalty for an applicant for  
22                  not providing the information or consent de-  
23                  scribed in this paragraph.

24                  “(2) EXPIRATION OF WRITTEN CONSENT.—An  
25                  applicant’s signed written consent provided pursuant



1 to paragraph (1) shall expire automatically after the  
2 public housing agency has made a final decision to  
3 either approve or deny the application of the appli-  
4 cant for admittance to public housing.”;

5 (C) by striking paragraph (6); and

6 (D) by redesignating paragraphs (4), (5),  
7 (7), and (8) as paragraphs (3), (4), (5), and  
8 (6), respectively; and

9 (4) by adding at the end the following:

10 “(u) VISITATION RIGHTS.—A public housing agency  
11 may prohibit visitation of a public housing dwelling unit  
12 by a non-tenant on the basis of criminal conduct by the  
13 non-tenant only if—

14 “(1) the conduct is covered criminal conduct, as  
15 defined in section 579B of the Quality Housing and  
16 Work Responsibility Act of 1998;

17 “(2) the agency has thoroughly considered—

18 “(A) all mitigating factors, including the  
19 same factors with respect to the non-tenant as  
20 are required under subsection section 576(b) of  
21 such Act (42 U.S.C. 13661(b)) to be considered  
22 with respect to an applicant for federally as-  
23 sisted housing; and

1           “(B) the familial relationship between the  
2           tenant and the non-tenant as mitigating fac-  
3           tors;

4           “(3) in the case of any prohibition of visitation  
5           by a non-tenant, the agency provides the tenant and  
6           non-tenant involved with an opportunity, not less  
7           frequently than annually, to request a redetermina-  
8           tion with respect to the prohibition at which the ten-  
9           ant and non-tenant may present any new mitigating  
10          evidence;

11          “(4) the agency has provided the non-tenant  
12          with written notice of the decision of the agency to  
13          prohibit visitation, that—

14                 “(A) includes statements identifying the  
15                 basis for prohibition and setting forth the right  
16                 of the non-tenant to present mitigating factors  
17                 to overturn the decision of the agency; and

18                 “(B) is provided in multiple languages,  
19                 consistent with guidance issued by the Sec-  
20                 retary in accordance with Executive Order  
21                 13166 (42 U.S.C. 2000d–1 note; relating to ac-  
22                 cess to services for persons with limited English  
23                 proficiency); and

24                 “(5) the prohibition ends after a period of time  
25                 that does not exceed 3 years.

1       “(v) SCREENING AND EVICTION POLICIES FOR PRI-  
2 VATELY MANAGED PUBLIC HOUSING AND HOUSING  
3 FUNDED UNDER CERTAIN DEMONSTRATION PRO-  
4 GRAMS.—Notwithstanding any other provision of law, in-  
5 cluding subtitle F of the Quality Housing and Work Re-  
6 sponsibility Act of 1998 (42 U.S.C. 13661 et seq.), in the  
7 case of any public housing dwelling units or projects that  
8 are managed by an entity other than the public housing  
9 agency that owns the units or project, any units or  
10 projects subject to the Moving to Work demonstration pro-  
11 gram authorized under section 204 of the Departments  
12 of Veterans Affairs and Housing and Urban Development  
13 and Independent Agencies Appropriations Act, 1996  
14 (Public Law 104–134; 110 Stat. 1321–281), and any  
15 units with assistance converted under the Rental Assist-  
16 ance Demonstration program authorized under title II of  
17 the Transportation, Housing and Urban Development,  
18 and Related Agencies Appropriations Act, 2012 (division  
19 C of Public Law 112–55; 125 Stat. 673), those units and  
20 projects shall be subject to the screening and eviction poli-  
21 cies established pursuant to this section and subtitle F of  
22 the Quality Housing and Work Responsibility Act of 1998  
23 (42 U.S.C. 13661 et seq.) by the agency that owns the  
24 units or projects.”.

1 **SEC. 6. TERMINATION OF TENANCY AND TENANT SELEC-**  
 2 **TION UNDER SECTION 8 RENTAL ASSISTANCE**  
 3 **PROGRAM.**

4 Section 8 of the United States Housing Act of 1937  
 5 (42 U.S.C. 1437f) is amended—

6 (1) in subsection (d)(1)(B)—

7 (A) in clause (ii), by inserting “, subject to  
 8 clause (iii)” before the semicolon at the end;  
 9 and

10 (B) by striking clause (iii) and inserting  
 11 the following:

12 “(iii) during the term of the lease, the owner  
 13 may not terminate the tenancy based on any crimi-  
 14 nal conduct unless the owner determines, in accord-  
 15 ance with section 577 of the Quality Housing and  
 16 Work Responsibility Act of 1998 (42 U.S.C. 13662),  
 17 that the conduct is covered criminal conduct (as de-  
 18 fined in section 579B of such Act);”;

19 (2) in subsection (o)(6)(B)—

20 (A) by striking “(B) SELECTION OF TEN-  
 21 ANTS.—Each” and inserting the following:

22 “(B) SELECTION OF TENANTS.—

23 “(i) FUNCTION OF OWNER.—Each”;

24 (B) in clause (i), as so designated—

25 (i) by striking “dwelling unit)” and  
 26 inserting “dwelling unit”; and

1           (ii) by inserting after “shall be the  
2           function of the owner.” the following: “Any  
3           owner that screens applicants based on the  
4           criminal background of the applicant or  
5           any member of the applicant household, or  
6           other permissible grounds for denial under  
7           subtitle F of title V of the Quality Housing  
8           and Work Responsibility Act of 1998 (42  
9           U.S.C. 13661 et seq.) or this section, shall  
10          provide each applicant, at the time of ap-  
11          plication, written notice that the owner is  
12          conducting the screening, which notice  
13          shall be provided in multiple languages,  
14          consistent with guidance issued by the Sec-  
15          retary in accordance with Executive Order  
16          13166 (42 U.S.C. 2000d–1 note; relating  
17          to access to services for persons with lim-  
18          ited English proficiency).”;

19          (C) by striking “In addition” and inserting  
20          the following:

21                       “(ii) SCREENING.—In addition”;

22          (D) in clause (ii), as so designated, by in-  
23          serting before the period at the end the fol-  
24          lowing: “, except that a public housing agency  
25          may not elect to screen applicants for the pro-

1           gram based on criminal conduct. The preceding  
2           sentence may not be construed to limit or affect  
3           the authority of a public housing agency under  
4           section 576 of the Quality Housing and Work  
5           Responsibility Act of 1998 (42 U.S.C. 13661)”;  
6           and

7           (E) by adding at the end the following:

8                   “(iii)   EXISTING   ASSISTED   FAMI-  
9                   LIES.—Previously assisted or subsidized  
10                  families being provided with tenant protec-  
11                  tion assistance authorized by law (includ-  
12                  ing tenant protection vouchers, enhanced  
13                  vouchers under subsection (t), or project-  
14                  based vouchers under subsection (o)(13)),  
15                  families who are porting their vouchers to  
16                  a new jurisdiction, and assisted families  
17                  who are moving to redeveloped public hous-  
18                  ing (including any units with assistance  
19                  converted under the Rental Assistance  
20                  Demonstration program authorized under  
21                  title II of the Transportation, Housing and  
22                  Urban Development, and Related Agencies  
23                  Appropriations Act, 2012 (division C of  
24                  Public Law 112–55; 125 Stat. 673)), shall  
25                  not be considered new applicants under

1           this paragraph and shall not be subject to  
2           elective re-screening by a public housing  
3           agency.”; and

4           (3) in subsection (q)(2)(B), by inserting before  
5           the semicolon the following: “, except that persons  
6           who have exited a jail or prison shall be considered,  
7           for purposes of this subparagraph, to be experi-  
8           encing difficulty in obtaining appropriate housing  
9           under the programs as determined by the Sec-  
10          retary”.

11 **SEC. 7. SCREENING AND TERMINATION OF TENANCY IN**  
12 **RURAL HOUSING PROGRAMS.**

13          (a) COVERED RURAL HOUSING PROGRAMS.—In this  
14 section, the term “covered rural housing programs”  
15 means—

16           (1) the program under section 515 of the Hous-  
17          ing Act of 1949 (42 U.S.C. 1485) for rural rental  
18          and cooperative housing;

19           (2) the loan and grant programs under sections  
20          514 and 516 of such Act (42 U.S.C. 1484, 1486)  
21          for farm labor housing;

22           (3) the program under section 533 of such Act  
23          (42 U.S.C. 1490m) for housing preservation grants;

1           (4) the program under section 538 of such Act  
2           (42 U.S.C. 1490p-2) for loan guarantees for multi-  
3           family rural rental housing;

4           (5) the program under section 521(a) of such  
5           Act (42 U.S.C. 1490a) for rural housing rental as-  
6           sistance; and

7           (6) the program under section 542 of such Act  
8           (42 U.S.C. 1490r) for rural housing rental voucher  
9           assistance.

10          (b) REGULATIONS.—The Secretary of Agriculture  
11 shall—

12           (1) revise the regulations of the Secretary of  
13           Agriculture regarding screening of applicants for ad-  
14           mission to housing assisted, and for housing assist-  
15           ance, under the covered rural housing programs to  
16           provide that those regulations are substantially simi-  
17           lar to the regulations of the Secretary of Housing  
18           and Urban Development relating to screening of ap-  
19           plicants for admission to federally assisted housing  
20           and to federally assisted housing programs, pursu-  
21           ant to the United States Housing Act of 1937 (42  
22           U.S.C. 1437 et seq.), subtitle F of the Quality  
23           Housing and Work Responsibility Act of 1998 (42  
24           U.S.C. 13661 et seq.), and any other applicable  
25           laws; and



1           (2) revise the regulations of the Secretary of  
2     Agriculture regarding termination of tenancy in  
3     housing assisted, and termination of housing assist-  
4     ance, under the covered rural housing programs to  
5     provide that those regulations are substantially simi-  
6     lar to the regulations of the Secretary of Housing  
7     and Urban Development relating to termination of  
8     tenancy in federally assisted housing, and termi-  
9     nation of housing assistance, pursuant to the United  
10    States Housing Act of 1937 (42 U.S.C. 1437 et  
11    seq.), subtitle F of the Quality Housing and Work  
12    Responsibility Act of 1998 (42 U.S.C. 13661 et  
13    seq.), and any other applicable laws.

14       (c) **TIMING; CONSULTATION.**—The Secretary of Agri-  
15    culture shall issue the revised regulations required under  
16    subsection (b)—

17           (1) after consultation with the Secretary of  
18     Housing and Urban Development; and

19           (2) not later than 180 days after the date de-  
20     scribed in section 10.

21    **SEC. 8. NO INTERFERENCE WITH STATE OR LOCAL REGU-**  
22                                    **LATORY AUTHORITY.**

23       This Act and the amendments made by this Act may  
24    not be construed to preempt any State or local regulations

1 or requirements that do not prevent the application of the  
2 provisions of this Act or such amendments.

3 **SEC. 9. REGULATIONS.**

4 Not later than 1 year after the date of enactment  
5 of this Act, the Secretary of Housing and Urban Develop-  
6 ment shall issue any regulations necessary to carry out  
7 the amendments made by sections 2 through 6 of this Act  
8 (other than the amendment made by section 2(4)).

9 **SEC. 10. EFFECTIVE DATE.**

10 Except as specifically provided otherwise in this Act,  
11 the amendments made by this Act shall be made on, and  
12 shall apply beginning upon, the effective date of the regu-  
13 lations issued pursuant to section 9.

○