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FAIR CHANCE IN HOUSING ACT TOOLKIT

This toolkit uplifts the 2021 New Jersey Fair Chance in Housing legislation to provide insight to advocates in other jurisdictions working to expand access to housing for people with prior justice system involvement.



FAIR SHARE
HOUSING CENTER

TOOLKIT OVERVIEW

New Jersey is the first state to pass statewide Fair Chance in Housing legislation, also known as “ban the box” in housing, that limits the ability of landlords to consider criminal legal background checks at the beginning of the rental application process. This campaign centered on racial justice and passed with bipartisan support during the summer of 2021. This toolkit includes the following insights from New Jersey leaders of the Fair Chance in Housing campaign:

- Establishing the Campaign
- Building the Coalition
- Navigating Challenges
- Examples Other Jurisdictions Can Reference
- Understanding What’s in the Bill
- Key Lessons Learned



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ESTABLISHING THE CAMPAIGN

Similar to the rest of the country, New Jersey has pervasive racial disparities within the justice, homelessness, and other crisis systems. Black, Indigenous, and people of color (BIPOC) are overrepresented at all stages of the system, and racial disparities within New Jersey's incarcerated population are some of the worst in the country—despite the state's significant reduction of its jail and prison populations. New Jersey also has a significant number of residents under community supervision, including pretrial, probation, and parole—a population that is also disproportionately BIPOC. The combined impact of these factors means communities of color in New Jersey are disproportionately burdened by prior justice system involvement when they look for housing.

Advocates working on housing issues in New Jersey saw this access issue as a large impediment to advancing racial justice in the state. Despite its diversity, New Jersey is also home to some of the worst racial disparities across multiple indicators of health and well-being. The COVID-19 pandemic made these disparities even more apparent. Access to a safe, healthy, and affordable home is a key protective factor and removing barriers to housing for communities of color remains a key priority for housing advocates.

After the murders of Ahmaud Arbery, Breonna Taylor, George Floyd, and others, there was heightened attention on the injustice of the carceral system. As the movement for reform grew around the country, in New Jersey, racial disparities within the state's justice system became front and center.

"Black Americans are incarcerated in state prisons at nearly 5 times the rate of white Americans. Latinx Americans are incarcerated at 1.3 times the rate of white Americans."

The Color of Justice
Sentencing Project



The Fair Chance in Housing Act was developed as a solutions-oriented bill that became more viable as a result of this movement. When considering a bill like this, it's important to power map legislative and administrative leadership whose buy in you will need to get a policy passed. In New Jersey, we knew that we had the support of the Governor, Senate President and Speaker of the Assembly, which was critical to moving the legislation. The primary legislative sponsors in both houses were also Chair of the respective Committees that the bill would need to go through.



BUILDING THE COALITION

The Fair Chance in Housing Act campaign was centered as a racial justice solution. While similar efforts in other jurisdictions may frame campaigns as part of justice reform or under a public safety lens, New Jersey leaders felt it was important to ground the campaign as addressing deep racial injustices. Fair Share Housing Center, a housing justice organization based in New Jersey, took the lead on organizing the statewide coalition that advocated for the bill. Working closely with the Governor Murphy administration, legislative bill sponsors, and grassroots advocates, Fair Share Housing Center coordinated a multi-faceted campaign to get the Fair Chance in Housing Act passed. Campaign components included legislative drafting, legislative advocacy, administrative advocacy, coalition building, and media outreach. Included in this toolkit are sample materials that can be adapted and used by others working on campaigns in their own jurisdictions. See appendix.

New Jersey's campaign built a broad coalition of unlikely allies to show widespread support for this policy. Below are key groups, representing different constituencies that came together both in public hearings and in the media to put pressure on the legislature and Governor's office to pass the bill.

- **The New Jersey Fair Chance for Housing Coalition included:**

- Legislative champions
- Governor's Office
- Individuals with prior justice system involvement
- Faith leaders
- Civil rights leaders and organizations
- Housing advocates

- **Partner organizations of the campaign included:**

- ACLU NJ, Working Families, P.A.H.C., Alpha Phi Alpha NU Gamma Lambda Chapter, Camden Coalition of Providers, The Inclusion Project of Rutgers University / Newark, NJOP, Housing and Community Development of New Jersey, Ironbound Community Corporation, Illustra Impact, Tank EdDucates, New Jersey Citizen Action, Salvation Social Justice, New Jersey Policy Perspective, NAACP, Black Multi Faith Alliance, Youth Advocate Programs, Inc., New Jersey Religious Action Center of Reform Judaism, SCORES, United Black Agenda, and Association of Black Women Lawyers of New Jersey.

- **How we got buy in**

- Because FSHC has been around for nearly 50 years, we have longstanding relationships with community leaders, residents, and other advocacy organizations in the state. It was important at the outset of this campaign to update our close partners on the work and to hash out some of the details of the bill. This also included talking to legislators and individuals in the Murphy Administration to see what they thought was feasible to get passed and what made the most sense from a policy perspective.
- Despite having these conversations early on, there are always issues that come up during a legislative campaign.
- We also utilized data to help demonstrate why the bill was needed. We not only talked about racial disparities in the state, but also about the cost of homelessness to the state.
- We leveraged key relationships with legislative leaders to get commitments from them to move the legislation. These relationships were the result of many years of cultivation and trust-building.
- We also had to do a good amount of negotiating with legislators and opponents of the bill. One key area of compromise was around lookback periods and types of offenses. In order to move the bill forward, we had to make lookback periods longer than we would have liked and had to include more categories of convictions than we would have liked.
- We also had to compromise on the enforcement structure in the bill—instead of making people with prior criminal records a protected class under New Jersey’s Law Against Discrimination, the bill creates a similar enforcement framework without the protected class status.
- It was critical to know what our bottom line was in these negotiations. We used the media to our advantage to drive home our messaging, and leveraged relationships with partners to put pressure on opponents when necessary.

NAVIGATING CHALLENGES

During the campaign, New Jersey's executive and legislative branches were controlled by the Democratic Party, and the campaign was able to identify champions with the Governor and key leadership in both the State House and Senate. Despite these clear champions, the Campaign knew there would likely be concessions in the **drafting and debating of the bill during intense and pivotal moments of the campaign. Thus, the campaign established their non-negotiables – a step that is highly encouraged for other jurisdictions tackling similar issues.** The New Jersey coalition was adamant on having an enforcement component to the bill, but were open to compromise on other provisions.

Another important element of a campaign is understanding **who might oppose your campaign and strategies to mitigate and ensure passage of a law that still meets the non-negotiables.**

In New Jersey, the biggest opposition to the bill was the New Jersey Apartment Association, a nonprofit focused on the multifamily apartment industry that includes landlords, builders, and developers. The Association in particular pushed back on enforcement, lookback periods and types of convictions, and owner-occupied units. The coalition was successfully able to overcome this opposition with the combination of compromised language—the law includes longer lookback periods and more categories of offenses than would have been preferred, and carves out owner-occupied units under a certain size—and by building a robust coalition and narrative around the racial justice implications of the legislation. The coalition successfully defeated the Association on the enforcement component by leveraging powerful leaders of color in New Jersey to stand united on the importance of this being included in the bill.

Another key challenge other jurisdictions will also have to navigate is making sure legislation abides by federal guidelines. This was addressed in the initial legislation, but there will likely be additional legislation passed in 2023 that further addresses these issues.



EXAMPLES OTHER JURISDICTIONS CAN REFERENCE

The campaign used a range of written material to help campaign members know common talking points and to gather more supporters. Below are examples from the campaign that could be referenced in creating similar resources for efforts in other jurisdictions. These include a letter the Campaign sent out to get other organizations to formally be part of the effort, an op-ed that was published, as well as action alerts used and letters from coalition members.

- [Sign On Letters](#)
- [Talking Points](#)
- [Published Op-Ed](#)
- [Action Alert](#)
- [Letters from Coalition Members](#)



UNDERSTANDING WHAT'S IN THE BILL

The bill provides protections for people who have arrests or convictions on their record as well as people returning from jail or prison.

- The new law, prohibits landlords from asking about an applicant's criminal record on initial housing applications.
- Housing providers are only permitted to inquire or run a criminal background check after an initial offer for housing has been made.

There is a tiered framework and Lookback Period:

- After a landlord has made a conditional offer of housing, they are allowed to consider certain criminal convictions based on a tiered framework that weighs the seriousness of the offense and when the conviction occurred.
- Even if an individual has a conviction on their record that a landlord may consider, landlords are required to make an individual determination about the applicant and document their reasons for rescinding their initial offer.

A critically important element of the law is its enforcement components:

- Notably, the new law creates a strong enforcement framework that will be enforced by the New Jersey Division on Civil Rights within the Attorney General's Office.
- Housing providers who violate the law may be subject to fines up to \$10,000 per violation.
- Individuals who have been discriminated against by a housing provider can file a complaint with the Division on Civil Rights.

Prospective justice impacted tenants now have new rights:

- Landlords cannot ask about prospective tenants' criminal background until after they make a conditional offer of housing.
- Prospective tenants cannot be required to self-disclose information about their criminal background during any screening calls or conversations with a landlord before a conditional offer of housing is made.

KEY LESSONS LEARNED FOR OTHER COMMUNITIES

- **Determine non-negotiables at the outset of the campaign.**
 - As mentioned above, it is important to know going into your legislative and/or administrative campaign what you and your coalition are willing to compromise on and what you aren't. There are many fights during a legislative campaign, especially on such a controversial issue, and being aligned on these components is essential to ensure a united front in heated debates and negotiations.
- **Leverage coalition voices in multiple venues.**
 - All lawmakers are influenced by different constituencies. Leveraging the voices of those in your coalition in multiple venues, including sign-on letters, individual emails, meetings with representatives, public hearings, and op-eds and letters to the editor, is important because it allows lawmakers to hear and learn from multiple constituencies and demonstrates the widespread support of an issue. It would also be strategic to tailor language and arguments based on the audience of the outreach.
- **Protect coalition members from re-traumatization.**
 - While engaging with individuals with prior justice system involvement, know that re-telling their story and engaging in advocacy may be triggering for them. Lawmakers and others are not always kind, and even if they are, these public forums can often be re-traumatizing for individuals. Have a plan for how you plan to protect and care for individuals involved in your campaign. In New Jersey, this included making sure anyone testifying or talking to the media felt adequately prepared and had a plan for what to do if they felt uncomfortable in the moment, as well as checking in with people involved in the campaign to make sure they felt supported.

FINAL THOUGHTS

Legislative advocacy is hard. Especially in a state like New Jersey. Bills can take weeks, months, or years to pass, and the viability of legislation passing can change in an instant. Relationships are critical to success. Building trust and rapport with elected officials is just as important as cultivating authentic relationships with community members and leaders throughout your state. The collective and diverse group of voices in New Jersey is what helped us secure the passage of this bill. There is power in numbers, and taking the time to build a robust coalition is critical to safeguarding the strongest bill possible.



ABOUT CSH

CSH works to advance solutions that use housing as a platform for services to improve the lives of the most vulnerable people, maximize public resources and build healthy communities.



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