

**Testimony of Annabel Palma, Chair and Commissioner
New York City Commission on Human Rights
Before the Committee on Civil and Human Rights on Int. 632
December 8, 2022**

Good morning Chair Williams and members of the Committee on Civil and Human Rights. Thank you for convening today's hearing. I am Annabel Palma, Chair and Commissioner of the New York City Commission on Human Rights. Joining me today for Q&A is JoAnn Kamuf Ward, Deputy Commissioner of Policy and External Affairs. I will speak about Intro. 632, which would amend the New York City Human Rights Law to expand access to housing and address discrimination based on prior arrests or conviction, which has a disproportionate impact on Black and Latinx New Yorkers.ⁱ

The New York City Commission on Human Rights is the agency that enforces the New York City Human Rights Law – one of the broadest and most protective anti-discrimination laws in the country. To fulfill our dual mandate of enforcement and fostering intergroup relations, the Commission's two largest units are Community Relations and Law Enforcement.

The Community Relations Bureau is responsible for outreach and education, and partners with a wide array of community groups, sibling agencies, and stakeholders across New York City. We have an array of community liaisons and advisors, including in the area of reentry following incarceration. The Law Enforcement Bureau conducts testing, investigates allegations of discrimination, initiates complaints, and enters settlements that address individual and structural discrimination.

The Human Rights Law prohibits discrimination in housing, employment, and public accommodations, and includes 27 protected categories, including age, gender, disability, race, and national origin. The Law has been amended and expanded many times over the years to address the multiple forms of discrimination that impact New Yorkers. The Human Rights Law already prohibits discrimination in employment on the basis of criminal history, but that protection does not currently extend to housing.

The Commission has a track record of enforcing protections for New Yorkers with a history of criminal system involvement since the 1970's when the Commission was given joint enforcement authority with the New York State Division of Human Rights over Correction Law Article 23-A, which addresses the use of criminal history in employment decisions.ⁱⁱ Additional protections in employment have since been added to the New York City Human Rights Law.ⁱⁱⁱ

In 2015, the Fair Chance Act was passed, which prohibits most employers, labor organizations, and employment agencies from inquiring about or considering a job applicant's criminal history until after a conditional offer of employment has been made. However, the Fair Chance Act does allow an individual's criminal history to be taken into account in limited circumstances. As a result, the Human Rights Law prohibits advertisements and inquiries

about criminal history and guarantees that job applicants receive proper notice and an opportunity to be heard as part of an employer's individualized assessment of their prior arrests and convictions before an employer can reject a candidate. Employers must also indicate the specific connection between a background check and the specific position for which an applicant is being considered.

Since 2015, to enforce these provisions, the Commission has filed complaints from individuals alleging employment discrimination based on past involvement with the criminal legal system, and conducted testing, which has resulted in Commission-initiated complaints that address systematic employment discrimination based on criminal history, with a focus on restorative justice remedies. Commission settlements in this area have resulted in employer partnerships with reentry organizations that invite people with criminal histories in the job applicant pool; and incorporation of New York City's fair chance in employment protections in their job applications for offices nationwide.^{iv}

In our outreach and education, we worked closely with sibling agencies and employers. The Commission is also grateful for its close partnerships with many advocates and community groups that have worked with us over the years to educate New Yorkers about Fair Chance employment protections, including the Legal Aid Society, VOCAL-NY, the Community Service Society, CASES (The Center for Alternative Sentencing and Employment Services), the Fortune Society, the Osborne Association, Hour Children- Hour Working Women, Women's Prison Association (WPA), Black Vets for Social Justice, Youth Justice Network, and Brooklyn Defender Services, among others.

Turning to Intro. 632, the Administration supports the intent of the bill. Fair chance housing legislation aligns with the Commission's longstanding commitment to advancing equity for all New Yorkers, and we support the goal of removing barriers to housing. The Administration is also committed to public safety and wants to ensure that legislation is aligned with Administration priorities.

Intro. 632 would prohibit discrimination against individuals who have been arrested or convicted by making it an unlawful discriminatory practice for a property owner, real estate broker, landlord, or their employee or agent to inquire about or take an adverse action based on a housing applicant's arrest or conviction history, with some narrow exceptions. Adverse actions would include denial of a rental application, higher application fees, failure to review an application, or the imposition of additional requirements or less favorable lease terms. The bill would also prohibit housing providers from directly or indirectly expressing a limitation based on a rental applicant's arrest or conviction history, for example, by stating in ads and application materials that they will not approve tenants with arrest or conviction records.

The Administration supports the aim of ensuring that New Yorkers can access housing, and that criminal history should not disqualify someone from housing opportunities. The current bill allows some limited background checks – where there is mandatory exclusion based on a particular conviction or where federal, state or local law requires the consideration of criminal history. It also permits review of the state sex offender registry. The bill also

contains notice provisions and requires housing providers to conduct individual assessments and requires landlords to review mitigating evidence before taking an adverse action. The current bill's provisions do not apply to those renting out a unit or a room in their family's home if the home is two families or smaller, or to people seeking a roommate.

The Administration is continuing to review the bill and looks forward to hearing from stakeholders and working with City Council to identify the best approach to meeting the objective of expanding access to housing.

Cities and states across the country have enacted laws similar to Intro. 632, including Seattle,^v Oakland,^{vi} the District of Columbia,^{vii} Los Angeles,^{viii} Detroit,^{ix} Cook County, Illinois^x, New Jersey^{xi}, and Oregon,^{xii} among others. The laws of these jurisdictions limit the review of criminal history by housing providers. These laws recognize the impact of longstanding discrimination in the criminal legal system, and they recognize that contact with the criminal legal system alone should not bar people from accessing housing for themselves and their families.

The Commission believes housing is a basic need and fundamental to building stable life. Removing barriers to obtaining housing can pave a vital pathway for thousands of New Yorkers and their families to thrive. This includes individuals recently returning to their communities from custody and those with older records who have previously been denied housing. It can also address a pervasive housing practice that has a disproportionate impact on Black and Latinx individuals. Fair chance housing legislation would reinforce that New York City is a place where everyone is allowed to access housing.

Removing barriers to housing reduces instability. In recent years, more than 20 percent of adults who entered New York City shelters have come from prisons,^{xiii} and research shows that jail and prison stays tend to increase the risk of homelessness.^{xiv} A stable home is the foundation for a person's wellbeing. It also enhances wellbeing of their families and communities. A stable home enables people to find and maintain employment^{xv} and promotes better health outcomes, since a stable home enables people to access health treatments and care for children and other dependents.^{xvi} Increasing access to housing also significantly reduces rates of child poverty,^{xvii} and rates of recidivism.^{xviii}

In conclusion, amending the Human Rights Law to ensure more pathways to stable housing is a means to strengthen individual and family health, safety, education and wellbeing.

For all the reasons I have discussed, the Administration supports the intent of this bill, and the Administration looks forward to working with City Council on this measure. Thank you.

ⁱ Opportunity Starts at Home, *Criminal Justice Advocates Are Housing Advocates* (April 22, 2019), <https://www.opportunityhome.org/wp-content/uploads/2018/02/Criminal-Justice-Fact-Sheet.pdf>; Brennan Center

for Justice, *Conviction, Imprisonment, and Lost Earnings: How Involvement with the Criminal Justice System Deepens Inequality* (Sept. 15, 2020), <https://www.brennancenter.org/our-work/research-reports/conviction-imprisonment-and-lost-earnings-how-involvement-criminal>.

ⁱⁱ N.Y. L. 1976, c. 931, § 5 (effective Jan. 1, 1977).

ⁱⁱⁱ See, e.g., N.Y.C. Local L. 39 (1991); N.Y. S. 1505-C (2019) (amending Exec. L. § 296(16), which is incorporated by reference into the New York City Human Rights Law by N.Y.C. Admin. Code § 8-107(11)).

^{iv} Employers have agreed to disregard convictions that are not already restricted, such as those that are more than seven years old. See Testimony of Dana Sussman, Deputy Commissioner for Policy and Intergovernmental Affairs, Before the Committee on Civil and Human Rights (Jan. 22, 2020), https://www1.nyc.gov/assets/cchr/downloads/pdf/CCHR_Testimony_FCA_1.22.2020.pdf.

^v Seattle Municipal Code § 14.08.050 (2016).

^{vi} Oakland Municipal Code Chapter 8.25 (2020).

^{vii} Code of the Dist. of Columbia § 42-354.01-10 (2017).

^{viii} Los Angeles, Calif., AB-396 (2015).

^{ix} Detroit City Code, Ch. 26, Art. V (2019).

^x Code of Ordinances of Cook County, Ill., Ch. 42, Art. II, § 42-38 (2022).

^{xi} N. J. Fair Chance in Housing Act, N.J.S.A. 46:8-52.

^{xii} Or. Rev. Stat. § 90-303 (2015).

^{xiii} Coalition for the Homeless, *State of the Homeless 2020*, <https://www.coalitionforthehomeless.org/state-of-the-homeless-2020/> (these numbers include only people returning from state prison and people returning from Rikers who are subject to the *Brad H.* settlement, concerning former inmates with mental health disabilities, and thus are likely an undercount of returnees entering New York City shelters following incarceration); See also Coalition for the Homeless, *State of the Homeless report for 2022*, <https://www.coalitionforthehomeless.org/state-of-the-homeless-2022/>.

^{xiv} Lucius Couloutte, *Nowhere to Go: Homelessness Among Formerly Incarcerated People*, Prison Policy Initiative (Aug. 2018),

<https://www.prisonpolicy.org/reports/housing.html#:~:text=The%20revolving%20door%20%26%20homelessness&text=But%20people%20who%20have%20been,from%20their%20first%20prison%20term> (showing that people who are formerly incarcerated experience homelessness at a rate ten times higher than does the general public).

^{xv} See Matthew Desmond & Carl Gershenson, *Housing and Employment Insecurity among the Working Poor*, Social Problems (2016),

<https://scholar.harvard.edu/files/mdesmond/files/desmondgershenson.sp2016.pdf?m=1452638824> (finding loss of housing “to be a strong and robust predictor of job loss” and identifying “housing insecurity as an important source of employment insecurity among low-income workers”); U.S. Interagency Council on Homelessness, *The Importance of Housing Affordability and Stability for Preventing and Ending Homelessness* (May 2019), https://www.usich.gov/resources/uploads/asset_library/Housing-Affordability-and-Stability-Brief.pdf (“A stable home provides a platform for improved outcomes around employment, health, and education.”).

^{xvi} See Lauren Taylor, *Housing And Health: An Overview Of The Literature*, Health Affairs (June 7, 2018)

<https://www.healthaffairs.org/doi/10.1377/hpb20180313.396577/full/> (“providing access to stable housing can improve health and reduce health care costs”); Nat’l Healthcare for the Homeless Council, *Homelessness & Health:*

What’s the Connection? (Feb. 2019) <https://nhhc.org/wp-content/uploads/2019/08/homelessness-and-health.pdf>

^{xvii} Mary K. Cunningham, *Reduce Poverty by Improving Housing Stability*, The Urban Inst. (June 26, 2016), <https://www.urban.org/urban-wire/reduce-poverty-improving-housing-stability.>; Misha Sharp and Nathan Myers, *Stable Housing, Stable Health: Addressing Housing Insecurity Through Medicaid Value-Based Payment*, United Hospital Fund, <https://uhfnyc.org/publications/publication/stable-housing-stable-health-addressing-housing-insecurity-through-medicaid-value-based-payment/> (“research consistently show[s] how unstably housed or homeless individuals are more likely to experience high rates of emergency department use, frequent and costly hospital admission, and adverse health outcomes such as drug and alcohol dependence, mental illness, infectious disease, injuries, and unmet health care needs.”).

^{xviii} Nat’l Hous. L. Project, *An Affordable Home on Reentry: Federally Assisted Housing and Previously Incarcerated Individuals* 6 (2018),

http://nhlp.org/files/Page%204%20Doc%201%20Prisoner_Reentry_FINAL.pdf.