



## JUSTICE INITIATIVES

Quick Guide

Got a Record? **Know Your Rights**

# Housing





## Housing

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### How does my criminal record affect where I can live?

A criminal record can make it hard to find housing. Landlords may refuse to rent to you. You may not be able to live in certain places. And you may not be able to get into subsidized housing. Where you can live will depend on exactly what is on your record.

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### How can I find out what is on my record?

If a landlord denies you housing or tries to terminate your housing based on your criminal record, you can get a free copy of the record. In addition, if you have only Michigan convictions, you can get your record from the Michigan State Police's Internet Criminal History Access Tool. Go to [www.michigan.gov/msp](http://www.michigan.gov/msp) and click on "ICHAT." You will have to pay \$10. If you don't have \$10, click on "FAQs" on the website for information about how to get your record for free. Be aware that ICHAT may not contain certain types of misdemeanors. Also check with your local law enforcement agency, city, or county where your conviction occurred. If you have out-of-state convictions, get your record from the FBI at [www.fbi.gov](http://www.fbi.gov) or from a private company that sells criminal records.

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### Do the rules change based on the kind of housing I have?

In some cases, yes. If you live in or apply to subsidized housing, you may have more rights than in non-subsidized housing. "Subsidized housing" is rental housing that is made more affordable because a government agency provides financial support for it. It includes Section 8, public housing, Rural Housing Assistance, or any other rental program where you get help paying your rent.

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### Can a private landlord of non-subsidized housing refuse to rent to me because of my record?

Probably, yes. In most cases it is legal for a private landlord not to rent to you if the landlord decides that you wouldn't be a good tenant because of your record.

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### Can I be evicted by a private landlord of non-subsidized housing because I have an old criminal record?

It depends. If you have a lease, the landlord probably can't evict you just because you have a record. However, if you lied about your record

on your application, the landlord might be able to evict you. In addition, the landlord can usually decide not to renew your lease. If you do not have a lease, the landlord can evict you for almost any reason that is not illegally discriminatory, including discovering that you have a record.

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### **Can I be evicted by a private landlord of non-subsidized housing if I am arrested for or convicted of a new crime?**

It depends on your lease. Most leases say that the landlord can evict you for criminal activity on the property.

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### **When is a private landlord allowed to evict me on 24 hours' notice?**

Generally, if a landlord wants to evict you, the landlord has to give you 30 days' notice (or 7 days for unpaid rent). If you don't move, the landlord has to go to court to evict you. However, the landlord can ask you to leave in 24 hours if you, a member of your household, or a guest are involved in illegal drug activity in your home ("on the premises"), the landlord files a police report, and the lease specifically says you can be evicted for such activity. If you don't move in 24 hours, the landlord can take you to court to evict you.

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### **Can a subsidized housing provider deny my application for housing if I have a criminal record? Can someone with a record move in with me?**

Whether a person can live in subsidized housing depends on exactly what is in his or her criminal record, and what the policies of your local housing provider are. Local housing authorities and private landlords of federally-assisted housing have to follow federal rules about who can live in subsidized housing.

Under the federal guidelines: Subsidized housing providers **MUST** deny you admission if you or someone in your household:

- was evicted from subsidized housing because of a drug crime within the past three years, unless you successfully complete rehab or the reason for the eviction no longer exists.
- is abusing alcohol or drugs.
- has to register as a sex offender for life. (Most sex offenses do not result in a lifetime registration requirement).
- was convicted of producing meth on public housing property. Subsidized housing providers **CAN, BUT DON'T HAVE TO**, deny you admission if you or someone in your household:
- committed a violent crime or drug crime.
- committed a sex offense that did not result in lifetime registration.
- committed a crime that would threaten the health or safety of other residents, or their right to not be disturbed.

Providers are mainly limited to considering only crimes that were committed "a reasonable time" before your application.

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### **I already live in subsidized housing. Can I be evicted because of an old criminal record?**

Generally, no, but this can depend on the nature of the crimes committed. If you were convicted before you got into subsidized housing, the fact that you have a record is generally not enough to evict you. However, you can be evicted if you commit a new crime, violate the terms of your parole, or lied on your application about your past criminal activity.

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### **When can I be evicted from subsidized housing for a new crime?**

The rules depend on the type of housing. Most of the crimes that would stop you from getting into subsidized housing can also result in eviction. You can be evicted for violent or drug-related crimes, usually even if they do not occur on the rental premises. You can also be evicted from subsidized housing if you have a felony warrant for a new crime, or for a probation/parole violation.

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### **Can I be evicted even though I haven't been arrested or convicted?**

Yes. The subsidized housing provider can evict you if you haven't been convicted, or even if you haven't been arrested. However, if there is not a conviction, the housing provider must be able to show that you were involved in criminal activity. Remember, anything you say in your eviction case can be used against you in your criminal case.

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### **Can I fight my eviction from subsidized housing?**

Yes. The rules about eviction from subsidized housing are complicated, and it is possible that sometimes housing providers may apply them incorrectly. Get help from your local legal aid office right away.

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### **Can I be evicted even though I wasn't the person who committed the crime?**

Yes. If someone in your household, or your guest, or any other person on the premises with your permission, commits a crime, usually the entire household can be evicted. Sometimes you will be able to stay if the person accused of the crime moves out.

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### **Can I appeal if I am denied admission to subsidized housing because of my record?**

It depends. There are many different types of subsidized housing, and the appeal rules depend on the type of housing. If the housing provider could have admitted you, but didn't, because of your criminal record, you can appeal. You should provide evidence of rehabilitation, work history, educational achievements, and treatment programs, as

well as any other information that shows you aren't likely to commit another crime and would be a good tenant if admitted.

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### Where can I live if I'm on parole?

Your parole conditions may limit with whom you can live and where you can live. Also, your parole agent will need to approve your place. Remember, if you violate the terms of your parole, you may be evicted from subsidized housing.

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### Where can I live if I have a sex offense?

If you are on the sex offender registry, you cannot live within 1,000 feet of a school. The police can tell you whether your home is too close to a school. You must register whenever you move, or you can be charged with failing to register.

The 1000 foot rule may not apply if:

- you were already living in your home on January 1, 2006.
- you are under 19, going to school, and living with your parents.
- you are under 26, in special ed, and living with your parents or in a group home.
- you had a juvenile or Holmes Youthful Trainee Act case.

If you think the law might not apply to you, talk to an attorney for help.

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### How can I register as a sex offender if I'm homeless?

Ask the police to register you as homeless, or use the address of a shelter or of a street where you sleep. If you aren't allowed to register, ask the police to sign something showing you tried to register.

This can help if you are proecuted for not registering.

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### Can I get into a shelter if I've got a record?

It depends on the shelter. The law allows shelters to house people with records. Even if you have a sex offense, the law allows you to stay at a shelter for at least a couple of nights, though you may not be able to use the shelter address to register if the shelter is close to a school. However, every shelter has its own policy. Some shelters do not admit people with sex offenses or other crimes.

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### How long will my convictions show up on my criminal record?

Convictions do not automatically drop off of your record, and in most cases once you have a conviction it will stay on your record for life. However, you may be able to get rid of your criminal record if you are eligible for an expungement.

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## Can I get rid of my criminal record?

If you have only been convicted only 1 offense and not more than 2 minor offenses, you may be able to have your criminal record “expunged.” Minor offenses are those with maximum sentences of 90 days in jail or a fine of \$1000 that occurred when you were less than 21 years old. If your record is expunged, your conviction will not show up on a background check. If your record is expunged, you may state that you do not have a criminal record. If you think you might be eligible for an expungement, contact an attorney or go to <http://www.michigan-legalhelp.org>, the free legal help site. Convictions for a felony or attempted felony punishable by life imprisonment may not be expunged.

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## What if there are mistakes on my criminal record?

If the mistakes are on your Michigan State Police record, you can contact the Michigan State Police at (517) 241-0606. If the mistakes are on another type of record, you will need to contact the agency that produced the record. This is not always an easy process and you may want to contact an attorney for help.

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## Why is my juvenile record showing up on a background check?

In Michigan, most juvenile records are public. (However, if you were in a juvenile diversion program or if you were sentenced under the Holmes Youthful Trainee Act, your record should normally be sealed). Although juvenile offenses may show up on a criminal record, a juvenile offense is not legally the same as an adult conviction, so some of the rules about convictions don't apply to you. Talk to an attorney for help.

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## What if my record shows an arrest, but the case was dropped?

If you were arrested but not convicted, or if your case was dismissed, you should file a Motion for Destruction of Fingerprints and Arrest Card. Contact the court where you were prosecuted for a motion form, or get one at [www.courts.mi.gov](http://www.courts.mi.gov)

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## Where can I get help?

For help finding housing, call 211. For help with legal issues, call your local legal aid office, or go to [www.michiganlegalhelp.org](http://www.michiganlegalhelp.org), or call the State Bar of Michigan's lawyer referral service at (800) 968-0738 for a referral to a private attorney in your area.

*Got a Record? Know Your Rights* is a series of informational booklets for people reintegrating into society.

*Know Your Rights Quick Guide Titles*

*Children, Child Support, and Parental Rights*

*Employment Brochure*

*Housing Brochure*

*Immigration Brochure*

*Attorney Client Questionnaire*

*Reentry Resources*

The Michigan Reentry Law Wiki

<http://reentry.mplp.org/> works to provide individuals with criminal records, as well as attorneys, judges, and social service providers, with valuable information about how to overcome reentry issues.

If you have questions or would like additional copies, please contact [materials@mail.michbar.org](mailto:materials@mail.michbar.org)

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