

THE FAIR FUTURE ACT AND REDUCING OVERDOSE RISK IN REENTRY

KEY TAKEAWAYS:

- The **Fair Future Act** restores housing protections under the **Fair Housing Act** by repealing the **Thurmond Amendment**, which uniquely excludes individuals with drug distribution convictions from these rights.
- **Stable housing is a critical safeguard against returning to drug use, overdose, and incarceration**, yet many formerly incarcerated individuals face significant barriers to securing housing because of the Thurmond Amendment.
- **Housing instability fuels cycles of incarceration**, as people released without secure housing are more likely to experience homelessness.
- The **Fair Future Act ensures a fairer housing application process**, preventing automatic disqualification based on past drug distribution convictions while still allowing landlords to assess tenant suitability. By removing barriers to housing, it takes a crucial step toward reducing overdose risk, supporting recovery, and breaking the cycles of incarceration.

OVERVIEW

The Fair Housing Act, enacted in 1968, protects tenants and homebuyers from discrimination in most housing, including private, public, and federally funded housing, and provides legal recourse for those who face discrimination. However, in 1988, Senator Strom Thurmond introduced an amendment to the Fair Housing Amendments Act that excluded individuals with drug distribution convictions from these protections. As a result, housing providers can deny housing to individuals with such convictions without considering typical

risk factors like income or rental history, and those affected have no legal recourse. Consequently, people with drug distribution convictions are the only group explicitly denied the civil rights and protections guaranteed by the Fair Housing Act. The Fair Future Act seeks to restore the original intent of the Fair Housing Act by repealing the Thurmond Amendment, ensuring that all individuals are protected from housing discrimination and given a fair chance at successful reentry.

Most people arrested for drug-related activity also use drugs and struggle with addiction. People who use and sell drugs often overlap. National data show that 78% of individuals in state prisons for drug-related offenses had used drugs in the month before their arrest,¹ and over 55% were actively using at the time of the offense. Additionally, among those sentenced to local jails for drug-related offenses, approximately 74% met the criteria for a substance use disorder (SUD).²

Incarceration does not provide robust addiction treatment. Prisons and jails house many individuals with untreated health needs, yet they often fail to provide adequate care. For instance, two-thirds of people in jails have SUDs, but only a small fraction of facilities offer medications for opioid use disorder (MOUD) despite risk for rapid withdrawal.³ Meanwhile, only 1% of people with SUDs in state and federal prisons report receiving MOUD.⁴ As a result, formerly incarcerated individuals face staggering risks: Within the first two weeks of release, they are 40 times more likely to die from an opioid overdose.⁵ The transition from incarceration to community life is a critical period for overdose and relapse prevention, yet too often, people are released without the protective supports necessary to sustain recovery.

WHY THE FAIR FUTURE ACT?

Justice-involved individuals face significant barriers when trying to secure housing upon release. Stable housing is one of the most effective safeguards against returning to drug use, overdose, and incarceration. Yet, rising rental prices make affordable housing increasingly out of reach, while public housing options are limited by long waitlists, bureaucratic hurdles, and criminal record exclusions. In the private market, landlords can also deny housing based solely on a criminal record. One such policy, the Thurmond Amendment, allows landlords and banks to reject applicants with past drug distribution convictions without any opportunity for legal recourse (e.g. decision appeal, FHA complaint), regardless of the applicant's qualifications, the type or quantity of drugs involved, or how long ago the offense occurred. The Fair Future Act aims to ensure individuals who have already served their time have a meaningful opportunity to rebuild their lives. While landlords would still retain discretion over tenant selection, this legislation would create more pathways to stable housing by preventing automatic disqualification—an essential step in preventing overdose deaths and supporting long-term recovery.

Housing supports people in recovery and mitigates overdose risk. Housing insecurity and SUDs are closely linked. The U.S. Department of Housing and Urban Development reports that over 16% of the homeless population struggles with chronic substance use.⁶ Homelessness often exacerbates drug use, as individuals may turn to alcohol or drugs to cope with the stress and dangers of living unsheltered, making recovery even more challenging. Opioid overdose rates are also higher among those experiencing housing instability compared to people who use drugs that are securely housed.⁷

Recognizing the critical role of housing in recovery, the Substance Abuse and Mental Health Services Administration (SAMHSA) lists access to stable, safe housing as one of the four key dimensions of recovery.⁸ Stable housing is often a prerequisite for effective addiction treatment, whether for maintaining medication-assisted treatment, attending outpatient programs, or participating in

community support groups. By removing barriers to housing, the Fair Future Act would help reduce the risk of overdose and support individuals with drug distribution convictions during their recovery and reentry.

Securing housing will also reduce recidivism. The collateral consequences of incarceration, such as unemployment, loss of civil rights, and disrupted health and social networks, contribute to higher recidivism rates. Among these challenges, housing is one of the most significant barriers to successful reentry and a key predictor of recidivism.⁹ Formerly incarcerated individuals, including those with drug distribution convictions, often return to low-income communities where affordable and accessible housing is scarce. The National Inventory of Collateral Consequences of Conviction identifies over 1,300 housing-related barriers linked to criminal convictions.¹⁰ Nearly one-third of people released from prison experience housing instability, and about 10% become homeless within a year.¹¹ Furthermore, approximately one-fifth of individuals who are incarcerated were homeless at the time of their imprisonment¹². Studies also show that those who secure housing through family connections tend to have better reentry outcomes, underscoring the urgent need for housing solutions that facilitate a successful transition home.¹³ The Fair Future Act would support Congress's continued investments in successful reentry by ensuring that returning individuals are not set up to fail due to a lack of stable housing options.

People need a safe place to live in order to fully engage in substance use treatment and maintain successful recovery. The **Fair Future Act** will promote a more holistic review of housing applications, removing unnecessary barriers to reentry and recovery for the hundreds of thousands of people returning home each year. By repealing the Thurmond Amendment, this legislation takes a crucial step toward **reducing overdose risk, supporting recovery, and breaking the cycles of incarceration.**

END NOTES

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