

IMPACT STATEMENT

Legislation title: Direct the Portland Housing Bureau to develop an expungement pilot program to increase access to housing (Resolution)

Contact name: Cupid Alexander

Contact phone: 503-823-5129

Presenter name: Cupid Alexander

Purpose of proposed legislation and background information:

A criminal record is a permanent barrier to housing, employment, and opportunity that disproportionately impacts communities of color. While the Portland Housing Bureau continues to develop programs that address displacement and homelessness ultimately this barrier to housing persists.

As the Bureau moves forward with the N/NE Housing Strategy on rental and homeownership housing opportunities, the issue of being prevented from accessing housing is citywide for people convicted of past minor crimes.

This expungement pilot program will provide legal assistance to the community to increase access to housing.

Financial and budgetary impacts:

A pilot program will cost \$50,000 to assist individuals. The Portland Housing Bureau is being directed to request the funds from General Fund Contingency.

Community impacts and community involvement:

While this program is available to all residents – a particular focus of the program will be to prioritize minority communities which are disproportionately impacted by interactions with the criminal justice system.

Because of criminal records, justice involved individuals face additional barriers to accessing affordable housing, placing them at risk of housing instability, homelessness, and ultimately at risk of recidivism.

The Portland Housing Bureau has protected people already in housing units from displacement through Mandatory Relocation Assistance, however, reducing barriers to people, especially those most at risk, from gaining housing must be a priority.

100% Renewable Goal:

N/A

Budgetary Impact Worksheet

Does this action change appropriations?

- ☐ **YES:** Please complete the information below.
☒ **NO:** Skip this section

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount

EXHIBIT A

Proposal

Individuals convicted of a crime often face discrimination in accessing rental housing. As the Portland Housing Bureau expands the scope of the work performed within its Rental Services Office, tenant protections and accessibility issues will play a larger factor. To preemptively strategize around potential solutions, and offer individuals wishing to access rental housing, the City of Portland should consider programs that help individuals clean up and clear out background issues that may be eligible for expungement. The below program outlines the proposed pilot program with Metropolitan Public Defenders for expungement services for up to 100 individuals.

Program Overview

Metropolitan Public Defenders (MPD) will provide expungement services through the Portland Housing Bureau Rental Services Office for low-income households seeking rental housing. The consequences of a criminal conviction can result in a person facing insurmountable barriers to success in housing and employment. This pilot program aims to create opportunities for housing individuals with past criminal justice involvement by increasing access to expungement resources and help mitigate the impacts of past criminal justice involvement. The cost for this program is \$50,000 for one year of expungement and related means tested legal services.

Program Components

- A) **Determining the scope:** PHB contract with the Metropolitan Public Defender (MPD) to work with community-based culturally specific organizations to intake and assess criminal records for at least 300 households seeking rental housing. MPD, and all people working with MPD, will agree to whatever limitations are necessary for PHB to maintain its commitment to confidentiality. MPD will review all records and determine (a) who has a criminal history, (b) who has convictions, arrests or charges that are eligible for expungement, and (c) who has outstanding or continuing obligations to the courts. PHB and MPD will together determine what the scope of the need is and whether there are any geographical or other patterns. PHB and MPD may revisit the overall plan at the completion of the analysis to adjust as needed based on the new information.
- B) **Legal Clinics:** MPD, working with PHB, will put on, as needed, 6 Community Legal Clinics (6 different locations over 12 months). The clinics will be advertised in the community by MPD, with PHB, using the tools at PHB's disposal, including fliers, brochures and word of mouth. MPD attorneys will handle expungement cases and meet with attendees about specific legal questions or concerns. If possible, a brief legal screening will also be done on-site to make sure there are no emergent issues with approaching deadlines.

C) **One-On-One Consultations:** Occasionally, MPD will meet with clients one on one for persons who:

- a. Are identified by MPD in the clinics as having complex needs
- b. Are referred by PHB staff because of usual circumstances, such as having barriers to clinic access.

D) **Services to be provided by MPD:** For all participants:

1. **Expungement services.** Determine eligibility for juvenile or criminal expungements, clearly communicate the results and timelines for eligibility and, if the client is eligible for expungements, complete the motion, affidavit, notarizing and fingerprints at the initial meeting.

Other collateral consequence services available, if capacity exists:

2. **Correcting the Legal Record.** For all juvenile or criminal cases where the client is not eligible for expungement, assure that the electronic databases and other records correctly reflect the actual crimes of adjudication or conviction as well as the correct disposition. If the record is incorrect, go through the legal process of moving to correct the record, database or judgment, as required.
3. **Warrant.** If the client has an outstanding warrant, the attorney will create a plan to lift the warrant.
4. **Ongoing Criminal Case Obligations.** If the client has a continuing obligation with a juvenile or adult criminal case, the attorney will work with the client to ensure he/she understands exactly what is required, has a list of important deadlines, and understands all of the potential consequences should the client fail to meet their obligations. The attorney will determine whether a court's order or some part of the orders should be modified and, if desired and appropriate, go forward with the legal process of moving to modify the juvenile or criminal order (for example, to travel out of state, have contact with family members or live in a certain area).
5. **Evictions.** Determine if there are evictions on the client's record (or ongoing if a family member who isn't living in public housing but could be, but for their record.) Talk to the client about possible ways to mitigate or withdraw an eviction. If there is an ongoing eviction, go forward with representation on the eviction matter as desired and appropriate.
6. **Outstanding Debts.** Determine if there is a financial debt owed to the courts and, if there is, assist the client in either setting up a payment plan or converting the money to community service. If the outstanding debt owed to the court is a barrier to eligibility for expungement or drivers' license reinstatement, help client with obtaining these services as well.

7. **Child Support.** If there is a child support order, determine if it is an appropriate amount and if not, go forward with representation for amending the child support order.
8. **Driver's License.** Determine if the client's driver's license is suspended or revoked and help the client create a plan to get the license reinstated. Explain clearly to the client the steps that such a process will require. Go forward with legal representation if desired and appropriate.
9. **Administrative Appeals.** If the client is excluded from any area or saddled with an undesirable designation (e.g., "gang-affiliated" or excluded from TriMet public transportation) as a result of criminal justice or juvenile involvement, determine if it is possible to appeal, challenge or apply for an exception to the exclusion or designation. If desired and appropriate, go forward with legal representation.
10. **Interstate Compact.** Make sure there aren't any problems being created by the Interstate Compact on Adult Offender Supervision. If there are, assist the client in navigating the complex set of rules involved and solving whatever issues have arisen.
11. **Immigration.** Determine whether there are any impacts on a client's immigration because of a criminal justice or juvenile involvement, and counsel the client on how best to manage those issues.

Reporting Requirements

1. MPD will track and collect all of the data elements listed below of all persons.
2. Number of potential participants screened for eligibility
3. Number of participants determined to be eligible for expunging/sealing/correcting support
4. Number of petitions filed for expungement, sealing, or corrections
5. Number of participants whose records are expunged, sealed, or corrected
6. Number of participants who received other legal services by MPD (i.e. Court orders modified, counseled for compliance with a court order, assisted with an administrative appeal of a designation or exclusion, etc.)



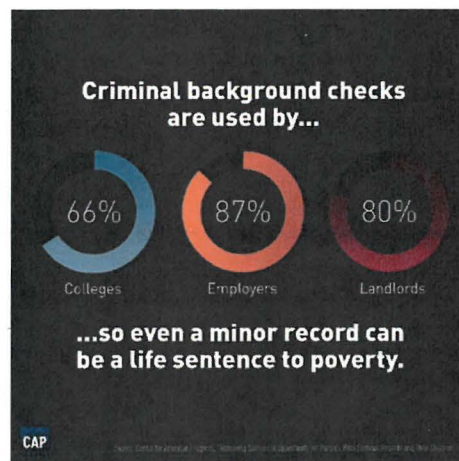
RECORD RELIEF & EXPUNGEMENT

A PROPOSAL FOR PARTNERSHIP WITH METROPOLITAN PUBLIC DEFENDER

A criminal record is a permanent barrier to housing, employment, and opportunity. As the Portland Housing Bureau (PHB) continues to develop programs that address housing displacement and homelessness, such as the N/NE Homeownership Application for Preference, it is in the best interest of PHB and, ultimately, the community to preemptively provide assistance to alleviate barriers related to past criminal history. The Policy team would like to issue a proposal to establish a partnership with Metropolitan Public Defender and develop Record Relief and Expungement program for applicants. Metropolitan Public Defender Services provide free legal assistance to residents and participants. The goal of this Record Relief and Expungement service is to increase housing opportunity and increase economic opportunity for the people it serves.

BACKGROUND

As many as 100 million U.S. adults – or nearly one-third of the population – have a criminal record of some sort.¹ Resources, especially affordable housing, are already scarce in the low income communities where formerly incarcerated persons typically return. Indeed, there is currently a shortage of 7.4 million affordable rental units that are available to extremely low income households. Because of their criminal records, justice-involved individuals face additional barriers in accessing affordable housing, potentially placing them at risk of housing instability, homelessness, and ultimately recidivism.²



In acknowledgement of the high prison rates in the U.S., it is crucial to address the disproportionate impact that an interaction with the criminal justice system has on marginalized communities. For every 1,000 African American residents, about 21 are in prison; Oregon maintains the seventh-highest rate in the

country.³

¹ US Department of HUD "Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions" April 4, 2016

² National Low Income Housing Coalition "Advocates' Guide to Housing and Community Development Policy" 2017

³ The Color of Justice: Racial and Ethnic Disparity in State Prisons" www.sentencingproject.org

PHB must work to reduce these barriers by providing additional guidance and housing resources or face an even greater unmet demand for housing.

RECORD RELIEF & EXPUNGEMENT- HOW IT WORKS

In the Record Relief and Expungement program, attorneys would meet with Preference Policy applicants and applicants accessing PHB's affordable housing units to discuss their criminal records, clarify court obligations, assist with filling out court paperwork, and file motions on behalf of residents.

Services provided by Record Relief and Expungement include:

- **Expungement:** *For example, a person with multiple convictions from 12 years ago can come away with a clean record if they are in good standing with the courts and the offense was not too serious.*
- **Felonies Reduced:** *For example, a person with a Felony Possession of Drugs can have the felony reduced to a misdemeanor and be free of the stigma of being a "convicted felon".*
- **Clean Slate:** *For example, convert outstanding fines and fees into a plan for long-term success, such as community service.*
- **Appeal of a designation or exclusion:** *For example, a person who was perceived to be gang affiliated 15 years ago can have that label removed from their record.*

Because of capacity constraints, the attorneys do not assist with current open cases or civil matters (such as custody issues or bankruptcy filings). Further, the Portland Housing Bureau (PHB) would merely play a referring role and case details would never be discussed with Portland Housing Bureau to protect confidentiality and attorney-client privilege.

RISKS AND OPPORTUNITIES

Risks: None. The units associated with the preference policy or other PHB rental units would continue to perform the same criminal records checks for housing admittance. The Expungement and Record Relief service is used merely as a tool for applicants and would not force rental management companies to alter their screening policies.

Opportunities: Metropolitan Public Defender has developed similar programs with Home Forward, Transition Projects Veteran's Project, and Multnomah County Department of Human Services (Youth and Family Services). We intend to use some of the same components, and examine their structure and data to continually improve our program.

BUDGET IMPACT

Current cost estimates have MPD assisting 300 applicant families with expungement services for a contracted amount of \$50,000. Costs will be subtracted against the contracted amount per resident that accesses the services. Additional costs (other than contract administration) will be minimal/limited as MPD will utilize PHB's current network of engagement opportunities at homeownership/rental fairs, and outreach opportunities.

**REFERRED TO COMMISSIONER OF
FINANCE AND ADMINISTRATION**

RESOLUTION No.

Direct the Portland Housing Bureau to create an expungement pilot program to increase access to housing opportunities and to develop a proposal to reduce the use of criminal history as a blanket prohibition for accessing rental housing (Resolution)

WHEREAS, as many as 100 million U.S. adults – or nearly one-third of the population – have a criminal record of some sort; and

WHEREAS, national data indicates that racial disparities exist in the criminal justice system, these disparities can be evidenced in stop data, data on detentions and in sentencing outcomes; and

WHEREAS, a criminal record is a permanent barrier to housing, employment, and opportunity that disproportionately impacts Communities of Color; and

WHEREAS, while the Portland Housing Bureau continues to develop programs that address displacement and homelessness, ultimately this barrier to housing persists for many individuals; and

WHEREAS, the Portland Housing Bureau protects people already in housing units from displacement through Mandatory Relocation Assistance, and increasing access to affordable housing continues to be a priority; and

WHEREAS, because of criminal records, justice-involved individuals face additional barriers to accessing affordable housing, placing them at risk of housing instability, homelessness, and ultimately at risk of recidivism; and

WHEREAS, as the Bureau moves forward with the N/NE Neighborhood Housing Strategy on rental and homeownership housing opportunities, the issue of being prevented from accessing housing is citywide for people convicted of past minor crimes; and

WHEREAS, an expungement pilot program will provide legal assistance to the community to increase housing opportunity; and

WHEREAS, access to housing provides access and ultimately to intergenerational wealth building through homeownership gives marginalized communities opportunity; and

WHEREAS, in the recent past, using highway expansion, the construction of the Memorial Coliseum, urban renewal in Albina for economic development, the City and State systematically eviscerated a predominantly African American neighborhood; and

WHEREAS, Portland's history of red-lining neighborhoods until the 1990's left impacts on minority communities that exist today where people are disadvantaged from birth; and

WHEREAS, as a community, Portland is committed to providing access to housing and prioritizing communities that have been disenfranchised, marginalized, and discriminated against; and

WHEREAS, as Portland's State of Housing report for 2017 shows these disadvantages and discrimination built into the system that has resulted in minorities disproportionately impacted; and

WHEREAS, an expungement pilot program will reduce these barriers as the City seeks to develop a policy to reduce the use of criminal history as a blanket prohibition for accessing rental housing.

NOW, THEREFORE, BE IT RESOLVED that the City Council directs the Portland Housing Bureau to develop an expungement pilot program to reduce barriers to housing that disproportionately impact Communities of Color based on Exhibits A & B.

BE IT FURTHER RESOLVED that the Portland Housing Bureau shall request funding through General Fund contingency.

BE IT FURTHER RESOLVED that the Portland Housing Bureau is directed to develop a policy for reducing the use of criminal history as a blanket prohibition for accessing rental housing in the City of Portland. The policy shall be developed based on national best practices in use in other jurisdictions. The Portland Housing Bureau shall return to City Council with a proposal and timeline for implementation in the next 6 to 9 months.

BE IT FURTHER RESOLVED that the Portland Bureau of Housing shall commit to robust community outreach during the development of proposal which includes private and non-profit landlords, historically impacted Communities of Color and opportunities to engage for the general public. The Housing Bureau shall inform and involve all of its standing advisory bodies in the development of the proposal: the Portland Housing Advisory Commission, the Fair Housing Advocacy Committee, the Rental Services Commission, and the N/NE Neighborhood Housing Strategy Oversight Committee.

Adopted by the Council:

Mayor Wheeler

Prepared by: Cupid Alexander

Date Prepared: May 15, 2018

Mary Hull Caballero

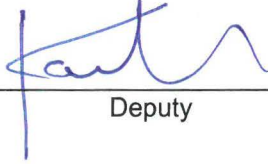
Auditor of the City of Portland

By

Deputy

Agenda No.
RESOLUTION NO.
 Title

Direct the Portland Housing Bureau to develop an expungement pilot program to increase access to housing (Resolution)

INTRODUCED BY Commissioner/Auditor: Mayor Wheeler	CLERK USE: DATE FILED <u>JUN 06 2018</u>
COMMISSIONER APPROVAL Mayor—Finance & Administration – Wheeler <i>PC</i> Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - Saltzman Position 4/Safety - Eudaly	Mary Hull Caballero Auditor of the City of Portland By:  Deputy
BUREAU APPROVAL Bureau: Portland Housing Bureau Bureau Head: Shannon Callahan Prepared by: Cupid Alexander Date Prepared: May 15, 2018 Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/> Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> City Auditor Office Approval: required for Code Ordinances City Attorney Approval: required for contract, code, easement, franchise, charter, Comp Plan Council Meeting Date June 13, 2018	ACTION TAKEN: JUN 13 2018 <i>Referred to the Commissioner of Finance & Administration</i>

AGENDA TIME CERTAIN <input checked="" type="checkbox"/> Start time: 11:00AM Total amount of time needed: 30 minutes (for presentation, testimony and discussion)
CONSENT <input type="checkbox"/> REGULAR <input type="checkbox"/> Total amount of time needed: (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz		
2. Fish	2. Fish		
3. Saltzman	3. Saltzman		
4. Eudaly	4. Eudaly		
Wheeler	Wheeler		