

SENATE BILL NO. 293

INTRODUCED BY B. HOVEN

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A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO RESIDENTIAL TENANTS WITH CRIMINAL RECORDS; PROVIDING CERTAIN LEGAL PROTECTIONS FOR LANDLORDS REGARDING RENTAL AND LEASING OF RESIDENTIAL PROPERTY TO INDIVIDUALS WITH A CRIMINAL BACKGROUND; AND PROHIBITING RESIDENTIAL LANDLORDS FROM INQUIRING INTO CRIMINAL HISTORY UNTIL THE PERSON HAS TENTATIVELY BEEN APPROVED TO RENT THE RESIDENTIAL PREMISES."

WHEREAS, based on longstanding court decisions, national data, and existing federal guidance, the United States Equal Employment Opportunity Commission has determined that criminal record exclusions in housing have disparate impacts based on race and national origin; and

WHEREAS, based on national data and existing federal guidance, it has been determined that criminal record exclusions in housing contribute significantly to generational incarceration rates and movement in the juvenile justice system for minors living in the affected households; and

WHEREAS, based on national data and existing federal guidance, it has been determined that a housing provider may impermissibly violate the federal Fair Housing Act when a policy restricts access to housing on the basis of criminal history information because of the policy's disparate impact on individuals of a particular race, national origin, or other protected class, even if the provider had no intent to discriminate; and

WHEREAS, based on national data and existing federal guidance, the community safety is increased when individuals and families affected by a member's criminal history are given opportunities to participate in housing programs and obtain suitable housing.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Safe harbor for private landlords renting to individual with criminal record -- exception.** A private landlord who complies in good faith with this section may not be held liable for acts committed by a tenant with a criminal record if:

- (1) the tenant provides to the landlord a valid certificate of completion issued by a correctional institution



- 1 or an entity recognized by the department of corrections for rehabilitative treatment or a rehabilitative course;
- 2 (2) the tenant provides to the landlord a valid document issued by a state or federal court or a state or
- 3 federal agency that states that the individual has been rehabilitated;
- 4 (3) the tenant provided false information on the application concerning the tenant's criminal history; or
- 5 (4) the tenant is under the supervision of the probation and parole division of the department of
- 6 corrections, and the residence has been approved by the supervising officer. If, after 10 days from the date of
- 7 the submission of a written request for approval by the landlord or the tenant, a notification of approval or
- 8 disapproval of the residence has not been received, the residence must be considered approved by the
- 9 department of corrections.

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11 **NEW SECTION. Section 2. Consideration of criminal record in housing applications.** Except as

12 otherwise provided by law, a landlord may not inquire into, require disclosure of, or consider the criminal record

13 of a person applying to be a residential tenant until the person has been conditionally approved to rent the

14 property.

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16 **NEW SECTION. Section 3. Codification instruction.** (1) [Section 1] is intended to be codified as an

17 integral part of Title 27, chapter 1, part 7, and the provisions of Title 27, chapter 1, part 7, apply to [section 1].

18 (2) [Section 2] is intended to be codified as an integral part of Title 49, chapter 2, part 3, and the

19 provisions of Title 49, chapter 2, part 3, apply to [section 2].

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