
Housing for Felons in Texas

1. What are the Texas laws regarding housing for felons, when released?

There are no specific laws that regulate housing for people convicted of a crime when they're released from jail or prison. Sometimes people will be required by the terms of their release to go to a halfway house, or to have their housing situation approved by their probation officer or parole officer, but it depends on the requirements of their release.

2. When women (felons) apply for housing, are they obligated to disclose their felony?

It depends on whether the application form asks this information, but if it asks specifically enough, the applicant needs to be truthful in responding. Most application forms will note that misrepresenting any information on the application is cause for rejection, and that if the applicant is approved for housing but the landlord later finds out that the applicant misrepresented something on the application, such misrepresentation is cause for immediate eviction after move-in. I've heard of applicants with criminal backgrounds leaving questions blank rather than affirmatively answering with "yes, I've been convicted of X crime." I'm not sure how successful is it (I'm doubtful).

3. When apartments or other housing options do background checks, how far back into their background can the check go? And I assume the check is from the time of conviction, not the time of release?

For most types of housing, there is no restriction on how far back a background check can go, unfortunately. I've had clients who have been denied housing for convictions from the 1980s and 90s!

There's also no requirement about what the "anchor point" for the timeframe is. We always argue that what matters is the date of the offense, not the date of conviction or release, because the landlord's concern should be about the criminal activity itself and how long has passed since then. (If someone fights the charge in court and the conviction doesn't occur for a year or two after the offense, I don't think that should make any difference vs. someone who plead to it immediately after arrest.) But many landlords want to know how long someone has been out of prison for, to know how much time they've been on their own and avoided further criminal justice system involvement.

Information about an applicant's mere arrest more than seven years ago cannot be provided in a background check (according to Federal law), but information about charges or convictions can be reported forever.

4. Are some crimes (not counting sex offenses) worse in the eyes of apartment leasing companies than others? For example, is the crime of manufacture and distribution of illegal substances more offensive than another felony offense?

Yes, landlords typically screen harder for violent crimes, drug-related crimes, and theft, as opposed to other criminal activity (and in roughly that order, with violent crimes being most likely to result in a denial). Manufacture/distribution is considered pretty difficult to get a landlord to accept, and it's certainly worse than mere (felony) possession of a controlled substance. But there's no set hierarchy, and each landlord can set their own criteria.

5. When signing a lease, is their name required by law to be on the lease (if they have a felony and will be living there)?

If the tenant will be the one signing the lease, the landlord will require their name to be listed. Most landlords will require anyone not signing the lease but who will live there to be listed on the lease as well, but the law doesn't require this. Most leases will prohibit "unauthorized occupants" who aren't listed on the lease to stay more than a certain number of nights within a month, and allowing someone not on the lease to live there puts the listed tenants at risk of eviction if the landlord finds out. As a practical matter, lots of people live as unauthorized occupants because they couldn't pass a background check, so long as they have a family member/friend willing to take the risk to their own tenancy in letting the occupant stay without the landlord's permission. So long as the occupant doesn't cause trouble or arouse suspicion, most large multifamily landlords will never pay close enough attention to raise an issue. It's often when the police get called out for some sort of disturbance that a landlord's suspicion gets raised, and then the entire family faces potential eviction.

6. What are the housing options (in general terms) for discount housing that are not in dangerous locations? (And by dangerous, I mean potentially violent but also areas where there is heavier drug use/sales.)

It really depends. There are two general categories of affordable housing. One is deeply subsidized housing, where the tenant's rent fluctuates based on their income, and the tenant pays 30% of their monthly income each month. This housing includes traditional public housing (traditionally known as "projects"), as well as privately owned but HUD-subsidized housing that functions similarly to public housing. These options have very long waiting lists. Many public housing and other deeply subsidized housing complexes have pretty significant crime issues, though that's not always the case.

The other type of affordable housing, which provides the vast majority of affordable units across the country is the Low-Income Housing Tax Credit (LIHTC) program. LIHTC complexes look like other large multifamily complexes and typically exist across the city, including in higher-opportunity and lower-crime areas. This kind of housing sets a maximum rent that can

be charged to tenants who qualify, based on the median family income levels in the area, which are updated every year.

7. What would you recommend for leasing options for women leaving prison with felonies?

It's so hard. I'd recommend living with family or friends if the women have those options, and the family/friends will help the women stay clean and avoid the kinds of patterns that may have landed them in prison in the first place. Word of mouth can be very helpful for learning about small mom-and-pop landlords that are willing to give people a second chance, or won't pay to run a background check, etc. If someone can establish some good rental history with one of those landlords and put a year (or a few) in between their release date and the time they look to move in somewhere else, that landlord reference will be critical. "I was released from prison a few years ago, but since then I've stayed out of trouble, and here's the name of the landlord I've leased from who can tell you I was a great tenant who paid rent on time and never caused problems" is really helpful, at least with small or medium-sized landlords that aren't too corporate. Some of the largest property management companies have hard and fast policies that they won't make exceptions to, even for folks with good references, compelling stories, etc.

Unfortunately, living as an unauthorized occupant with someone else willing to take the risk might be the best realistic option for people with those connections, but it's critical that the women understand how all of that can come crashing down if they cause trouble and draw any sort of police presence to the property.

8. What legal recourse do women have if they are mistreated by their landlord (that isn't expensive)? I see that you work for Texas Rio Grande Legal Aid. I read a bit about the organization. If you were speaking to the women in my class, how would you describe your services? And how would they find out if there is a similar service near them (when released)?

Texas Rio Grande Legal Aid provides free legal services to individuals within the 68-county region we serve. We address legal issues related to housing, among other things.

Tenants who qualify for our services can always contact TRLA. Legal aid organizations never charge our clients for advice or representation. We serve individuals who make less than 200% of the federal poverty level (in addition to some other eligibility criteria). TRLA serves about a third of Texas counties, and Lone Star Legal Aid serves East Texas, and Legal Aid of Northwest Texas serves—you guessed it—the northwest region of the state. Here's where people can enter their address and find out which legal aid organization serves their county, if there are women returning home to various places around the state. TRLA's intake line is 833-329-8752. I also think that TexasLawHelp.org is a great resource for all sorts of legal topics, including housing issues: <https://texaslawhelp.org/house-apartment>

9. If you were speaking to the women in my class, what would you tell them that are the most important things to understand about housing issues in Texas?

I'd tell them that housing is really precarious, especially in the current rental market. I'd say that they should deploy all of their connections to figure out the most stable place to live as soon as they're released, and do whatever they can to ensure that housing isn't threatened. Some of the saddest stories I see are folks who are formerly homeless, get housing, and then invite the people they used to know from the streets over to their apartment because they now have a place. Sadly, some of those still-homeless individuals cause problems and cause the housed person to lose the housing they just obtained, placing them back on the streets again. It's so hard to find housing someone with a limited income can afford, and it's exceptionally difficult to find that for someone with a barrier like a criminal record. So if you find a landlord willing to take a chance on you, do whatever you possibly can to pay the rent on time every month, never bring problems back home with you, and have at least some bit of savings stashed away in case you have to move unexpectedly. So many of my clients only realize how lucky they are to have a good landlord at a reasonable price after they invited someone over who caused a huge problem, placing them at risk of eviction (and at that point, it's often too late to save their tenancy.)

(This information comes from an attorney with the Texas Rio Grande Legal Aid group, that provides free legal services within a 68-county region addressing, among other things, housing.)