

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 560 (Delegate Fennell)
Environment and Transportation

Human Relations - Discrimination in Housing - Reentry-Into-Society Status

This bill elevates “reentry-into-society status” to a protected class for purposes of State fair housing laws and prohibits discriminatory practices in residential real estate transactions and the sale or rental of a dwelling because of a person’s reentry-into-society status. “Reentry-into-society status” means the state of having completed a court-ordered sentence of imprisonment.

Fiscal Summary

State Effect: General fund expenditures likely increase at least minimally for the Maryland Commission on Civil Rights (MCCR), as discussed below. The bill does not materially impact the workload of the Judiciary or the Office of Administrative Hearings. The bill’s penalty provisions are not anticipated to materially impact incarceration costs or revenues.

Local Effect: The bill does not materially impact the workload of the circuit courts. The bill’s penalty provisions are not anticipated to materially impact local expenditures or revenues.

Small Business Effect: Minimal, as discussed below.

Analysis

Bill Summary: The bill prohibits taking the following actions because of a person’s reentry-into-society status: (1) refusing to sell or rent a dwelling after the making of a *bona fide* offer; (2) refusing to negotiate for the sale or rental of a dwelling; (3) making a dwelling otherwise unavailable; (4) discriminating in the terms, conditions, or privileges

of the sale or rental of a dwelling; (5) discriminating in the provision of services or facilities in connection with the sale or rental of a dwelling; (6) making, printing, or publishing or causing to be made, printed, or published, any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates a preference, limitation, or discrimination based on reentry-into-society status; (7) representing to a person that a dwelling is not available for inspection, sale, or rental when it is available; and (8) for profit, inducing or attempting to induce a person to sell or rent a dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular reentry-into-society status.

The bill prohibits a person whose business includes engaging in transactions related to residential real estate from discriminating against a person in making available a transaction, or in the terms or conditions of a transaction, because of the person's reentry-into-society status. However, a real estate appraiser may take into consideration factors other than this status. The bill also prohibits a person from denying, because of a person's reentry-into-society status, that person access to, or membership or participation in, a multiple-listing service; real estate brokers' organization; or other service, organization, or facility relating to the business of selling or renting dwellings or discriminating against a person in the terms or conditions of membership or participation.

The bill also prohibits any person, whether or not acting under color of law, by force or threat of force, from willfully injuring, intimidating, or interfering with a person's activities related to the sale, purchase, rental, financing, or occupation of a dwelling, or to attempt to do so. Existing criminal penalties relating to these activities are expanded to include the prohibition against discrimination based on reentry-into-society status.

Current Law: Housing discrimination because of race, sex, color, religion, national origin, marital status, familial status, sexual orientation, gender identity, source of income, or disability is prohibited. There is no provision prohibiting housing discrimination based on reentry-into-society status. Provisions prohibiting housing discrimination do not require that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of another individual or result in substantial physical damage to the property of others, nor do they prohibit conduct against a person because the person has been convicted of the illegal manufacture or distribution of "controlled dangerous substances" or "controlled substances" as defined in State and federal law.

A person claiming to have been injured by a discriminatory housing practice may file a complaint with MCCR or file a civil action in circuit court. If an administrative law judge (ALJ) finds that the respondent has engaged in a discriminatory housing practice, the ALJ may order appropriate relief, including actual damages and injunctive or other relief, and may assess a civil penalty against the respondent. A court may award actual or punitive damages, grant injunctive relief, and allow reasonable attorney's fees and costs.

Willfully injuring, intimidating, or interfering, by force or threat of force, with a person's activities related to the sale, purchase, rental, financing, or occupation of a dwelling, or to attempt to do so, is a misdemeanor. A violator is subject to maximum penalty of 1 year imprisonment and/or a \$1,000 fine. If the violation results in bodily injury, the maximum penalty is 10 years imprisonment and/or a \$10,000 fine. If the violation results in death, the maximum penalty is life imprisonment.

State Expenditures: General fund expenditures likely increase at least minimally for MCCR. MCCR advises that it does not currently investigate this type of discrimination. Although MCCR receives federal reimbursement for investigating complaints related to housing discrimination from the U. S. Department of Housing and Urban Development, MCCR also advises that because reentry-into-society status is not a protected class under the federal Fair Housing Act, it would not be able to receive federal reimbursement for any expenses incurred relating to investigating these complaints. Accordingly, MCCR needs to ensure that investigating any additional cases regarding reentry-into-society status does not negatively impact its case closure rate, which may impact federal funding. Although existing staff can investigate a small number of additional cases, an additional investigator may be required to the extent that MCCR receives a large number of complaints. *For illustrative purposes only*, if an additional investigator is required, general fund expenditures increase by approximately \$80,000 annually. Additional expenditures may also be incurred for costs associated with training and education.

Small Business Effect: Minimal. Landlords will not be able to discriminate against an individual based on his or her reentry-into-society status, however, they will still not be required to make dwellings available to individuals whose tenancy would constitute a direct threat to the health or safety of others or result in substantial physical damage to the property of others, or to individuals that have been convicted for specified crimes.

Additional Information

Prior Introductions: HB 106 of 2016 received an unfavorable report from the House Environment and Transportation Committee.

Cross File: None.

Information Source(s): Maryland Commission on Civil Rights; Baltimore City; Montgomery and Worcester counties; towns of Bel Air and Leonardtown; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of Housing and Community Development; Department of Public Safety and Correctional Services; Department of Legislative Services

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