



**MARYLAND  
LEGAL AID**

*Advancing  
Human Rights and  
Justice for All*

**HB0964 - Landlords and Prospective Tenants - Residential Leases - Criminal History Review (Maryland Fair Chance in Housing Act)**

Hearing before the House Environment and Transportation Committee on Feb. 27, 2024

**Position: FAVORABLE WITH AMENDMENTS**

*Maryland Legal Aid (MLA) submits its written and oral testimony on HB0964 at the request of bill sponsor Delegate Adrian Boafu.*

MLA is a non-profit law firm that provides free legal services to the State's low-income and vulnerable residents. We serve residents in each of Maryland's 24 jurisdictions and handle a range of civil legal matters, including housing cases and expungements of criminal records. MLA urges the Committee's Favorable With Amendment report on HB0964, which would – with amendments – alleviate barriers to housing opportunities that Marylanders with a criminal history encounter in the rental market.

The Fair Chance in Housing Act, HB0964, intends to curtail the denial of rental housing opportunities based on criminal history and prohibit advertising that discourages individuals with a criminal history from applying. MLA supports this policy because housing is crucial to the social and economic rehabilitation of reentering individuals. "Researchers have found that formerly incarcerated individuals are far more likely to be homeless than the general public"<sup>1</sup> and that "formerly incarcerated people are most likely to be homeless in the period shortly after their release."<sup>2</sup> When individuals attain stable housing after incarceration, they "are more likely to reintegrate into their communities and less likely to end up back in prison than their formerly incarcerated peers in more precarious housing situations."<sup>3</sup> In Maryland, "incarcerated people... are disproportionately from Baltimore City" while "some areas of the state — like the southern Eastern Shore and Hagerstown — are also disproportionately affected by incarceration."<sup>4</sup>

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<sup>1</sup> Rachel M. Cohen, "Will limiting criminal background checks make rental housing fairer?" Vox, 14 June 2023, available at <https://www.vox.com/policy/23750632/housing-landlords-renter-fair-chance-criminal-record-background-check>.

<sup>2</sup> Prison Policy Initiative, "Nowhere to Go: Homelessness among formerly incarcerated people," 23 Feb. 2024, available at <https://www.prisonpolicy.org/reports/housing.html>.

<sup>3</sup> Supra n.1.

<sup>4</sup> Justice Policy Institute, WHERE PEOPLE IN PRISON COME FROM: THE GEOGRAPHY OF MASS INCARCERATION IN MARYLAND (June 2022), available at <https://www.justicepolicy.org/research/where-people-in-prison-come-from-the-geography-of-mass-incarceration-in-maryland>.

### *Comment on Sponsor’s Amendments*

MLA urges the Committee to amend this legislation. We support the Sponsor’s amendment that adds an enforcement mechanism to the bill – namely, under the Consumer Protection Act, which provides for enforcement by both the Attorney General and by individuals.

**However, HB0964 requires further amendments that provide a cohesive procedure that effectuates this policy and adds transparency for both landlords and consumers.**

Procedural steps such as a **conditional offer** and notice periods have been adopted in other Fair Chance jurisdictions. Yet, HB0964 lacks these fundamental components. The Sponsor’s amendments do not include them.

MLA supports additional (not yet proposed) amendments that

- define the scope of criminal history that may not be considered as the basis for denial of a housing opportunity,
- provide exceptions consistent with federal housing law,<sup>5</sup> and
- create a fair procedure by which landlords would consider, in an individualized assessment, the criminal history permitted under those exceptions.

The Sponsor’s amendments allow an exception so that landlords may deny applicants because of sex offenses. However, unlike other Fair Chance laws, HB0964 does not require the landlord to consider additional information submitted by the applicant to contextualize the sex offense, for instance, by showing rehabilitation or other mitigating factors. HB0964 simply allows a blanket denial of anyone required to register as a sex offender.

### *Comment on 3-year “Lookback” period*

MLA does not support any “lookback” period, by which landlords may consider recent criminal history up to a certain number of years such as 3 years or 7 years. The highest impact of this Fair Chance policy would occur just after an individual’s release from incarceration. One study has found that “people who spent two years or less in the community were more than twice as likely

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<sup>5</sup> See 24 C.F.R. §982.553.

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to be homeless as those who had been out of prison for four years or longer.”<sup>6</sup> Against this data, a 3-year “lookback” period does not serve the purpose of the legislation.

As drafted, and under the Sponsor’s amendments, HB0964 would allow denial of housing opportunities based on “any criminal history” within the prior three years – including an arrest without charge, a dropped charge, or participation in a diversion or treatment program. The bill should be amended to strike the three-year lookback period. Otherwise, HB0964 does not provide the Fair Chance in Housing that it proclaims.

For all the foregoing reasons, **Maryland Legal Aid urges the Committee’s favorable report on HB0964.** If you have any questions, please contact:

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<sup>6</sup> Supra n.2.