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### POSITION ON PROPOSED LEGISLATION

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

**FROM: Maryland Office of the Public Defender**

**POSITION: Favorable**

**DATE: 2/23/2024**

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on House Bill 964.

Access to safe, secure and affordable housing is critical to successful reentry. Beyond the importance of housing to general wellbeing, homeless individuals have more police interactions and are more likely to be arrested and incarcerated. The lack of housing may also preclude compliance with terms of parole, preclude the ability to secure employment, and make outpatient behavioral health treatment less successful. Nonetheless, formerly incarcerated individuals, as well as individuals who have been convicted of a crime but were not required to serve a sentence, are often denied housing based on their criminal history. HB 964 seeks to mitigate this harm by only allowing certain recent convictions to be considered, precluding advertising that discourages people with criminal records from applying, and requiring written notification if a rental application was denied with the basis for the decision.

Disparities in Maryland's criminal system make these basic provisions important racial justice measures. For one, criminal background screenings may be conducted and relied upon inconsistently such that they have been used to deny housing to Black individuals where similarly situated white individuals are permitted to rent. [Data from the Prison Policy Institute](#) found that formerly incarcerated Black men were 1.5 times more likely to be homeless than formerly incarcerated white men.

Even when applied equally, however, there may still be a discriminatory effect. Although the federal Fair Housing Act does not explicitly preclude discrimination based on criminal history, the U.S. Department of Housing and Urban Development (HUD) recognized this concern in a 2016 [Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions](#). Specifically, the Guidance noted that: “arbitrary and overbroad criminal history-related bans are likely to lack a legally sufficient justification. Thus, a discriminatory effect resulting from a policy or practice that denies housing to anyone with a prior arrest or any kind of criminal conviction cannot be justified, and therefore such a practice would violate the Fair Housing Act.” While HB 964 still allows for some criminal history to be considered, it provides limitations that currently do not exist as well as the protective measure of written housing denials.

Individuals who have served their time need and deserve the ability to secure basic living needs to encourage a healthful and law abiding lifestyle. [According to the Prison Policy Institute](#), formerly incarcerated people are approximately 10 times more likely to be homeless than the general population, effectively making houselessness a collateral consequence of a conviction. HB 964 is a first step to addressing this housing crisis.

**For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on House Bill 964.**

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