

HB0964_Fair_Chance_Housing_Act_MLC_FAV.pdf

Uploaded by: Cecilia Plante

Position: FAV



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

Bill Sponsor: Delegate Boaf

Committee: Environment and Transportation

Organization Submitting: Maryland Legislative Coalition

Person Submitting: Cecilia Plante, co-chair

Position: FAVORABLE

I am submitting this testimony in strong support of HB0964 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of activists - individuals and grassroots groups in every district in the state. We are unpaid citizen lobbyists, and our Coalition supports well over 30,000 members.

Maryland has had, and still has, too many people in prison for minor offenses. Those people walk away after serving their sentence and find that they cannot rebuild their lives due to an overabundance of discrimination in getting jobs and housing.

This bill, if enacted, would help make it easier for those former offenders to get housing by:

- Precluding a landlord from requiring a prospective tenant to disclose any criminal history on a lease application, except if they are a sex offender
- Precluding a landlord from reviewing or requesting a third party to review more than the previous 3 years of any criminal history
- Precluding a landlord from publishing any statement that would reasonably discourage a tenant with criminal history to apply for a lease
- Ensuring that the landlord provide a prospective tenant with a physical document stating any reason that they would have been denied a lease

These are reasonable measures that will help those people who are trying to restart their lives get housing.

We support this bill and recommend a **FAVORABLE** report in committee.

HB964_DHCD_SUPPORT.pdf

Uploaded by: Chuck Cook

Position: FAV

DATE: February 27, 2024

BILL NO.: House Bill 964

TITLE: Landlords and Prospective Tenants – Residential Leases – Criminal History Review (Maryland Fair Chance in Housing Act)

COMMITTEE: House Environment and Transportation Committee

Letter of Support

Description of Bill:

House Bill 964 lowers, from 7 years to 3 years, the time a landlord may look back at a prospective tenant’s criminal history in reusable tenant screening reports, prohibits landlords from requiring prospective tenants to disclose any criminal history other than whether the prospective tenant is required to register as a sex offender, and requires landlords who deny lease applications to provide the prospective tenant with a written explanation of the particular reason or reasons for the denial.

Background and Analysis:

Currently, individuals with criminal records face significant, and frequently unnecessary, barriers to finding and securing safe housing. Numerous studies have shown that housing insecurity is closely correlated with recidivism, especially among formerly incarcerated individuals. Safe and affordable housing allows returning citizens to establish the foundation necessary to secure employment and pursue educational opportunities. Such individuals who are unable to secure housing upon release are often left with the choice of asking a friend or relative for a temporary place to stay, or remaining unhoused, which carries much higher risk of recidivism and re-arrest. Individuals who have had contact with the criminal justice system, and are affected by these barriers, are disproportionately Black and low-income.

House Bill 964 helps lower these barriers by limiting the circumstances under which a landlord may use a prospective tenant’s criminal history to deny them housing – for which they would otherwise qualify – while still providing adequate protections for landlords and other tenants. A true “second chance” includes a safe and stable place to live, and House Bill 964 will help Marylanders with criminal histories get that chance.

DHCD Position:

The Department of Housing and Community Development respectfully requests a **favorable** report on HB 964.

HB0964 FAV Murray (1).pdf

Uploaded by: David Duba

Position: FAV

Maryland General Assembly
Environment and Transportation Committee

Written Testimony of Bowie High Student Government Executive Board
Lydia Murray, President

In SUPPORT of HB0964
“Maryland Fair Chance in Housing Act”

February 27, 2024 1:00 pm

Thank you to Chair Korman, Vice Chair Boyce, and Members of the Environment and Transportation Committee for the opportunity to submit written testimony in support of HB0964, Landlords and Prospective Tenants - Residential Leases - Criminal History Review (Maryland Fair Chance in Housing Act).

My name is Lydia Murray, and I am a Maryland resident and President of Bowie High’s Student Government Executive Board (SGA). We are a student led organization fundamentally dedicated to government, civic involvement, school unity and spirit, and community advocacy.

We have chosen to submit testimony in favor of HB0964. After reviewing the action to be taken should this act be passed, we ardently support 1) shortening the amount of time (from 7 to 3 years) in which landlords can review the criminal records of a prospective tenant, 2) protecting the privacy of tenants who might otherwise be forced to detail all aspects of their past criminal record, possibly furthering discrimination, and 3) requiring landlords to provide individuals with a specific reason for the denial.

We know that criminal history-based barriers disproportionately affect minorities, and that criminal-based policies are indeed discriminatory¹. Former convicts are more likely to have housing insecurity, homelessness, and familial separation². It is also widely accepted that former criminals have a harder time reentering society, finding housing, and acquiring proper employment post-incarceration. And given that they are not a protected class under the Fair Housing Act, we believe that this bill will protect former convicts (particularly, the minorities most affected by this) and give them a better chance at reentry and acquiring housing.

¹ “Fair Housing Act: Criminal History-Based Practices and Policies.” www.nar.realtor, 7 Apr. 2016, www.nar.realtor/articles/fair-housing-act-criminal-history-based-practices-and-policies#:~:text=While%20persons%20with%20criminal%20records. Accessed 18 Feb. 2024.

² Lake, Jaboa. “Preventing and Removing Barriers to Housing Security for People with Criminal Convictions.” Center for American Progress, 14 Apr. 2021, www.americanprogress.org/article/preventing-removing-barriers-housing-security-people-criminal-convictions/. Accessed 18 Feb. 2024.

Now, I do not have a criminal record, nor do my parents, but I have a family friend who does. I asked him a couple of questions pertaining to how he felt when applying for a home and how he would feel if this bill was passed. Here's what he said: "I experienced this very thing [denial without notice] myself when acquiring my first apartment and it was the first time since being free that it made me feel like I had states blues [troubles with reentry and transition out of incarceration] in the world.

It was only because I had contact [with a government official] that I was able to get my application denial overruled... A bill addressing this very thing is an awesome way to empower individuals to continue to believe in the choices that they're making, to redeem themselves, and to be a productive member of society, community, and family."

Not everyone has the network that my family friend had, and that makes it so much harder to simply find a place to live. This bill has the chance to change the lives of formerly incarcerated individuals- giving them hope to continue on their path to change.

Thank you for your time and your consideration of this testimony.

HB964_Amendments.pdf

Uploaded by: Delegate Adrian Boafu

Position: FAV

UNOFFICIAL COPY OF HOUSE BILL 964

HOUSE BILL 964

N1

4r0953
CF SB 635

By: **Delegates Boafo, Charkoudian, Fair, Fennell, Foley, Grossman, Harris, Hill, Holmes, Lehman, R. Lewis, J. Long, McCaskill, Pasteur, Patterson, Pena-Melnyk, Queen, Roberson, Ruth, Smith, Taveras, Taylor, Toles, Turner, White Holland, Wilkins, Williams, Woods, and Young**

Introduced and read first time: February 2, 2024
Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

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

5 FOR the purpose of altering the number of years of criminal history that are reviewed in a
6 certain reusable tenant screening report; establishing certain prohibitions and
7 limitations on the review and consideration of a prospective tenant's criminal
8 history; requiring a landlord that denies the lease application of a prospective tenant
9 to provide the individual with a certain document stating the reasons for the denial; establishing that
a violation of certain provisions of this Act is an unfair, abusive, or deceptive trade practice under
the Consumer Protection Act; establishing that a landlord may not be held liable in a civil action under
certain circumstances;
10 and generally relating to landlords and prospective tenants and criminal history.

BY repealing and reenacting, with amendments,

Article - Commercial Law
Section 13-301(14)(xl)
Annotated Code of Maryland
(2013 Replacement Volume and 2023 Supplement)

BY repealing and reenacting, without amendments,

Article - Commercial Law
Section 13-301(14)(xli)
Annotated Code of Maryland
(2013 Replacement Volume and 2023 Supplement)

BY adding to

Article - Commercial Law
Section 13-301(14)(xlii)
Annotated Code of Maryland
(2013 Replacement Volume and 2023 Supplement)

11 BY repealing and reenacting, without amendments,
12 Article - Real Property
13 Section 8-218(a)
14 Annotated Code of Maryland
15 (2023 Replacement Volume)

16 BY repealing and reenacting, with amendments,
17 Article - Real Property
18 Section 8-218(b)(2)(i)
19 Annotated Code of Maryland
20 (2023 Replacement Volume)

21 BY adding to
22 Article - Real Property
23 Section 8-220

2

UNOFFICIAL COPY OF HOUSE BILL 964

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
2 That the Laws of Maryland read as follows:

Article - Commercial Law13-301.Unfair, abusive, or deceptive trade practices include any:(14) Violation of a provision of:(xl) Title 14, Subtitle 13 of the Public Safety Article;[or](xli) Title 14, Subtitle 45 of this article; or(XLII) SECTION 8-220 OF THE REAL PROPERTY ARTICLE; OR

3

Article - Real Property

4 8-218.

5 (a) In this section, "reusable tenant screening report" means a report prepared
6 within the previous 30 days by a consumer reporting agency at the request and expense of
7 a prospective tenant and made directly available to a prospective landlord at no charge for
8 use in the rental application process.

9 (b) A reusable tenant screening report shall contain the following information
10 regarding a prospective tenant:

11 (2) For each jurisdiction indicated as a prior residence of the prospective
12 tenant, regardless of whether the residence is reported by the prospective tenant or by a
13 consumer reporting agency preparing a consumer report:

14 (i) A comprehensive criminal history records check for all federal,
15 state, and local charges against and convictions of the prospective tenant over the previous
16 [7] 3 years; and

17 **8-220.**

18 **(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A**
19 **LANDLORD MAY NOT REQUIRE A PROSPECTIVE TENANT TO DISCLOSE ANY CRIMINAL**
20 **HISTORY IN AN APPLICATION FOR A LEASE.**

21 **(2) A LANDLORD MAY REQUIRE A PROSPECTIVE TENANT TO**
22 **DISCLOSE WHETHER THE INDIVIDUAL IS REQUIRED TO REGISTER AS A SEX**
23 **OFFENDER UNDER FEDERAL OR STATE LAW.**

24 **(B) A LANDLORD MAY NOT REVIEW OR REQUEST A THIRD PARTY TO REVIEW**
25 **MORE THAN THE PREVIOUS 3 YEARS OF ANY CRIMINAL HISTORY OF A PROSPECTIVE**
26 **TENANT.**

27 **(C) A LANDLORD MAY NOT PUBLISH OR CAUSE TO BE PUBLISHED ANY ORAL**
28 **OR WRITTEN STATEMENT THAT WOULD REASONABLY DISCOURAGE A PROSPECTIVE**
29 **TENANT WITH A CRIMINAL HISTORY FROM APPLYING FOR A LEASE.**

30 **(D) A LANDLORD THAT DENIES THE LEASE APPLICATION OF A PROSPECTIVE**
31 **TENANT SHALL PROVIDE THE INDIVIDUAL WITH A PHYSICAL DOCUMENT STATING**
32 **WITH PARTICULARITY EACH REASON FOR THE DENIAL.**

(E) A VIOLATION OF THIS SECTION IS AN UNFAIR, ABUSIVE, OR DECEPTIVE
TRADE PRACTICE WITHIN THE MEANING OF TITLE 13 OF THE COMMERCIAL LAW
ARTICLE.

(F) A LANDLORD THAT COMPLIES WITH THE REQUIREMENTS OF THIS SECTION MAY NOT BE HELD LIABLE IN A CIVIL ACTION FOR DAMAGES ALLEGEDLY ARISING OUT OF THE LANDLORD'S:

(1) FAILING TO REVIEW OR REQUESTING A THIRD PARTY TO REVIEW THE CRIMINAL HISTORY OF A PROSPECTIVE TENANT; OR

(2) LEASING TO A TENANT WITH A CRIMINAL HISTORY.

SECTION 2. AND BE IT FURTHER ENACTED, That, if any provision of this Act or the application of any provision of this Act to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act that can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

3

UNOFFICIAL COPY OF HOUSE BILL 964

1 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
2 1, 2024.

HB964_Delegate_Boafo_Testimony.pdf

Uploaded by: Delegate Adrian Boafo

Position: FAV



THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

Chairman Marc Korman
Environment and Transportation Committee
Room 251
House Office Building
Annapolis, Maryland 21401

Chairman Korman, Vice-Chair Boyce and Members of the Environment and Transportation Committee,

HB964 is a crucial piece of legislation that proposes significant reforms to our housing system, aimed at fostering inclusivity, fairness, and transparency.

The Fair Chance in Housing Act proposes the implementation of a "ban the box" policy for rental applications, with the exception of individuals listed on the sex offender registry. This provision is essential in removing barriers related to criminal history inquiries, ensuring that individuals with past convictions are not automatically disqualified from accessing housing opportunities.

This bill also limits the timeframe for considering criminal records to the past three years. This provision recognizes the potential for rehabilitation and reintegration into society after an individual has served their sentence. It ensures that outdated or minor offenses do not unjustly hinder someone's ability to secure housing.

Housing providers will also be mandated to provide a physical disclosure outlining the reasons for an applicant's denial. This transparency requirement is crucial in empowering individuals to understand why they were denied housing and to challenge any potentially discriminatory practices.

Additionally, this bill prohibits housing providers from publishing any content that discourages applicants with a criminal history from applying. By eliminating discriminatory advertising practices, we can create a more inclusive housing market where individuals are judged based on their qualifications and merits as tenants, rather than their past mistakes.

In conclusion, the Fair Chance in Housing Act represents a significant step forward in reducing recidivism. By banning the box, promoting transparency, prohibiting discriminatory advertising, and limiting the consideration of criminal records, this legislation will ensure individuals have a fair chance at rehabilitation.

For these reasons, I strongly urge a favorable report on HB964.

Thank you,

A handwritten signature in black ink, appearing to read "Adrian Boafo".

Delegate Adrian Boafo

HB964_Reprint.pdf

Uploaded by: Delegate Adrian Boafu

Position: FAV



HB0964/873523/1

AMENDMENTS
PREPARED
BY THE
DEPT. OF LEGISLATIVE
SERVICES

21 FEB 24
08:59:19

BY: Delegate Boafo

(To be offered in the Environment and Transportation Committee)

AMENDMENTS TO HOUSE BILL 964

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 9, after “denial;” insert “establishing that a violation of certain provisions of this Act is an unfair, abusive, or deceptive trade practice under the Consumer Protection Act; establishing that a landlord may not be held liable in a civil action under certain circumstances;”; and after line 10, insert:

“BY repealing and reenacting, with amendments,

Article - Commercial Law

Section 13-301(14)(xl)

Annotated Code of Maryland

(2013 Replacement Volume and 2023 Supplement)

BY repealing and reenacting, without amendments,

Article - Commercial Law

Section 13-301(14)(xli)

Annotated Code of Maryland

(2013 Replacement Volume and 2023 Supplement)

BY adding to

Article - Commercial Law

Section 13-301(14)(xlii)

Annotated Code of Maryland

(2013 Replacement Volume and 2023 Supplement)”.

AMENDMENT NO. 2

On page 2, after line 2, insert:

“Article – Commercial Law

13-301.

Unfair, abusive, or deceptive trade practices include any:

(14) Violation of a provision of:

(xl) Title 14, Subtitle 13 of the Public Safety Article; [or]

(xli) Title 14, Subtitle 45 of this article; or

(XLII) SECTION 8-220 OF THE REAL PROPERTY ARTICLE; OR”;

and after line 32, insert:

“(E) A VIOLATION OF THIS SECTION IS AN UNFAIR, ABUSIVE, OR DECEPTIVE TRADE PRACTICE WITHIN THE MEANING OF TITLE 13 OF THE COMMERCIAL LAW ARTICLE.

(F) A LANDLORD THAT COMPLIES WITH THE REQUIREMENTS OF THIS SECTION MAY NOT BE HELD LIABLE IN A CIVIL ACTION FOR DAMAGES ALLEGEDLY ARISING OUT OF THE LANDLORD’S:

(1) FAILING TO REVIEW OR REQUESTING A THIRD PARTY TO REVIEW THE CRIMINAL HISTORY OF A PROSPECTIVE TENANT; OR

(2) LEASING TO A TENANT WITH A CRIMINAL HISTORY.

SECTION 2. AND BE IT FURTHER ENACTED, That, if any provision of this Act or the application of any provision of this Act to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act that can be given effect without the

invalid provision or application, and for this purpose the provisions of this Act are declared severable.”.

On page 3, in line 1, strike “2.” and substitute “3.”.

Favorable - HB 964-UULM-MD-Support-CandyClark.pdf

Uploaded by: Karen Clark

Position: FAV



Unitarian Universalist Legislative Ministry of Maryland

Testimony

HB 964 Landlords and Prospective Tenants - Residential Leases - Criminal History Review (Maryland Fair Chance in Housing Act)

TO: Delegate Marc Korman Chair and
Members of the Environment and Transportation Committee
FROM: Karen “Candy” Clark, Criminal Justice Lead Advocate
Unitarian Universalist Legislative Ministry of Maryland =
DATE: February 27, 2024

The Unitarian Universalist Legislative Ministry (UULM-MD) is called to support HB 964 since it aligns with our belief in the use of compassion, and justice in our dealings with other humans.

Our returning incarcerated citizens have many barriers that make a successful reentry challenging and often unattainable. One difficulty is finding an affordable place to live. Currently when a tenant is applying for a lease, the tenant must submit documentation if he/she is a listed sexual offender and a record of any criminal history in the past 7 years. This bill lessens the years to 3 which should enable more people to find housing.

We need to stop worrying about being too hard or soft on crime and enact policies that are “smart on crime.” This bill is a step in the right direction to assist individuals in starting a new path for their lives, which will reduce the recidivism rate in Maryland which saves money for the Correctional System.

Again UULM-MD asks for a favorable vote on HB 964

Respectfully submitted,

Karen Clark

UULM-MD Criminal Justice Lead Advocate

UULM-MD c/o UU Church of Annapolis 333 Dubois Road Annapolis, MD 21401 410-266-8044,

www.uulmmd.org info@uulmmd.org www.facebook.com/uulmmd www.Twitter.com/uulmmd

HB964_MoCoDHCA_Frey_FWA.pdf

Uploaded by: Leslie Frey

Position: FAV



Montgomery County

Office of Intergovernmental Relations

ROCKVILLE: 240-777-6550

ANNAPOLIS: 240-777-8270

HB 964

DATE: February 27, 2024

SPONSOR: Delegates Bofo, et al.

ASSIGNED TO: Environment and Transportation

CONTACT PERSON: Leslie Frey (leslie.frey@montgomerycountymd.gov)

POSITION: FAVORABLE (Department of Housing and Community Affairs)

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

House Bill 964 reduces from seven to three the number of years of criminal history that are reviewed in a reusable tenant screening report. The bill also prohibits a landlord from requiring a prospective tenant to disclose any criminal history in an application for a lease, with an exception permitting landlords to require a prospective tenant to disclose whether the individual is required to register as a sex offender under State or federal law. The bill also closes loopholes by prohibiting a landlord from reviewing or requesting a third party to review more than the previous three years of any criminal history of a prospective tenant, and prohibiting a landlord from publicizing any statement discouraging a prospective tenant with a criminal history from applying for a lease. Finally, House Bill 964 stipulates that a landlord that denies the lease application of a prospective tenant must provide the individual with a physical document stating with particularity each reason for the denial.

Montgomery County Department of Housing and Community Affairs supports House Bill 964 because it provides a reasonable balance of landlord and tenant interests by seeking to meet the housing needs of citizens who have criminal convictions while providing protections for current residents and landlords. Maryland benefits economically and sociologically when citizens have opportunities to live in communities of their choice as it allows them to live in proximity to employment, family, and other amenities which should not be denied without sufficient evidence of risk or impact on the property and residents. Montgomery County Department of Housing and Community Affairs respectfully asks the committee to issue a favorable report on House Bill 964.

HB964_ Maryland Fair Chance in Housing Act.docx.pdf

Uploaded by: Maryland Legislative Latino Caucus

Position: FAV



MARYLAND LEGISLATIVE LATINO CAUCUS

Low House Office Building, 6 Bladen Street, Room 200 · Annapolis, Maryland 21401
Phone 410-841-3374 | 301-858-3374 · 800-492-7122 Ext. 3374 · Fax 410-841-3342 | 301-858-3342
latino.caucus@house.state.md.us · www.mdlatinocaucus.org

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JOSELINE A. PEÑA-MELNYK, VICE-CHAIR
GABRIEL ACEVERO, TREASURER
JESSE T. PIPPY, SECRETARY
JASON A. AVILA GARCIA, EXECUTIVE DIRECTOR

TO: Delegate Marc Korman, Chair
Delegate Regina T. Boyce, Vice Chair
Environment and Transportation Committee Members
FROM: Maryland Legislative Latino Caucus
DATE: 2/15/2024
RE: HB964: Maryland Fair Chance in Housing Act

The MLLC supports HB964: Maryland Fair Chance in Housing Act, 2024

The MLLC is a bipartisan group of Senators and Delegates committed to supporting legislation that improves the lives of Latinos throughout our state. The MLLC is a crucial voice in the development of public policy that uplifts the Latino community and benefits the state of Maryland. Thank you for allowing us the opportunity to express our support of HB964.

According to the Prison Policy Initiative, 94,000 Marylanders are either incarcerated, on probation or parole,¹ and more than 86,000 individuals are released annually from Maryland's prisons and jails,² with half returning to Baltimore City, Baltimore County and Prince George's County.³ Homelessness among formerly incarcerated individuals is ten times higher than that of the general population, with 5.9% of formerly incarcerated Latinos and 6% of formerly incarcerated Blacks facing housing insecurity.⁴ Data shows us that homelessness increases the hazard of recidivism by nearly 60%. The Federation of American Scientists report in their journal, *Social Innovation*, shows that unhoused individuals are 514 times more likely to be arrested and charged with crimes as compared to housed populations, and those released from prison have an average recidivism rate of 68% when unhoused.⁵ The data shows, "The cycle of crime and recidivism among unhoused persons can lead to significant challenges in receiving and maintaining permanent housing."⁶

HB964 proposes to "ban the box" on rental applications for those with a criminal history, except for those individuals listed on the sex offender registry. By removing barriers related to criminal history inquiries, promoting transparency in reasons for denial, prohibiting discriminatory advertising, and limiting the timeframe for considering criminal records, this bill will create inclusive and more equitable access to housing. Four key provisions:

¹ [Prison Policy Initiative. "Maryland profile." *Prison Policy Initiative*, <https://www.prisonpolicy.org/profiles/MD.html>.](https://www.prisonpolicy.org/profiles/MD.html)

² [Sawyer, Wendy. "Since you asked: How many people are released from each state's prisons and jails every year?" *Prison Policy Initiative*, 25 August 2022, <https://www.prisonpolicy.org/blog/2022/08/25/releasesbystate>](https://www.prisonpolicy.org/blog/2022/08/25/releasesbystate)

³ [Department of Public Safety and Correctional Facilities. "2022 Recidivism JCR." *Maryland Department of Public Safety and Correctional Services*, 15 November 2022, \[https://dpscsmaryland.gov/publicinfo/publications/pdfs/2022_p157_DPSCS_Recidivism%20Report.pdf\]\(https://dpscsmaryland.gov/publicinfo/publications/pdfs/2022_p157_DPSCS_Recidivism%20Report.pdf\)](https://dpscsmaryland.gov/publicinfo/publications/pdfs/2022_p157_DPSCS_Recidivism%20Report.pdf)

⁴ [Couloute, Lucius. "Nowhere to Go: Homelessness among formerly incarcerated people." *Prison Policy Initiative*, 2018, <https://www.prisonpolicy.org/reports/housing.html#appendixtable2>](https://www.prisonpolicy.org/reports/housing.html#appendixtable2)

⁵ [Rippy, Michelle. "Navigating Homelessness: The Effect of Housing Navigation Centers on Recidivism." *Federation of American Scientists*, 12 June 2023.](https://www.fedsoci.org/2023/06/12/navigating-homelessness-the-effect-of-housing-navigation-centers-on-recidivism/)

⁶ Ibid

- Ban the box on rental applications outside of those who are convicted sex offenders
- Provide a physical disclosure stating why an applicant's application was denied.
- Prohibit housing providers from publishing any content that discourages applicants with a criminal history from applying.
- Reduces the time frame for review of an applicant's criminal history from the past 7 to the past 3 years.

For these reasons, the Maryland Legislative Latino Caucus respectfully requests a favorable report on HB964.

HB 964 favorable.pdf

Uploaded by: Melissa Rothstein

Position: FAV



NATASHA DARTIGUE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
CHIEF OF EXTERNAL AFFAIRS

ELIZABETH HILLIARD
ACTING DIRECTOR OF GOVERNMENT RELATIONS

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.

Submitted by: Maryland Office of the Public Defender, Government Relations Division.
Authored by: Melissa Rothstein, Chief of External Affairs,
melissa.rothstein@maryland.gov, 410-767-9853.

HB 964 -Public Safety – Landlords and Prospective

Uploaded by: NaShona Kess

Position: FAV



NAACP

Maryland
STATE CONFERENCE

February 27, 2024

Environment and Transportation
Maryland General Assembly
Annapolis, Maryland

Re: HB 964 – Landlords and Prospective Tenants - Residential Leases - Criminal History Review
(Maryland Fair Chance in Housing Act)

Members of the Committee,

I write to you today on behalf of the Maryland NAACP to express our strong support for HB 964, a critical piece of legislation aimed at promoting fair housing practices and reducing barriers to housing for individuals with criminal histories.

As Executive Director of the Maryland NAACP, I have seen firsthand the detrimental impact that discriminatory housing practices have on marginalized communities, particularly those disproportionately affected by the criminal justice system. HB 964 represents a crucial step towards rectifying these injustices and ensuring that all Marylanders have access to safe and stable housing.

By reducing the look-back period for criminal history from 7 years to 3 years in reusable tenant screening reports, HB 964 acknowledges the importance of allowing individuals with past convictions the opportunity to reintegrate into society and rebuild their lives. It recognizes that a person's past should not indefinitely dictate their future, and that everyone deserves a second chance.

Furthermore, HB 964 establishes important prohibitions and limitations on the review and consideration of a prospective tenant's criminal history. This is essential in combating the systemic discrimination that many individuals face when seeking housing due to their past involvement with the criminal justice system. No one should be unfairly denied housing based solely on their criminal history, especially when they have served their time and are striving to become productive members of their communities once again.

Additionally, the requirement for landlords to provide a detailed written explanation for any lease application denial is a crucial safeguard against arbitrary or discriminatory practices. This transparency ensures that individuals are aware of the specific reasons for their denial and can take appropriate action if they believe they have been unfairly discriminated against.

In conclusion, HB 964 is a vital piece of legislation that aligns with the Maryland NAACP's commitment to promoting equity, justice, and opportunity for all. We urge you to support this bill and help ensure that every Marylander has the chance to secure safe and stable housing, regardless of their past mistakes. Thank you for your attention to this important matter.

In Service,

NaShona Kess, Esq., MLS

Executive Director, NAACP Maryland State Conference

NaShonakess.mdnaacp@gmail.com

HB_964_FAV_LateTestimony_LBCMD

Uploaded by: Ufuoma O. Agarin

Position: FAV



LEGISLATIVE BLACK CAUCUS OF MARYLAND, INC.

The Maryland House of Delegates, 6 Bladen Street, Room 300, Annapolis, Maryland 21401
410-841-3185 • 301-858-3185 • 800-492-7122 Ext. 3185 • Fax 410-841-3175 • 301-858-3175 • Black.Caucus@house.state.md.us

February 27, 2024

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Chairman Marc Korman
251 Taylor House Office Building
6 Bladen Street
Annapolis, Maryland 21401

Dear Chairman Korman and Members of the Environment and Transportation Committee,

The Legislative Black Caucus of Maryland offers strong favorable support for **House Bill 964 – Landlords and Prospective Tenants – Residential Leases – Criminal History Review (Maryland Fair Chance in Housing Act)**, a bill lowering the number of years of criminal history reviewed in a reusable tenant screening report from 7 years to 3 years. House Bill 964 will also require landlords to provide a physical copy of a lease application denial that states each reason for the denial. **This bill is on the 2024 legislative priority agenda of the Black Caucus.**

As seen across the United States, a person's criminal history can be a major barrier to finding housing. For Black prospective renters with a criminal background in Maryland, racial discrimination in the housing/rental market makes this a more arduous task.

People of color in Maryland, specifically Black people, are disproportionately affected by rental applicant screenings that include a criminal background check. The disproportionate number of arrests of Black people lends itself to the disadvantages that Black renters face when applying for a rental property. Even when these screenings are equally applied to everyone regardless of race or ethnicity, landlords have used discriminatory loopholes, including signaling and preferential treatment, in order to deny housing to Black applicants.

House Bill 964 will ensure that Black renters in Maryland will have an equal opportunity to access rental housing, regardless of their criminal history. This bill will require that landlords offer concrete reasons to deny a person the ability to rent their property. For these reasons, the Legislative Black Caucus of Maryland supports **House Bill 964** and asks that you vote favorably on this bill.

Legislative Black Caucus of Maryland

HB 964 Favorable WA.pdf

Uploaded by: Albert Turner

Position: FWA



Albert Turner
Attorney
Public Justice Center
201 North Charles Street, Suite 1200
Baltimore, Maryland 21201
410-625-9409, ext. 250
turnera@publicjustice.org

HB964 - Real Property - Landlords and Prospective Tenants - Residential Leases - Criminal History Review (Maryland Fair Chance in Housing Act)

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

Position: FAVORABLE WITH AMENDMENTS

The Public Justice Center (PJC) is a nonprofit public interest law firm that stands with tenants to protect and expand their rights to safe, habitable, affordable, and non-discriminatory housing and their rights to fair and equal treatment by Maryland's landlord-tenant laws, courts, and agencies. We advocate changing the law regarding evictions and demanding the development of equitable and sustainable affordable housing. **While we support the intention of HB 964 and appreciate the amendments that have already been adopted by the sponsors, we believe these amendments do not go far enough to ensure that this bill is effective.**

HB 964 proposes to alter the number of years of criminal history, from 7 years to 3 years, that a landlord can review when a tenant applies for housing. HB 964, with its amendments, would also make a violation of the bill an unfair, abusive, or deceptive trade practice within the meaning of consumer protection laws.

A number of states in recent history have passed "Fair Chance in Housing" legislation that mirrors what HB 964 intends to do. Unfortunately, HB 964 is missing key elements and structure to ensure that this bill is enforceable and that tenants have a course of action against a landlord that violates this bill. Of the provisions other states have enacted that HB 964 does not have are: restrictions to particular nonviolent and low level convictions in the last 3 years or conditional offers and individual assessments of tenants where they satisfy all application criteria other than sex offender registry criteria. **Adding these amendments to include robust evaluation of tenants for housing is a necessary step to ensuring HB 964 is effective.**

["Exiting jail is a major risk factor to housing stability. There is a large overlap in populations experiencing homelessness and prior involvement in the criminal or juvenile justice systems. Formerly incarcerated people are 10 times more likely than the general public to become homeless."](#) Understanding that exiting individuals need to have a more robust evaluation of their legitimacy as tenants outside of their criminal record is important. Unfortunately, HB 964 as currently drafted does not address these concerns.

We urge the Committee to make the amendments to HB 964.

Public Justice Center is a member of the Renters United Maryland coalition. If you have any questions, please contact Albert Turner, Esq., turnera@publicjustice.org (410) 625-9409 Ext. 250.

HB964 FAIR UNFAV.pdf

Uploaded by: Brenda Jones

Position: FWA

Unfavorable Response to HB964 (Maryland Fair Chance in Housing Act)

Families Advocating Intelligent Registries (FAIR) seeks rational, constitutional sexual offense laws and policies for persons accused and convicted of sexual offenses. FAIR approves the proposal that a history of conviction may not be required to be disclosed if the conviction occurred more than 3 years from a proposed lease. However, specifically allowing a request for registration status is unjustified and creates a serious hardship for registrants and family members for many years.

Maryland's Comprehensive Registered Sex Offender Website States on its home page, "The information presented on this website should not be used in any manner to injure, harass, or commit a criminal act against any individual named in the registry, or residing or working at the reported address. Any such action could subject you to criminal prosecution." Essentially encouraging a prospective lessor to disclose his registry status could be interpreted that the state is putting the registrant in a situation inconsistent with others who are *not* required to disclose their criminal history and that can be interpreted as a form of harassment, in violation of other state law.

Under the Bill, an offense would not need to be disclosed to a prospective landlord after three years, but the Registration status, which undoubtedly would discourage a landlord from leasing to the individual, could serve as the basis for lease rejection for up to 15 years for a nonviolent Tier 1 registrant. For Tier 2 and 3 registrants, although their underlying offense would not be disclosed after 3 years, the registration status would impact ability to lease for 25 years (Tier 2) or for the rest of their lives (Tier 3).

In the majority of cases, individuals on all tier levels are living offense-free lives. Many have married and have families. Over 30 years of research make clear that re-offense rates for sexual offenses is dramatically lower than re-offense rates for other offenses especially over time. (See page 2.) **There is no rational public safety basis for denying registrants the protections of this proposed bill.**

Singling out persons required to register rather than offering them the protections of this Bill puts a target on the back of this one category of former offenders, increases the difficulty for these returned citizens of living a normal life, encourages homelessness, and should be rejected as contrary to the policies of this State to encourage effective and successful integration.

For these reasons, FAIR asks the committee to vote no on HB964.

Sincerely,



Brenda V. Jones, Executive Director
Families Advocating Intelligent Registries

Declaration of Dr. R. Karl Hanson.
United States District Court for the Northern District of California.
Civil Case No. C 12 5713. Filed 11-7-12

Selection:

I, R. Karl Hanson, declare as follows:

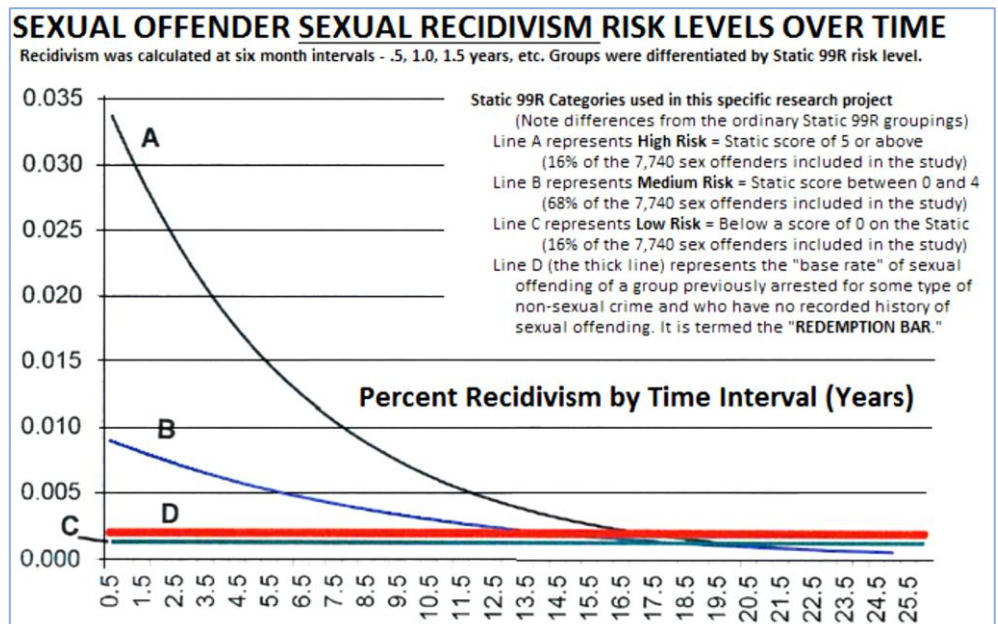
I am a Senior Research Scientist at Public Safety Canada. Throughout my career, I have studied recidivism, with a focus on sex offenders. I discuss in this declaration key findings and conclusions of research scientists, including myself, regarding recidivism rates of the general offender population and sex offenders in particular. The information in this declaration is based upon my personal knowledge and on sources of the type which researchers in my field would rely upon in their work. If called upon to testify, I could and would competently testify thereto.

Summary of Declaration:

My research on recidivism shows the following:

- 1) Recidivism rates are not uniform across all sex offenders. Risk of re-offending varies based on well-known factors and can be reliably predicted by widely used risk assessment tools such as the Static-99 and Static-99R, which are used to classify offenders into various risk levels.
- 2) Once convicted, most sexual offenders are never re-convicted of another sexual offence.
- 3) First-time sexual offenders are significantly less likely to sexually re-offend than are those with previous sexual convictions.
- 4) Contrary to the popular notion that sexual offenders remain at risk of reoffending through their lifespan, the longer offenders remain offence-free in the community, the less likely they are to re-offend sexually. Eventually, they are less likely to re-offend than a non-sexual offender is to commit an "out of the blue" sexual offence.
 - a) Offenders who are classified as low-risk by Static-99R pose no more risk of recidivism than do individuals who have never been arrested for a sex-related offense but have been arrested for some other crime.
 - b) After 10 - 14 years in the community without committing a sex offense, medium-risk offenders pose no more risk of recidivism than Individuals who have never been arrested for a sex-related offense but have been arrested for some other crime.
 - c) After 17 years without a new arrest for a sex-related offense, high-risk offenders pose no more risk of committing a new sex offense than do individuals who have never been arrested for a sex related offense but have been arrested for some other crime.

5) Based on my research, my colleagues and I recommend that rather than considering all sexual offenders as continuous, lifelong threats, society will be better served when legislation and policies consider the cost/benefit break point after which resources spent tracking and supervising low-risk sexual offenders are better re-directed toward the management of high-risk sexual offenders, crime prevention, and victim services.



HB 964 HPRP testimony-favorable with amendments.pdf

Uploaded by: Carolyn Johnson

Position: FWA



HOMELESS PERSONS REPRESENTATION PROJECT

HB 964 – Landlords and Prospective Tenants – Residential Leases – Criminal History Review
(Maryland Fair Chance in Housing Act)

Environment and Transportation Committee, February 26, 2024

Position: FAVORABLE WITH AMENDMENT

Homeless Persons Representation Project (HPRP) urges the Committee to support HB 964 with amendments. A Fair Chance in Housing law will help end homelessness in Maryland by increasing access to housing for individuals with criminal histories.

HPRP is a non-profit that provides free civil legal services to Marylanders who are homeless or at risk of homelessness including providing expungement services and representing individuals denied housing due to criminal records.

HB 964 requires amendments to comply with Fair Housing law. Maryland’s racial disparities in the criminal justice system are one of the highest in the country-30 percent of Maryland residents are Black but 71 percent of incarcerated people are Black. HUD recognized these racial disparities and their harmful and discriminatory consequences when its Office of General Counsel issued guidance in 2016 explaining the application of the Fair Housing Act to the use of criminal histories by housing providers.¹ HUD makes clear that a landlord with a policy or practice of excluding individuals based on prior arrests without a conviction “cannot satisfy its burden of showing that such a policy or practice is necessary to achieve a substantial, legitimate, nondiscriminatory interest.” *Id.* As currently drafted HB 964 would permit landlords to screen for all criminal history in the previous 3 years, including arrests that did not result in conviction. An amendment is needed to prohibit landlords from denying housing based on arrests.

Some types of convictions may be considered in housing decisions, however, “a housing provider that imposes a blanket prohibition on any person with any conviction record-no matter when the conviction occurred, what the underlying conduct entailed, or what the convicted person has done since then” will be unable to meet its legal burden. *Id.* HB 964 needs further amendments to clarify that only convictions that indicate a demonstrable risk to resident safety and/or property will be considered, and to require landlords to conduct an individualized assessment of the prospective tenant before making a decision to deny housing. Individualized assessments must include consideration of mitigating information including: the facts or circumstances surrounding the criminal conduct; the age of the individual at the time of the conduct; evidence of good tenancy before or after the conviction; and evidence of rehabilitation efforts. These provisions are required to comply with Fair Housing law and are standard provisions in Fair

¹ Office of General Counsel Guidance on the Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions, HUD April 4, 2016, https://www.hud.gov/sites/documents/HUD_OGCGUIDAPPFHASTANDCR.PDF.

Chance in Housing laws throughout the country including New Jersey, Washington D.C., Seattle WA, Oakland CA, Cook County IL, New York City, and Montgomery County MD.

Fair Chance in Housing laws increase public safety by providing access to stable housing to individuals with criminal histories many of whom experience homelessness. Far too many Marylanders are caught in the revolving door between homelessness and the criminal system. Formerly incarcerated persons are almost 10 times more likely to be homeless than the general public, with rates of homelessness especially high among people of color and women.² Large numbers of formerly incarcerated people also live in marginal and unstable housing like rooming houses, and motels. *Id.* A study in Baltimore found over 50,000 criminal cases for individuals in the homeless services system, with 48% of homeless individuals having at least one criminal case.³ While we know that the primary solution to ending homelessness is safe, decent, affordable housing, such housing, even when available, remains out of reach for those with criminal system involvement. A recent article from the research arm of the Department of Housing and Urban Development (HUD) notes that, “criminal history is not a good predictor of housing success,” and that, “no empirical evidence exists to justify a ‘blanket exclusion’ of people with criminal histories from housing.”⁴ Policies and practices that deny housing to persons with criminal histories increase and prolong homelessness and do nothing to protect public safety.

Individuals with criminal histories cannot thrive and contribute to their communities without safe, stable housing.

HPRP urges you to move favorable with amendments on HB 964. For more information, please contact Carolyn Johnson, Managing Attorney, at cjohnson@hprplaw.org or (410) 656-4886.

² Nowhere to Go: Homelessness Among Formerly Incarcerated People, Prison Policy Initiative, <https://www.prisonpolicy.org/reports/housing.html>.

³ Journey to Jobs: Understanding and Eliminating Barriers Imposed on Homeless Job Seekers, <https://www.journeyhomebaltimore.org/wp-content/uploads/2018/06/J2J-FINAL-REPORT.pdf>.

⁴ Tenant Screening With Criminal Background Checks: Predictions And Perceptions Are Not Causality, Office of Policy, Development & Research-HUD, <https://www.huduser.gov/portal/pdredge/pdr-edge-frm-asst-sec-051722.html>.

HB 964 Landlords and Prospective Tenants - Residen

Uploaded by: Crystal Hypolite

Position: FWA

Robin Carter
Chairperson, Board of Commissioners

Janet Abrahams
President | Chief Executive Officer



February 27, 2024

TO: Members of the Environment and Transportation Committee
FROM: Janet Abrahams, HABC President & CEO
RE: House Bill 964 - Landlords and Prospective Tenants - Residential Leases - Criminal History Review (Maryland Fair Chance in Housing Act)
POSITION: Support with Amendments

Chair Korman, Vice Chair Boyce, and Members of the Committee, please be advised that the Housing Authority of Baltimore City (HABC) supports with amendments HB 964.

HB 964 - Landlords and Prospective Tenants - Residential Leases - Criminal History Review (Maryland Fair Chance in Housing Act). This bill alters the number of years of criminal history, from 7 years to 3 years, that are reviewed in a tenant screening report; and requires a landlord that denies the lease application of a prospective tenant to provide the individual with a physical document stating with particularity each reason for the denial. This bill also prohibits a landlord from publishing any oral or written statement that would reasonably discourage a prospective tenant with a criminal history from applying for a lease.

The Housing Authority of Baltimore City (HABC) is the country's 5th largest public housing authority and Baltimore City's largest provider of affordable housing opportunities. HABC serves over 44,000 of Baltimore City's low-income individuals through its Public Housing and Housing Choice Voucher programs. HABC's public housing inventory currently consists of just under 6,000 units located at various developments and scattered sites throughout the city. HABC is federally funded and regulated by the U.S. Department of Housing and Urban Development (HUD). HABC is subject to federal laws and regulations that pertain to the operation of its housing programs.

Federal statutes and regulations require Public Housing Authorities (PHAs) to adopt certain governing and operating policies for the Public Housing Program. PHAs communicate those policies, rules, and requirements concerning their operations, programs, and services through the Admissions and Continued Occupancy Policy (ACOP). The ACOP is generally the principal document that describes the PHA's policies with respect to key topics such as eligibility, tenant selection, admissions preferences, waitlist procedures, rent determination, utilities, transfers, occupancy guidelines, grievance procedures, pet ownership, and the community service and self-sufficiency requirement. HABC also has a written

Housing Authority of Baltimore City | 417 East Fayette Street, Baltimore, MD 21202

410.396.3232 www.HABC.org [Twitter](#) [Facebook](#) [YouTube](#) [@BmoreHabc](#)

Administrative Plan that establishes local policies for administration of the Housing Choice Voucher Program in accordance with HUD requirements. Both plans are published on the website and have information about ineligibility due to criminal history.

HABC currently follows the three year lookback period proposed in this bill. However, Section 8-220 (C) states that “a landlord may not publish or cause to be published any oral or written statement that would reasonably discourage a prospective tenant with a criminal history from applying for a lease.” As HABC publishes our ACOP and Administrative Plan, both of which contain information about ineligibility due to criminal history, we respectfully request that clarifying language is added to the bill stating that a landlord does not violate this section by publishing its admissions policies that comply with applicable law.

Respectfully submitted.

Janet Abrahams, HABC President & CEO

DRM HB964 Fair Chance in Housing - FAV W AMENDMENT

Uploaded by: E.V. Yost

Position: FWA



Empowerment. Integration. Equality.

1500 Union Ave., Suite 2000, Baltimore, MD 21211

Phone: 410-727-6352 | Fax: 410-727-6389

www.DisabilityRightsMD.org

HB 964 – Landlords and Prospective Tenants – Residential Leases – Criminal History Review (Maryland Fair Chance in Housing Act)

**Hearing before the House Environment and Transportation Committee,
February 27th at 1:00 pm**

Position: SUPPORT (FAV WITH AMENDMENTS)

Disability Rights Maryland (DRM) is the federally-appointed Protection & Advocacy agency in Maryland mandated to advance the civil rights of people with disabilities. One of DRM's goals is to end the unnecessary segregation and institutionalization of Marylanders with disabilities. To achieve this goal, DRM's Housing Unit works to expand opportunities for Marylanders with disabilities to be part of their communities and to live in affordable and accessible housing. This includes representing persons with disabilities in eviction proceedings to prevent unnecessary homelessness and institutionalization.

DRM supports House Bill 964 because it would increase housing opportunities and decrease the potential for housing discrimination for all renters, but especially renters with disabilities with criminal histories who already face numerous barriers to accessing safe, affordable, accessible housing.¹ The treatment of people with behavioral health disabilities, especially by law enforcement, results in incongruent rates of criminal legal system involvement. People with disabilities are overrepresented at all stages of the criminal legal system— while only 15% of the general U.S. population is estimated to be disabled, people with disabilities make up 40% of all people currently experiencing incarceration in the United States, and 23% of people on probation or parole.² By limiting landlords' ability to require prospective renters to disclose past criminal legal system involvement, HB 964 would promote housing opportunity and housing security for renters with disabilities who have had previous interactions with law enforcement.

In addition to eviction prevention work, DRM attorneys and advocates assist clients with housing searches. The lack of housing options for low-income people is staggering; naturally, those with conviction histories are in no position to compete for such a limited resource. HB 964

¹ EQUAL RIGHTS CENTER, [DISCONNECTED: HOUSING DISCRIMINATION AGAINST THE DEAF AND HARD OF HEARING](https://delldhub.gacec.delaware.gov/pdf/Disconnected.pdf) (2012), available at <https://delldhub.gacec.delaware.gov/pdf/Disconnected.pdf>; UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, OFFICE OF POLICY DEVELOPMENT AND RESEARCH, [RENTAL HOUSING DISCRIMINATION ON THE BASIS OF MENTAL DISABILITIES: RESULTS OF A PILOT TEST](https://www.huduser.gov/portal/sites/default/files/pdf/MentalDisabilities-FinalPaper.pdf), <https://www.huduser.gov/portal/sites/default/files/pdf/MentalDisabilities-FinalPaper.pdf>

² PRISON POLICY INITIATIVE, [CHRONIC PUNISHMENT: THE UNMET HEALTH NEEDS OF PEOPLE IN STATE PRISONS](https://www.prisonpolicy.org/reports/chronicpunishment.html#disability), (June 2022) available at <https://www.prisonpolicy.org/reports/chronicpunishment.html#disability>; PRISON POLICY INITIATIVE, [MORTALITY, HEALTH, AND POVERTY: THE UNMET NEEDS OF PEOPLE ON PROBATION AND PAROLE](https://www.prisonpolicy.org/blog/2023/04/03/nsduh_probation_parole/) (April 2023) available at https://www.prisonpolicy.org/blog/2023/04/03/nsduh_probation_parole/.

would provide necessary protection to vulnerable renters, including tenants with disabilities, who are disproportionately forced into living in substandard conditions due to their lower-incomes and exclusion from the labor market.³ Increasing access to decent, safe and affordable housing for people with conviction histories will go a long way to ensuring that those with behavioral health or mental health disabilities have the opportunity to be fully integrated into all aspects of the community, and, thus, to enjoy a healthier and better quality of life.

Disability Rights Maryland is a member of the Renters United Maryland coalition and asks that the Committee **issue a report of FAVORABLE WITH AMENDMENTS on HB 964**. If you have any questions, please contact: e.v. yost, evy@DisabilityRightsMD.org.

³ There is no jurisdiction in Maryland in which a person with a disability receiving SSI benefits can rent a one bedroom unit. TECHNICAL ASSISTANCE COLLABORATIVE, PRICED OUT: THE HOUSING CRISIS FOR PEOPLE WITH DISABILITIES (2021), <http://www.tacinc.org/knowledge-resources/priced-out-v2/>. Maximum SSI payments increased to \$943/month in 2024.

HB 964 AOBA--FWA.pdf

Uploaded by: Ryan Washington

Position: FWA



Bill No: HB 964—Landlords and Prospective Tenants - Residential Leases - Criminal History Review (Maryland Fair Chance in Housing Act)

Committee: Environment and Transportation

Date: 2/27/2024

Position: Favorable with Amendments

The Apartment and Office Building Association of Metropolitan Washington (AOBA) represents members that own or manage more than 23 million square feet of commercial office space and 133,000 apartment rental units in Montgomery and Prince George's Counties.

House Bill 964 alters the number of years to review an individual's criminal history from 7 years to 3 years for tenant screening. A housing provider may require a prospective resident to disclose whether the individual is required to register as a sex offender under federal or State law. Housing providers may not: 1) Review or request a third party to review more than the previous 3 years of any criminal history of a prospective resident; 2) Publish or cause to be published any oral or written statement that would reasonably discourage a prospective resident with a criminal history from applying for a lease. A housing provider denying a prospective resident's lease application must provide the individual with a physical document stating each reason for denial.

AOBA commends the bill sponsor for considering legislation ensuring the successful reintegration of previously incarcerated individuals. Many of AOBA's members allow returning citizens to be productive members of society by providing them access to housing, one of the most basic needs. However, AOBA's concerns are focused on the implementation of the legislation as proposals restricting the process by which housing providers consider information obtained during a background screening may inhibit members' ability to find a safe and secure home for residents.

AOBA believes the bill reflects a misunderstanding of how rental housing providers use criminal history records to evaluate potential tenants. Many AOBA members only run a prospective tenant through the Multi-state Sex Offender (MSSO) Registry; as such, they would never know if a resident had a record unless they have committed a sex offense. Members who perform more robust criminal background checks do not have a blanket

rejection of an applicant based on previous incarceration. Instead, criminal background checks are individualized assessments conducted by 3rd party companies, using agreed-upon standards based on criminal convictions related to *specific crimes* that pose a particular danger to the community and have occurred within a set period. For instance, AOBA members do not screen for simple possession of a controlled substance or loitering but are vigilant about specific acts of violence. Members have acknowledged racial bias and discrimination in incarceration and have reworked their screening practices to ensure that they allow people a second chance at life after serving their time for crimes. Provided those crimes do not pose a serious threat to the community, which members are charged with protecting. Further, this bill creates confusion by providing protected class status for individuals with a criminal record while continuing the expectation that our members should reject tenancy for individuals who threaten health, safety, or property. Thus, the bill creates potential liability for a rental housing provider any time a previously incarcerated individual's rental application was rejected for any reason, which the Maryland Commission would address on Civil Rights, the courts, and the threat of fines or imprisonment.

HUD's Stance on Screening for Resident's with a Criminal Record

The Department of Housing and Urban Development provides [Guidance for housing providers concerning the Fair Housing Act](#) and how it applies to using criminal history by providers to vet prospective residents. To take it back a little, in June 2015, the Supreme Court officially recognized a disparate impact theory as a method for bringing a lawsuit under the Fair Housing Act (FHA). The Court's decision reflected that a plaintiff may challenge housing practices as having a discriminatory effect without showing intent. Before this ruling, the disparate impact theory was unsuccessful in challenging discriminatory housing practices. After the Supreme Court's ruling, HUD developed Guidance on how fair housing laws can apply to policies that exclude individuals with criminal records and to assist housing providers in best practices in for screening prospective residents without violating the FHA. To be clear, the guidelines outlined by HUD do not prohibit housing providers from conducting criminal screenings on applicants; instead, the Guidance provides an overview of HUD's position on how disparate impact lawsuits could proceed against housing providers who do not have justified criminal screening policies. For example, the Guidance states that housing providers must support their use of criminal background tests with "substantial, legitimate, and non-discriminatory" factors such as the safety of the residents, employees, and property. Therefore, the recommended best criminal screening practices, in light of the Guidance, suggest that housing providers carefully consider what types of offenses pose the greatest threat to their interests, including, but not limited to, convictions for violent offenses against people or property, a pattern of illegal drug use that threatens health, safety, or right to peaceful enjoyment of the premises by other residents, or sex offenses. AOBA members with a robust system for criminal screening reflecting legitimate concerns posed by the particular types of offense, HUD's Guidance does not greatly impact members' operations. On that same note, policies that automatically exclude applicants with prior convictions, HUD's Guidance should be considered, and screening practices should be revamped to ensure a nexus to the criminal offense.

Revise Legislation to Tailor to HUD's Guidance

AOBA recommends that this bill mirror HUD's Guidance. AOBA urges the Committee to consider amending the bill to mirror the federal Guidance and its suggestions, including implementing written criminal conviction screening policies. This amendment would ensure that housing providers, both private and public, have consistency in their application processes. Without this change, there would be discrepancies in how subsidized residents are processed during the application phase versus how residents applying for market-rate units are processed.

For instance, Public Housing Authorities (PHA) are mandated by law, even after HUD's Guidance, to deny admission to applicants for certain offenses, including if there is a reasonable cause to believe that the applicants' pattern of illegal drug use threatens the health, safety, or right to peaceful enjoyment of the premises by other residents. Even if a housing authority applicant has a criminal record unaffected by the mandatory prohibitions, there are other considerations, similar to what the Guidance and legislation proffer, which must be considered before accepting the applicant. The statutory and regulatory exclusions demonstrate that the federal government acknowledges the concerns faced by housing providers in determining whether an applicant is suitable to live in its facilities amongst other residents. However, unlike what this legislation seeks to mandate, these application considerations are not provided within a conditional offer context. Rather, it is provided to the housing provider at the time of the application and is not mandated as another step to prolong the application process for the prospective resident and housing provider. This change would not only mirror the Guidance and provide consistency amongst the entire rental housing community, but it would further the intent of the legislation for continued integration for those with a criminal history by removing barriers to securing adequate housing.

AOBA makes the following recommendations to this legislation:

- Page 2, Line 23 remove, “3” and add “5 for non-violent offenses and 15 years for certain violent offense.”
 - AOBA doesn't support a blanket three-year look-back period for all crimes because some crimes have patterns that can be traced beyond the three years. We recommend language to increase the number of years to look back to identify patterns of crimes, especially domestic violence or financial crimes.
 - Page 2, Line 19, Add “Exemptions from nondisclosure: Manufacture, possession with intent to distribute, distribution of all drugs, excluding marijuana. Assault degree for First, Second, Third, Degree. Burglary in the first degree. Assault with intent to commit mayhem or with a dangerous weapon. Fraud, Credit Card Fraud, Insurance Fraud in the First and Second Degree, Forgery, Rape, Arson, Malicious burning, destruction, or injury of another's property, and Burglary.”

1. AOBA recommends adding this language as housing providers must have the ability to screen for applicants with a history of manufacturing and distributing illicit drugs that do not include marijuana. AOBA members have reported some residents utilizing the property to traffic such illicit drugs and creating a dangerous environment for the community.
- Page 2, Line 15, Adds "A housing provider shall have immunity from any claims related to actual or constructive knowledge of an applicant's pending criminal accusation or criminal conviction obtained as a result of an inquiry under this act, provided that the applicant became a tenant or occupant of the housing provider's housing accommodation."
 - This amendment provides a safety net for housing providers operating according to the law and protects them from lawsuits.
 - A preemption clause that precludes local jurisdictions from enacting ordinances and requires local governments to align policies with the State.
 - Different localities, especially in Montgomery and Prince George's Counties, have their own laws regulating returning citizens. AOBA supports language for the State to preempt local laws that may conflict with the state law.
 - Page 2, Line 29, OR electronic letter..."
 - AOBA seeks to amend the bill, allowing housing providers to send denial letters electronically, as this is standard practice.

For these reasons, AOBA requests a favorable with amendments report on HB 964. For further information contact Ryan Washington, AOBA Manager of Government Affairs, at 202-770-7713 or rwashington@aoba-metro.org .

HB0964 - Maryland Legal Aid - FWA.pdf

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Position: FWA



**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”¹ and that “formerly incarcerated people are most likely to be homeless in the period shortly after their release.”² 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.”³ 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.”⁴

¹ 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>.

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

³ Supra n.1.

⁴ 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,⁵ 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

⁵ See 24 C.F.R. §982.553.

to be homeless as those who had been out of prison for four years or longer.”⁶ 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:

Zafar S. Shah

Assistant Advocacy Director – Tenants’ Right to Counsel Project
zshah@mdlalab.org | (443) 202-4478

Gregory Countess

Director of Advocacy for Housing and Community Economic Development
gcountess@mdlalab.org | (410) 951-7687

⁶ Supra n.2.

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Position: UNF



House Bill 964 – Landlords and Prospective Tenants – Residential Leases – Criminal History Review (Maryland Fair Chance in Housing Act)

Position: Unfavorable

The Maryland REALTORS® oppose HB 964 which would limit the ability of housing providers and property managers to review the criminal history of prospective tenants.

Under the bill, housing providers would be prohibited from reviewing a prospective tenant's criminal history dating back more than three years. The legislation also prevents housing providers from requiring a prospective tenant to detail their criminal history in the rental application.

With guidance from the United States Department of Housing and Urban Development (HUD) it is clear that a person's criminal history cannot be used to automatically disqualify a prospective tenant but can be used as part of an overall assessment of the tenant. The REALTORS® believe the current time limit of 7 years is a good balance between shielding information that is less likely to impact the property or other tenants, and information that should be considered more closely.

HUD guidance makes clear that all crimes are not equal when considering a tenant's history and advises housing providers and property managers to:

- Have clear, specific reasoning for considering criminal history
- Exclude only individuals that present a demonstrable risk
- Consider the nature and severity of an individual's conviction
- Apply the policy uniformly

Having more information on a person's conviction history allows housing providers to better assess potential risks and ensure fairness to other prospective tenants. Even the current policy can have unintended impacts on prospective tenants. As an example, a prospective tenant with multiple arson violations preceding the time cutoff may seem to pose less risk than a tenant with a criminal possession violation that occurred within the time limit. However, excluding the prospective tenant with a possession violation would be an unfair result and pose higher risks. While some property managers think the 7-year time limit is also short, that limit still provides more perspective on a tenant's actual history and risk.

For these reasons, the REALTORS® recommend an unfavorable report.

For more information contact lisa.may@mdrealtor.org or christa.mcgee@mdrealtor.org