

SB 530: The HOME Act -- SUPPORT

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Homeless Persons Representation Project, Inc.
Senate Judicial Proceedings Committee, February 4, 2020

Homeless Persons Representation Project, Inc. (HPRP) is a non-profit legal services provider that provides free legal representation to people who are homeless or at risk of homelessness.

I. The HOME Act is critical in the effort to end homelessness in Maryland, which is the eighth least affordable state in the nation for rental housing¹

Homelessness is at a critically high rate Maryland. In 2019, the State reported 30,557 persons experiencing homelessness, a 10% increase from the 27,764 persons identified in 2015.² Lack of access to affordable housing is among the leading causes of homelessness in Maryland and nationwide. According to a 2019 report from the National Low Income Housing Coalition, a Maryland family must make \$27.52 per hour to afford a market rate two bedroom apartment - meanwhile the state minimum wage pays workers \$10.10 per hour.³ This inequity often forces families to depend on housing subsidies to pay their rent.

Housing vouchers are the federal government's primary tool to end homelessness. The Housing Choice Voucher Program, administered by local and State housing authorities, provides rental assistance to more than two million low-income households, helping them to live in decent housing. While many people are familiar with traditional voucher programs, vouchers are used to provide housing to **veterans with disabilities** who need supportive housing. The program, known as HUD-VASH, has provided vouchers and supportive services to 97,500 veterans since 2008 and is the primary reason that the United States has reduced veteran homelessness to just over 37,000 veterans, a 43.3% decline since 2011.^{4/5} Nevertheless, HUD reports that the unwillingness of landlords to accept vouchers is a "primary challenge" in the administration of the HUD-VASH program.⁶

II. Source of Income Discrimination (SOI) Contributes to Racial & Economic Segregation, Harms Voucher Administration

Source of income (SOI) discrimination causes many voucher recipients to live in segregated communities. A recent study documented that racial segregation of voucher holders is 41% higher than for general renters and voucher holders were more likely to live in impoverished census tracts than non-voucher holders.⁷ In addition, many voucher holders struggle to use their vouchers. In Prince George's County, which enacted SOI protection in December 2019, only 53% of voucher holders can use their vouchers. In small counties on the Eastern Shore where the state Department of Housing and Urban Development administers vouchers, only 47% of voucher holders can use their vouchers. When voucher holders are unable to use their vouchers, the vouchers return to

¹ National Low Income Housing Coalition, *Out of Reach: 2019* https://reports.nlihc.org/sites/default/files/oor/OOR_2019.pdf.

² *Compare MD Interagency Council on Homelessness, 2019 Annual Report on Homelessness*, available at <https://bit.ly/2OnyIhd>, with MD Interagency Council on Homelessness *2016 Annual Report on Homelessness*, available at <https://bit.ly/3b5ula7>.

³ *Supra* note 1.

⁴ US Department of Housing and Urban Development, HUD-VASH Vouchers, available at http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/hcv/vash.

⁵ National Alliance to End Homelessness, Veterans – Overview, available at http://www.endhomelessness.org/pages/veterans_overview.

⁶ US Department of Housing and Urban Development, HUD-VASH Best Practices – Version 1.0, Apr. 2012, available at <http://portal.hud.gov/hudportal/documents/huddoc?id=VASH-BestPractices.pdf>.

⁷ Molly W. Metzger, *The Reconcentration of Poverty: Patterns of Housing Voucher Use 2000-2008*, Housing Policy Debate 24:3 at 552 (2014), available at <https://bit.ly/2GLgbNI>.



the Housing Authority and the former voucher holder has lost his or her only chance at stable housing and faces homelessness. The waiting list for a voucher can be over 5 years long in some counties. Baltimore City reopened its waiting list in the fall of 2014 and over 74,000 households applied for a lottery in which a lucky 25,000 households would be placed on the new waiting list.⁸ Prior to opening the list in 2014, the list had been closed for over 10 years.

The ability of voucher holders to secure housing, including in less segregated neighborhoods, is significantly improved in jurisdictions with SOI non-discrimination laws.^{9/10} Montgomery County has had such a law since 1991, and has a success rate of 99%.¹¹ Howard County has had the prohibition since 1992 and has a 99% success rate; Frederick County has prevented the discriminatory practice since 2002 and has an 85% voucher-use success rate.¹² **In 2019, four additional Maryland jurisdictions prohibited discrimination based on SOI – Anne Arundel County, Baltimore City and County, and Prince George’s County.** These new laws reflect a national trend to halt discrimination based on SOI,¹³ as described in the attached 2019 American Bar Association Human Rights Magazine article, “Your Money’s No Good Here.”

III. Halting SOI Discrimination Helps to Deconcentrate Poverty & Improve Health Outcomes

Housing has a direct impact on health. Lack of housing choice contributes to concentrations of poverty¹⁴ and living in poverty and poverty-dense neighborhoods has a negative impact on families’ health. High-poverty communities lack quality grocery stores and access to good medical care and transportation. Vouchers give low-income families the opportunity to live in neighborhoods that improve their health, if they do not face discrimination. In a New England Journal of Medicine study, female heads of household using vouchers who moved to low-poverty areas were found to have decreased risk for diabetes and obesity.¹⁵ The study included Baltimore City and found that women able to relocate reduced their risk for extreme obesity by 19% and reduced their risk of diabetes by 21%.¹⁶ Approximately 50% of vouchers holders are female.¹⁷

“Prohibiting this form of discrimination provides an essential protection for many Americans, including disabled veterans, seasonal workers, and persons that are using housing choice vouchers to maintain housing for themselves and their children.”¹⁸

We strongly urge the Committee to issue a FAVORABLE report

⁸ Yvonne Wenger, Nearly 74,000 sign up for Baltimore’s Section 8 wait list, B.Sun, Oct. 31, 2014, available at <https://bit.ly/3b1eF81>.

⁹ Office of Policy Development and Research, U.S. HUD, 1 Study on Section 8 Voucher Success Rates 3-17 (Nov. 2001).

¹⁰ *Supra* Note 7 at 556.

¹¹ Additionally, the Maryland Court of Appeals upheld Montgomery County’s law in *Montgomery County v. Glenmont Hills Associates* when the court found the local law did not contradict any federal law or federal policy. (*Montgomery County v. Glenmont Hills Assoc.*, 402 Md. 250, 274 (2007))

¹² Sixteen states, the most recent of which is Washington State (enacted in 2018), and approximately ninety local jurisdictions, including New York City and Philadelphia, prohibit SOI discrimination. See <https://bit.ly/2OkAoxZ>.

¹³ SOI laws have increased exponentially in the 2000s. See A. Bell, et al., Prohibiting Discrimination Results, CBPP, Dec. 20, 2018.

¹⁴ “Female-headed households with children often experience difficulty in obtaining housing, primarily as a result of lower incomes and the unwillingness of landlords to rent their units to families with children. In Baltimore County in 2000, female-headed households with children accounted for 56% of all families living in poverty” Mullin Lonergan & Associates, Inc., Analysis of Impediments to Fair Housing Choice (Interim Draft #2) Baltimore County, Sept. 2010 at 17.

¹⁵ Jens Ludwig, Ph.D, et al., “Neighborhoods, Obesity, and Diabetes – A Randomized Social Experiment”, *The New England Journal of Medicine* (Oct. 20, 2011).

¹⁶ *Supra* note 13. The study also ranked Maryland 36th in the US for child well-being, citing the State’s high rate of asthma and mental health issues among children.

¹⁷ HUD Resident Characteristics Report, Tenant Based Voucher – Maryland (2018), available at <https://bit.ly/2ucvFHH>.

¹⁸ John Trasviña, HUD Assistant Secretary for Fair Housing and Equal Opportunity, Press Release, June 12, 2010.



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ECONOMIC JUSTICE

YOUR MONEY'S NO GOOD HERE: COMBATting SOURCE OF INCOME DISCRIMINATION IN HOUSING

By Antonia K. Fasanelli and Philip Tegeler



an apartment. Williams, who has decent credit and no criminal history, was repeatedly turned away and told “we do not accept Section 8.” She estimates that she visited over 20 landlords before quickly renting an apartment in a less desirable neighborhood because she was about to lose her time-limited voucher and, therefore, her only chance at housing. In her own words, “I was good enough to serve my country, but not good enough to live in your neighborhood.” (J. Williams, “Discrimination Based on Source of Income in Baltimore County,” B. Sun (Oct. 8, 2019).)

The kind of housing discrimination Williams experienced is called “source of income discrimination” and refers to the practice of refusing to rent to a housing applicant because of that person’s lawful form of income. Often the denial of housing will serve as a pretext for a prohibited form of discrimination and disproportionately affects renters of color, women, and persons with disabilities. As a result, source of income (SOI) discrimination contributes to the

A few years ago, Jill Williams, an honorably discharged veteran of the U.S. Coast Guard, received a special housing subsidy for U.S. veterans to help her pay for housing. Williams was homeless at the time and living in the Baltimore region of Maryland. Because of her honorable service to the United States, she was entitled to a VASH voucher—a kind of Section 8 or Housing Choice Voucher—made available to homeless veterans with disabilities.

Williams took the voucher to landlord after landlord in Baltimore County—a jurisdiction that surrounds, but does not include, the city of Baltimore—seeking to rent

perpetuation of racially segregated communities and neighborhoods with concentrated poverty.

This article discusses the history of SOI laws; recent momentum within federal, state, and local legislatures to prohibit the practice; and advocacy steps to undertake to pursue SOI bills in your local communities.

History

State and local laws prohibiting SOI discrimination began to appear in the 1970s, steadily spreading across the country, and increasing exponentially beginning in the mid-2000s. (See A. Bell et al., “Prohibiting Discrimination

Against Renters Using Housing Vouchers Improves Results,” Ctr. on Budget & Policy Priorities (Dec. 20, 2018).) In 2017, the American Bar Association adopted a resolution that “urges federal, state, local, tribal, and territorial governments to enact legislation prohibiting discrimination in housing on the basis of lawful source of income.” (American Bar Association, Resolution 119A (Aug. 2017).)

In 2018, Senators Tim Kaine (D-Va.) and Orrin Hatch (R-Utah) introduced federal legislation to add SOI protection to the federal Fair Housing Act. (Fair Housing Improvement Act of 2018, S. 3612, 115th Congress (2018).) Senator Elizabeth Warren (D-Mass.) also included SOI protection in her broader American Housing and Economic Mobility Act, S. 3503 (2018). Today, SOI laws cover 16 states and over 90 local municipalities. The vast majority of these laws protect families with Housing Choice Vouchers (HCVs), among other types of lawful income, and we estimate (based on CBPP data) that approximately half of U.S. HCV families live in areas protected by an SOI law.

Past research suggests families with HCVs have greater success using their vouchers, and thereby moving out of homelessness, and housing authorities have higher rates of HCV utilization (using all of the vouchers allocated) in jurisdictions with SOI laws. The latest research from HUD also shows dramatically lower rates of discrimination against HCV families in two areas with strong SOI protections—New Jersey and Washington, D.C. (HUD, “A Pilot Study of Landlord Acceptance of Housing Choice Vouchers,” (September 2018).)

One of the most important goals of SOI laws has been to open up higher opportunity and lower poverty neighborhoods to families with HCVs. We know the strong health, educational, and economic benefits for families and children who move from high poverty to low poverty neighborhoods. Today, housing mobility for families with HCVs is widely recognized as an important complement to neighborhood revitalization efforts. Last year, Congress included funding for a “Housing Mobility Demonstration” in the 2019 HUD budget, funding programs to recruit landlords and assist voucher families in finding units in high opportunity areas in up to 12 jurisdictions, similar to programs in Baltimore, Chicago, and Dallas that have collectively helped over 10,000 families move to areas of opportunity. (E. Julian, “Making the Case for Housing Mobility: the CMTO Study in Seattle” (Poverty & Race, May-August 2019).)

SOI laws are one of the key foundations for a successful HCV program, together with strong housing mobility programs and higher voucher rents. (Last year, HUD launched the “Small Area Fair Market Rent” rule, which directs housing authorities in 24 metro areas to raise allowable voucher rents close to the average rent in each zip code, as opposed to the average rent in the region.) Economist Raj Chetty and his team recently completed an experimental study of housing mobility in the Seattle region and demonstrated that, with assistance, a majority

of voucher families were able to choose to move to high opportunity communities. (R. Chetty, et al., *Creating Moves to Opportunity: Experimental Evidence on Barriers to Neighborhood Choice* (Aug. 2019).) Importantly, the study acknowledged that the availability of higher voucher rents and the state’s SOI law were key to the success of the program.

Advocacy Steps

In developing a successful strategy to pass SOI legislation, consider the following:

1. Build a broad coalition led by persons with lived experience.
2. Ensure bill language is broad and specific. The ABA 2017 Policy & Report contains the following definition:
 - 1) a lawful profession, occupation, or job;
 - 2) any government or private assistance, grant, loan or rental assistance program, including low-income housing assistance certificates and vouchers issued under the United States Housing Act of 1937;
 - 3) a gift, an inheritance, a pension, an annuity, alimony, child support, or other consideration or benefit; or
 - 4) the sale or pledge of property or an interest in property.
3. Include strong enforcement provisions.
4. Understand the perception of the local housing agencies that administer vouchers and attempt to address any challenges.
5. Reinforce voucher program policies.
 - Landlords can use their regular (lawful) screening criteria and charge security deposits and regular rents.
 - Rent payments are reliable and the HCV payment is “recession proof.”

(See Alison Bell, Center on Budget and Policy Priorities, American Bar Association Webinar, “Your Money’s No Good Here” (Dec. 2018) available at <https://www.americanbar.org/events-cle/ecd/ondemand/368773728>.)

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PRRAC maintains an up-to-date listing of all source of income discrimination laws in the United States. See www.prrac.org/pdf/AppendixB.pdf.