

HB 1163 MDCC Human Relations Protections Against D

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Position: UNF

LEGISLATIVE POSITION:

Unfavorable

House Bill 1163 – Human Relations - Protections Against Discrimination - Criminal Records

House Judiciary Committee

Thursday, March 9, 2023

Dear Chairman Clippinger and Members of the Committee:

Founded in 1968, the Maryland Chamber of Commerce is the leading voice for business in Maryland. We are a statewide coalition of more than 6,400 members and federated partners working to develop and promote strong public policy that ensures sustained economic health and growth for Maryland businesses, employees, and families.

House Bill 1163 prohibits discrimination based on an individual's criminal record in areas including public accommodations, commercial leasing, housing, and employment.

This legislation would prohibit employers from utilizing important information that could affect hiring decisions and will leave employers liable for not doing due diligence in their research in the case of criminal or fraudulent acts committed by potential employees. While HB 1163 exempts certain individuals with a criminal record from these protections, the bill makes no exception for many crimes, including assault, theft, fraud, embezzlement, identity theft and breach of trust. It would prevent pharmacies from making a determination about distribution offenses, trucking companies from weighing concerns about past driving offenses, and businesses that collect money and/or have access to personal and confidential information belonging to customers from learning about theft offenses.

The Chamber has been supportive of thoughtful efforts by the Maryland General Assembly to enact second chance legislation that protects employers, employees, consumers and provides opportunities for the formerly incarcerated, but we believe that this legislation does not adequately allow for Maryland's employers to responsibly ensure the safety of their workforce and customers.

For these reasons, the Maryland Chamber of Commerce respectfully requests an **Unfavorable Report** on **HB 1134**.

MMHA_UNFAV_HB1163.pdf

Uploaded by: Lauren Graziano

Position: UNF



Bill Title: House Bill 1163- Human Relations - Protections Against Discrimination - Criminal Records

Committee: Judiciary

Date: March 9, 2023

Position: Unfavorable

This testimony is offered on behalf of the Maryland Multi-Housing Association (MMHA). MMHA is a professional trade association established in 1996, whose membership consists of owners and managers of more than 207,246 rental housing homes in more than 937 apartment communities. Our members house over 667,000 residents of the State of Maryland throughout the entire State of Maryland. MMHA membership also includes more than 216 associate members that supply goods and services to the multi-housing industry. More information is available at <https://www.mmhaonline.org/>

House Bill 1163 (HB 1163) prohibits discrimination based on the presence of a criminal record for the purposes of securing public accommodation for temporary lodging, food, retail service, or employment. Existing law remains - a dwelling need not be made available to an individual whose tenancy would constitute a direct threat to the health or safety of others, would result in substantial physical damage to the property of others, or was for an individual who had committed specified offenses for manufacturing or distributing drugs.

MMHA opposes this bill for the following reasons:

1. Housing providers that use criminal records. Many providers offer short term month to month leasing options. Providers that conduct criminal background checks do not have an automatic rejection of an applicant based on a criminal record. Instead, criminal background checks are individualized assessments. As suggested by the Obama Administration, these assessments are performed by third party companies, using agreed upon standards, based on criminal convictions related to *specific crimes*, that pose a specific danger to the community, and that have occurred within a set period. For instance, MMHA members do not screen for simple possession of a controlled substance or loitering but are vigilant about sex crimes and acts of violence. The industry has acknowledged racial and ethnic disparities, and it has reworked its screening practices to ensure that people are allowed a second chance; provided their criminal history does not pose a serious threat to the apartment community.
2. Potential Liability. House Bill 1163 would create confusion by providing protected class status for individuals with criminal records, while continuing the expectation

that residential housing providers should reject applicants who pose a threat to health, safety, or property.

3. Expungement and Shielding Laws. The General Assembly previously addressed this issue with the passing of the Second Chance Act in 2015, by expanding expungement and shielding laws to ensure that minor convictions would not be a bar to employment or housing. In contrast, this statewide bill would increase liability for rental property owners and risk for residents.

For these reasons, we respectfully request an unfavorable report on House Bill 1163.

For more information, please contact Lauren C. Graziano, Senior Government Affairs Manager, 518.522.3529

HB 1163 - Criminal Record - REALTORS - UNF.pdf

Uploaded by: Lisa May

Position: UNF



House Bill 1163 – Human Relations - Protections Against Discrimination - Criminal Records

Position: Oppose

Although the Maryland REALTORS® opposes HB 1163 which prohibits discrimination based upon a past criminal record, we do agree that status should not be used as a blanket restriction to deny people housing.

The United States Department of Housing and Urban Development (HUD) has issued strict guidance to housing providers to take a more individualized review of an applicant's criminal history. Specifically, the guidance instructs housing providers to assess the "nature and severity" of a conviction and the "amount of time that has passed." The goal of the policy is to ensure that when a housing provider considers a person's criminal history that review will be focused on the legitimate protection and safety concerns of current tenants.

Maryland REALTOR® property managers indicate HUD's guidance carefully balances the right of a person to acquire housing despite a criminal record along with the rights of the neighbors or other tenants who may be concerned about a tenant's criminal past. Under this test, most non-violent crimes are probably not issues that rise to the level that justify denial of housing.

Further, Maryland REALTORS® has concerns about extending this blanket criminal records exemption into employment and licensing within the real estate industry. Real estate professionals have personal access to their clients, homes and an individual's financial information in the ordinary course of business. We believe that certain criminal histories are incompatible with those duties and appropriate screening for them should still occur.

HB 1163 would remove a housing provider's or an employer's ability to use these facts to make decisions in the best interests of Maryland homeowners. For these reasons, we recommend an unfavorable report.

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

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Uploaded by: Matthew Pipkin

Position: UNF

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Matthew J. Fader
Chief Justice

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: House Judiciary Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 1163
Human Relations – Protections Against Discrimination –
Criminal Records
DATE: March 1, 2023
(3/9)
POSITION: Oppose

The Maryland Judiciary opposes House Bill 1163. HB 1163 revises the State Government Article to add criminal record as a new protected characteristic.

Operationally, the Judiciary as an organization conducts background checks on prospective employees and includes criminal record checks in this review. The bill would appear to limit the use of criminal records checks unless the Judiciary can show that a criminal record check is a bona fide occupational qualification for the specific position. This is problematic as Judiciary employees consist of bailiffs and special police officers who protect those inside the courthouse and hundreds of employees with access to confidential and sensitive information. The Judiciary currently has broad authority to set its own personnel policies and should maintain that authority.

Md. Code Ann., State Pers. & Pens. § 2-201 provides:

Except as otherwise provided by law, an employee in the Judicial, Legislative, or Executive Branch of State government is governed by the laws and personnel policies and procedures applicable in that branch.

In addition, criminal records are used by the Judiciary in a variety of settings, such as in preliminary hearings before Commissioners, bail reviews, and sentencing. It is unclear if the anti-discrimination provisions incorporated against State and local governments would restrict use of criminal records in making such decisions. To the extent they would, it would significantly affect Judiciary operations.

cc. Hon. Tiffany Alston
Judicial Council
Legislative Committee
Kelley O'Connor

AOBA -- HB 1163-- UNF.pdf

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Position: UNF



Bill No: HB 1163— Human Relations – Protections Against Discrimination – Criminal Records

Committee: Judiciary

Date: 3/9/2023

Position: Unfavorable

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

House Bill 1163 would make it a discriminatory housing practice to refuse to sell, rent or lend to an individual in a residential real estate transaction, public accommodations, commercial leasing, and employment based on their criminal records. The definition of a criminal record does not include a crime committed against a minor or an individual's registration status on the Maryland Sex Offender registry.

The bill does not alter existing law in that a dwelling need not be made available to an individual whose tenancy (1) Would constitute a direct threat to the health or safety of other individuals; (2) Would result in substantial physical damage to the property of others; or (3) Was for an individual who had committed specified offenses for manufacturing or distributing drugs.

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 that 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. AOBA 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.

This bill would create 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 would be addressed by the Maryland Commission on Civil Rights, the courts, and the threat of fines or imprisonment.

The General Assembly touched on this issue by passing the [Second Chance Act in 2015](#) by expanding expungement and shielding laws to ensure that minor convictions would not be a bar to employment or housing. In contrast, this statewide bill would increase liability for rental property owners and risk for tenants. If the Committee decides to study this issue further, we would be pleased to cooperate.

For these reasons, AOBA urges an unfavorable report on HB 1163. For further information, contact Ryan Washington, AOBA Manager of Government Affairs, at 202-770-7713 or rwashington@aoba-metro.org.