



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.