



Testimony for the House Judiciary Committee

HB 1163 – Human Relations – Protections Against Discrimination – Criminal Records

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The ACLU of Maryland urges a favorable report on HB 1163, which seeks to add formally incarcerated persons to the State's list of protected classes and prohibit discrimination based on an individual's criminal record in public accommodations, commercial leasing, housing, and employment.

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Over the last thirty years, racist enforcement of the war on drugs has had lasting impacts on Black and brown people in Maryland and across the country. There is no surprise the burden of a criminal record is often shouldered by Black and brown people who are disproportionately stopped by police and entangled in the criminal legal system due to this racist enforcement of harmful laws. Unfortunately, the collateral consequences of a criminal record have a parallel impact on Black and brown families including those right here in Maryland. In fact, Baltimore was ranked last out of 100 of the country's largest cities in economic mobility for children from families with low incomes, especially Black children.¹

Discrimination for Criminal Record in Public Accommodations

Pursuant to §20-304 of the Annotated Code of Maryland, it is unlawful for an owner or operator of a place of public accommodation to refuse, withhold from, or deny to anyone the accommodations, advantages, facilities, and privileges of a place of public accommodation because of race, sex, age, color, creed, national origin, marital status, sexual orientation, gender identity, or disability. HB 1163 would add criminal record to this list of protected classes. It would also specifically provide

¹ Chetty, R., N. Hendren “The Impacts of Neighborhoods on Intergenerational Mobility” Harvard University Working Paper, April 2015, http://www.equality-of-opportunity.org/images/nbhds_exec_summary.pdf.

a carve out to exclude crimes committed against a child and anyone registered in the sex registry.

Discrimination for Criminal Record in Housing

Access to safe and affordable housing is critical to a person's successful reentry into society. To provide fair housing to all, Maryland must prohibit discriminatory practices in residential housing to protect and ensure peace, health, safety, and general welfare of all residents, even those with a criminal record.

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Discrimination for Criminal Record in Employment

Despite serving their debt to society, many formerly incarcerated individuals are denied the opportunity to work solely because of their prior conviction. A few years ago, the Maryland General Assembly passed the ban the box law to help remove roadblocks to employment for formerly incarcerated individuals. In doing so, the Maryland General Assembly recognized that a criminal conviction by itself should not automatically disqualify someone from obtaining employment. However, this ban the box law is not enough. Though the law prohibits background checks before a conditional offer is sent, employers can still perform background checks after giving offers of employment. Consequently, formerly incarcerated people have their offers rescinded and other negative employment actions taken against them after these checks are completed. HB 1163 will help fill this gap.

HB 1163 keeps in place other safeguards for employers, as employers will still be allowed to make an inquiry or taking other action the employer is required to take or is expressly authorized to take regarding a criminal record.

Exclusion from the job market, stable housing, and countless other crucial services perpetuate the cycle of racialized imprisonment. Without gainful employment and stable housing, individuals are forced into livelihoods of criminality. For these reasons, the ACLU of Maryland urges a favorable report of HB 1163.