



## Senate Bill 937

### Landlord and Tenant – Residential Leases – Prospective Tenant Criminal History Records Check (Maryland Fair Chance Housing Act)

Hearing in the House Economic Matters Committee

On April 2, 2026

#### Position: FAVORABLE WITH AMENDMENT

*Maryland Legal Aid submits its written and oral testimony on SB 937 at the request of bill sponsor Senator Shaneka Henson.*

Maryland Legal Aid (MLA) is a non-profit law firm that provides free legal services to the State’s low-income and vulnerable residents. Our offices serve residents in each of Maryland’s 24 jurisdictions and handle a range of civil legal matters, the most prominent of which is housing. Because we know that our clients face a tight rental market in which housing opportunities are continually out of reach, Maryland Legal Aid urges a **favorable with amendments** report on SB 937, the Fair Chance in Housing Act.

Maryland Legal Aid requests the Committee’s adoption of amendments to SB 937 to (1) strengthen the bill’s enforcement via civil penalty and (2) clarify language regarding federally assisted housing.

#### 1. Enforcement

In its current form, SB 937 includes language (page 11, lines 14-15) that limits a civil penalty for violations of the Fair Chance law to \$500 per violation. This amount is not sufficient to deter violations. It would overly restrict agency enforcement, principally by the Office of the Attorney General (OAG), by essentially removing a key tool for deterrence. Maryland Legal Aid asks the Committee to strike the \$500 cap on civil penalties and instead to adopt a two-year “safe harbor” provision on civil penalty enforcement. In other words, landlords would have two years after the effective date of the legislation to learn compliance with Fair Chance without risking civil penalties. After those two years, the OAG’s civil penalty enforcement would be subject to the already existing limits in Commercial Law Article § 13-410.

#### 2. Federally Assisted Housing

SB 937 was also amended in the Senate (page 5, lines 25-28) to change language intended to comply with federal housing law, which completely bars housing assistance to persons with a specific type of conviction for “*manufacturing or otherwise producing* methamphetamine on the premises of public housing or Section 8 subsidized housing.”<sup>1</sup> SB 937 references this conviction as one of six types that a

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<sup>1</sup> 42 U.S.C.A. § 1437n(f)(1); 24 C.F.R. §§ 882.518(a)(1)(ii) (Section 8 moderate rehabilitation); 960.204(a)(3) (Public Housing); 982.553(a)(1)(ii)(c) (Section 8 Voucher).

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landlord may screen at any time without any limitation on lookback period. However, under the amended SB 937, the phrase “manufacturing or producing” has changed to the broader phrase “manufacturing, distributing, dispensing, or producing” methamphetamine. Thus, a provision meant to conform to a specific federal law now includes additional, unnecessary language that will raise unnecessary barriers for individuals with distribution convictions. Maryland Legal Aid requests that the Committee strike “distributing, dispensing” in line on page 5 at line 27 so that individuals whose conviction involved distribution of meth on a federally assisted property will benefit from five-year lookback period under the Fair Chance law.

### ***One million Marylanders impacted***

The Clean Slate Initiative reports that in 2019 more than one million Marylanders, or approximately 22 percent of the state population, had some type of criminal legal system involvement.<sup>2</sup> 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.”<sup>3</sup>

When individuals are released from prisons and jails, their access to safe, secure, and affordable housing is critical to successful reentry to society.<sup>4</sup> Housing serves as a foundation for gaining employment and family reunification.<sup>5</sup> 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.”<sup>6</sup> Yet “[r]esearchers have found that

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<sup>2</sup> The Clean Slate Initiative, “Clean Slate Initiative Data Dashboard,” accessed Feb. 3, 2025, <https://www.cleanslateinitiative.org/data>.

<sup>3</sup> 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>.

<sup>4</sup> See, e.g., S. Metraux, et al., “Incarceration and Homelessness,” *Toward Understanding Homelessness: The 2007 National Symposium on Homelessness Research*, #9 (D. Dennis, et. al. eds., 2007), available at <https://www.huduser.gov/portal/publications/pdf/p9.pdf> (explaining “how the increasing numbers of people leaving carceral institutions face an increased risk of homelessness and, conversely, how persons experiencing homelessness are vulnerable to incarceration.”).

<sup>5</sup> Demelza Baer, Avinash Bhati, Lisa Brooks, et al., *Understanding the Challenges of Prisoner Reentry: Research Findings from the Urban Institute’s Prisoner Reentry Portfolio* (Washington, DC: Urban Institute, 2006), 8–9, <https://www.urban.org/sites/default/files/publication/42981/411289-Understanding-the-Challenges-of-Prisoner-Reentry.PDF>

<sup>6</sup> *Supra* n.1.

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formerly incarcerated individuals are far more likely to be homeless than the general public”<sup>7</sup> and that “formerly incarcerated people are most likely to be homeless in the period shortly after their release.”<sup>8</sup>

One study has found that in the first two years after release from incarceration, a person is more than twice as likely to be homeless compared to year four and beyond.”<sup>9</sup> In other words, the time just after release is pivotal. By making housing opportunities more available, the Fair Chance in Housing Act supports the social and economic rehabilitation of reentering individuals. Longer look-back periods, such as 5-year or 7-year windows, defeat most of the high-impact potential of this bill.

SB 937 eliminates the use of charges, arrests, and low-level offenses to deny rental applications. If SB 937 had been law in the summer of 2024, it would have helped Marylanders like our client Ms. Brown in Frederick. She had a criminal record consisting of a single instance, a 2019 conviction for misdemeanor theft, with a sentence of six months in jail, all of which was suspended. She served 18 months of supervised probation. Yet when she applied for an apartment in the summer of 2024, more than five years after that conviction, Ms. Brown’s application was denied because she had a criminal record. Maryland Legal Aid attempted to appeal this denial. We raised mitigating factors, such as the minor severity of the offense, its misdemeanor status, and the fact that Ms. Brown had reformed. In response, the prospective landlord reasoned simply that those factors did not matter. “Our policy,” they told us, “is if you have a criminal record within the last seven years, your application will be denied and there is nothing we can do about it.”

For a misdemeanor, from five years ago, Ms. Brown was denied housing. SB 937 will ensure that cannot happen again.

### ***Tenant screening under SB 937 (as amended in Senate)***

The Fair Chance in Housing Act does not completely ban the use of criminal records in tenant screening. Instead, the bill provides a three-stage process for tenant screening:

#### **1. Initial screening**

The landlord may conduct an initial screening based on non-criminal factors, such as consumer history and references, as well as five conviction types:

- Convictions for sex offenses, including sexual assault, rape, attempted rape, solicitation of a minor convictions related to sexual assault (Crim. Law Art., Title 3, Subtitle 3);
- Convictions for child pornography (Crim. Law Art. § 11-207);

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<sup>7</sup> 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>.

<sup>8</sup> Prison Policy Initiative, "Nowhere to Go: Homelessness among formerly incarcerated people," 23 Feb. 2024, available at <https://www.prisonpolicy.org/reports/housing.html>.

<sup>9</sup> Supra n.2.

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- Convictions for human trafficking (Crim. Law Art. § 3-1102);
  - Convictions for first- and second-degree murder within the past 10 years;
  - Convictions for methamphetamine manufacturing on the premises of federally assisted housing (if application is for tenancy in such housing);
  - Lifetime registration requirement under a state or federal sex offender registration program.

The landlord must consider the following information, if provided by the applicant, evidence of inaccuracies in the applicant’s criminal history, evidence of rehabilitation, and other mitigation factors.

**2. Conditional offer and second screening**

If the landlord makes a conditional offer of a lease to the applicant, the landlord may then assess any felony conviction under the Criminal Law Article if the conviction occurred in the five years immediately preceding the submission of the lease application.

**3. Withdrawal of conditional offer and notice**

Based on this conviction history information, the landlord may withdraw the conditional offer if it is “necessary to fulfill a substantial, legitimate, and non-discriminatory interest.” SB 937 will require the landlord to notify the applicant of the specific reason for withdrawal and notify the applicant that they may request a reassessment based on evidence of mitigating factors.

**4. Reassessment**

The reassessment stage is especially important to the second-chance objective of this legislation. Within 30 days after notice of withdrawal of the offer, the applicant may request the landlord to provide, within 10 days, a copy of all information that factored into the landlord’s withdrawal of the offer and may appeal the withdrawal by providing the landlord written evidence of mitigating factors, rehabilitation, or inaccuracies in the conviction history.

The landlord’s reassessment of the withdrawal must take into account six factors:

- The nature and severity of the criminal offense;
- The age of the applicant at the time that the criminal offense occurred;
- The amount of time that has elapsed since the criminal offense occurred;
- Information regarding rehabilitation and good conduct since the criminal offense occurred;
- The degree to which the criminal offense, if it were to reoccur, would negatively impact the safety of the property and other tenants; and
- Whether the criminal offense occurred on or was connected to a property leased to the applicant.

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Notably, SB 937 does not prescribe a time for completion of the reassessment phase, nor does the bill require the landlord to keep a unit available to the applicant during the reassessment.

***SB 937 operationalizes HUD guidance***

While the Department of Housing and Urban Development (HUD) has issued guidance about the non-discriminatory use of criminal history in the tenant screening process, those guidance documents do not provide an enforceable procedure. Worse, on November 25, 2025, HUD rescinded its memoranda, reverting to guidance from the early 1990s.<sup>10</sup>

Nonetheless, SB 937 adopts the framework of HUD’s contemporary Fair Chance guidance and, importantly, adds specific procedures to that framework.

The Fair Chance in Housing Act provides a fair, transparent process for rental screening and decision-making based on conviction information. This bill is streamlined and structured around only two look-back periods: a “forever” look-back for major convictions and a 3-year look-back for other serious convictions. Maryland Legal Aid believes SB 937 will help to reduce homelessness and recidivism among the reentering population. We urge the Committee to report **FAVORABLE** on Senate Bill 937.

If you have any questions, please contact:

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<sup>10</sup> U.S. Dep’t of Housing and Community Development, “SOHUD Letter to PHAs and Owners re. Public Safety,” (Nov. 25, 2025) [https://www.novoco.com/public-media/documents/hud-criminal-screening-11262025.pdf?utm\\_source=NLIHC+All+Subscribers&utm\\_campaign=a783ddb168-Memo\\_120825&utm\\_medium=email&utm\\_term=0\\_-41cf60b129-&ct=t\(Memo\\_120825\)](https://www.novoco.com/public-media/documents/hud-criminal-screening-11262025.pdf?utm_source=NLIHC+All+Subscribers&utm_campaign=a783ddb168-Memo_120825&utm_medium=email&utm_term=0_-41cf60b129-&ct=t(Memo_120825))