

Favorable with Amendments Response to SB937 Landlord and Tenant–Residential Leases–Prospective Tenant Criminal History Records Check

Families Advocating Intelligent Registries (FAIR) seeks rational and constitutional sexual offense laws and policies for persons accused and convicted of sexual offenses. We strongly support efforts to facilitate reintegration of individuals who have paid their debt to society and seek only the opportunity to lead productive and lawful lives. FAIR supports SB937, with two amendments:

- (1) would eliminate a disparity of treatment for certain offenses for which a Landlord is allowed to request information before issuing a conditional offer, and
- (2) to clarify that a landlord may inquire before extending a conditional offer and withdraw a conditional offer **only** with respect to the individual's lifetime sex offense registration status under **Maryland** law – not the laws of other states.

Arbitrary Difference in Lookback Period for Certain Offenses Prior to Conditional Offer

Under the bill, a landlord may ask about certain offenses prior to issuing a conditional offer. In the case of murder, the lookback is limited to 10 years. In the case of sexual offenses and child pornography, there is no limit to how far back the review goes. Therefore, an individual previously convicted of a sexual offense or a child pornography offense 30 years ago (or an offense the individual committed as a juvenile – such as sexting between juveniles) could be effectively eliminated from lease consideration **without an individual consideration of their case (as required once a conditional offer is made)**. The bill should be amended to impose a 10-year lookback period for the enumerated sexual offenses prior to conditional approval.

We are assuming that the 10-year look back provision for murder is written into the bill because it is well-established that murder is the category of offense with the lowest recidivism rate nationwide, and, further, that recidivism reduces dramatically with time. Please note that sexual offenses are well-established as being the category with the second lowest recidivism rates, as demonstrated in the graph on page 2. Nationwide, for individuals under lifetime sex offender Registration requirements, it is well-established that recidivism risk falls very rapidly within just the first few years post-conviction.

In the case of sexual offenses, stable housing is a strong predictor of reduced recidivism. With the policy goal of the bill being public safety, housing stability for individuals known to be at the lowest recidivism rates to begin with should be encouraged, not discouraged as would occur under the pre-screening provision of this bill.

The Bill's Registry Provision is Inconsistent

Maryland's 3-tier registration scheme, while somewhat aligned with the federal framework, disproportionately puts far more people (roughly 70%) in Tier 3 (lifetime registration) than recommended by federal guidelines. Many of these registered individuals could benefit from this bill with no risk to public safety, if a viable path forward is established. Many long-time, law-abiding Marylanders who committed a Registerable offense 20, 30 or more years ago – or who committed their offense when they, themselves, were children – will be adversely affected by this bill. But rather than attempt to tackle this huge issue in the context

of this bill, we are recommending one modest amendment (page three) to assist registered individuals with housing opportunities, aligned with existing Maryland law and without risk to public safety.

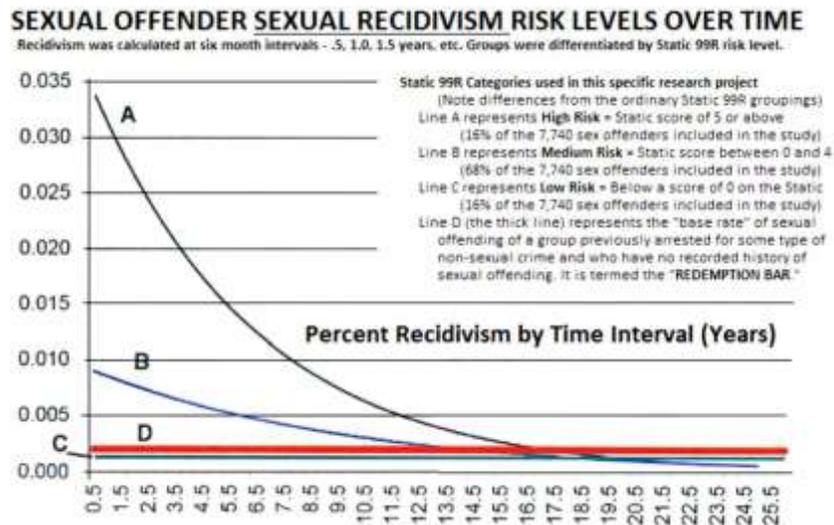
Many states arbitrarily impose lifetime registration, regardless of tier classification or risk of re-offense.¹ When a registered individual moves to Maryland, the state conducts a review and assigns a tier level designation, which should be the sole relevant factor in a landlord's evaluation of the individual's criminal history concerning the registry. FAIR is aware of multiple cases in which Maryland registrants have been assigned Tier 1 status (registration for 15 years) for their out-of-state offense but had the lifetime registration requirement in their former state, despite that state having no jurisdiction over Maryland law.²

Should this bill be approved to move forward, we propose amendments to SB937, also outlined on page 3, before its passage.

Sincerely,



Brenda V. Jones, Executive Director
Families Advocating Intelligent Registries



From Declaration of Dr. R. Karl Hanson, included separately with this testimony.

¹ For example, Texas authorities acknowledge that Tier 1 individuals do not pose any risk yet they subject them to blanket lifetime registration. "Level one (low): indicates that the person poses a low danger to the community and will not likely engage in criminal sexual conduct." Texas Department of Public Safety, <https://www.dps.texas.gov/section/crime-records/faq/criminal-history-records-and-texas-sex-offender-registration-program-faq#Sex-offender>

² Registration is a civil requirement applied by each state. It is not part of a person's actual sentence or supervision.

Proposed changes to SB937

8-2A-04 (A)(2)(II)

IS **OR WILL BE** SUBJECT TO A LIFETIME REGISTRATION REQUIREMENT UNDER **MARYLAND'S A**
~~STATE~~ SEX OFFENDER REGISTRATION PROGRAM.

8-2A-05 (A)(3)

ANY CRIME **REQUIRING** ~~RESULTING IN~~ LIFETIME REGISTRATION IN **MARYLAND'S A STATE** SEX
OFFENDER REGISTRY;

8-2A-04 (A)(2)

(2) A LANDLORD MAY REQUIRE INFORMATION REGARDING WHETHER A PROSPECTIVE TENANT:

(I) HAS BEEN CONVICTED OF:

1. FOR A POTENTIAL TENANCY IN FEDERALLY ASSISTED HOUSING, MANUFACTURING
METHAMPHETAMINE ON THE PREMISES OF FEDERALLY ASSISTED HOUSING;

~~2. SEXUAL OFFENSE UNDER TITLE 3, SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE;~~

~~3. CHILD PORNOGRAPHY UNDER §11-207 OF THE CRIMINAL LAW ARTICLE;~~

~~4.~~ **2.** IF THE CONVICTION OCCURRED WITHIN 10 YEARS IMMEDIATELY PRECEDING THE
RENTAL APPLICATION:

A. MURDER IN THE FIRST DEGREE UNDER §2-201 OF THE CRIMINAL LAW ARTICLE; OR

B. MURDER IN THE SECOND DEGREE UNDER §2-204 OF THE CRIMINAL LAW ARTICLE;

OR

C. A SEXUAL OFFENSE UNDER TITLE 3, SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE; OR

D. CHILD PORNOGRAPHY UNDER §11-207 OF THE CRIMINAL LAW ARTICLE; OR

~~5- 3.~~ **3.** HUMAN TRAFFICKING UNDER §3-1102 OF THE CRIMINAL LAW ARTICLE.