

Bill No. 49-20
Concerning: Human Rights and Civil
Liberties – Discrimination in Rental
Housing – Fair Criminal History and
Credit Screenings
Revised: 4/20/2021 Draft No. 7
Introduced: December 8, 2020
Enacted: April 20, 2021
Executive: April 30, 2021
Effective: July 20, 2021
Sunset Date: None
Ch. 9, Laws of Mont. Co. 2021

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsors: Councilmembers Glass and Katz
Co-Sponsors: Councilmembers Jawando, Rice, Navarro and Riemer

AN ACT to:

- (1) prohibit a landlord from raising a stated rent in certain circumstances;
- (2) require a rental application to contain certain information about record checks conducted by a housing provider;
- (3) prohibit certain inquiries regarding criminal histories in rental housing applications;
- (4) prohibit consideration of certain arrests and convictions in rental housing decisions; and
- (5) generally amend the law regarding discrimination in housing and landlord-tenant affairs.

By amending

Montgomery County Code
Chapter 27, Human Rights and Civil Liberties
Sections 27-14

By adding

Montgomery County Code
Chapter 27, Human Rights and Civil Liberties
Section 27-15A

By amending

Montgomery County Code
Chapter 29, Landlord-Tenant Affairs
Section 29-28

The County Council for Montgomery County, Maryland approves the following Act:

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

Sec. 1. Sections 27-14 and 29-28 are amended, and Section 27-15A is added, as follows:

27-14. Applicability of division.

(a) This division does not apply to:

(1) The rental or leasing of a part of a dwelling in which the owner is residing; provided, that the dwelling must continue to be used by the owner thereof as a bona fide residence for [himself or herself] the owner and any member of [his or her] the owner's family; provided further, that the dwelling does not contain more than two (2) rental or leasing units.

(2) The rental or leasing of a dwelling by any religious corporation, association, or society to a person of a particular religion whose rental or leasing therein is connected with the carrying on by such corporation, association, or society of its purely religious activities.

* * *

(d) The prohibitions in this division against discriminating because of source of income do not prohibit:

(1) (A) a commercially reasonable verification of a source and amount of income, or

(B) a commercially reasonable evaluation of the stability, security, and creditworthiness of any source of income; or

(2) (A) except as provided in Section 27-15A, the eviction of or refusal to rent to any person because of that person or a family member's drug-related criminal activity or violent criminal activity, or

(B) the refusal to consider income derived from any criminal activity.

* * *

27-15A. Fair criminal history and credit screenings in rental housing.

(a) Definitions. As used in this Section:

Applicant means a person who applies to lease or rent housing in the County. Applicant includes any person who resides or will reside with a person who applies to lease or rent housing in the County.

Arrest record means information indicating that a person has been apprehended, detained, taken into custody, held for investigation, or otherwise restrained by a law enforcement agency or military authority due to an accusation or suspicion that the person committed a crime.

Conditional offer means an offer of housing conditioned solely on:

- (1) the results of an inquiry into the applicant's criminal record; or
- (2) another contingency expressly communicated to the applicant at the time of the offer.

Conviction record means information regarding a sentence arising from a verdict or plea of guilty or *nolo contendere*, including a sentence of incarceration, a fine, a suspended sentence, and a sentence of probation.

Criminal record report means a record of a person's arrest and conviction history obtained from any source.

Housing provider means any person, individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association, or other entity offering to sell, rent, or provide housing in the County. Housing provider includes the County government, but does not include the United States, any State, or any other local

government. Housing provider does not include a lessor of property under Section 27-14(a) or a lessor of an accessory dwelling unit.

Inquiry or inquire means any direct or indirect conduct intended to gather information, using any mode of communication. Inquiry or inquire does not include a question about an applicant's conviction record or arrest record when the existence of the record is disclosed by the applicant voluntarily and not in response to a question.

Pending criminal accusation means an existing written accusation that an individual has committed a crime, in the form of an indictment or information under the Criminal Procedure Article of the Maryland Code.

(b) Transparency of criminal history and credit requirements in rental applications.

(1) A housing provider must disclose in any rental application:

(A) the processes the provider uses to inquire into the criminal history and credit history of an applicant; and

(B) requirements of the provider regarding an applicant's credit history[, arrest history,] and [[conviction history]] criminal record report.

(2) The housing provider must not alter the processes and requirements under paragraph (1) for an applicant whose application is pending.

(c) Criminal records inquiry on application. A housing provider must not require an applicant to disclose on a rental application the existence or details of the applicant's arrest record or conviction record.

(d) Preliminary inquiry into criminal record. A housing provider must not, at any time before the extension of a conditional offer to the applicant:

(1) require the applicant to disclose whether the applicant has an arrest record or conviction record, or otherwise has been accused of a crime;

(2) conduct a criminal record check regarding the applicant; or

(3) inquire of the applicant or others about whether the applicant has an arrest record or conviction record or otherwise has been accused of a crime.

(e) *Prohibition against inquiry into certain criminal records.* A housing provider must not at any time require an applicant to disclose, conduct a criminal record check solely to determine, or otherwise inquire of the applicant or others, whether:

(1) the applicant has been arrested for, or has an arrest record for, a matter that did not result in a conviction; or

(2) the applicant has an arrest record or a conviction record for, or otherwise has been accused of:

(A) trespass under §§ 6-402 or 6-403 of the Criminal Law Article of the Maryland Code;

(B) theft as a misdemeanor under § 7-104 of the Criminal Law Article of the Maryland Code;

(C) a refusal or failure to leave public buildings or grounds under § 6-409 of the Criminal Article of the Maryland Code;

(D) indecent exposure under § 11-107 of the Criminal Article of the Maryland Code;

(E) public urination under § 32-17-A of this Code;

(F) an open container violation under § 10-125 of the Criminal Law Article of the Maryland Code;

(G) possession of marijuana as a misdemeanor or civil violation under Title 5 of the Criminal Article of the Maryland Code;

(H) a first conviction of disturbance of the peace or disorderly conduct under § 10-201 of the Criminal Law Article of the Maryland Code;

(I) a vehicle law violation under the Transportation Article of the Maryland Code;

(J) except as provided in subsection (g), a conviction of a misdemeanor if at least 2 years have passed since:

(i) the date of the conviction; and

(ii) the date that any period of incarceration for the misdemeanor ended; or

(K) a matter for which records:

(i) are confidential under § 3-8A-27 of the Courts and Judicial Proceedings Article of the Maryland Code;

or

(ii) have been expunged under §§ 10-101 – 10-110 of the Criminal Procedure Article of the Maryland Code.

(f) Consideration of Certain Records Prohibited. Except as provided in subsection (g), a housing provider must not base a rental decision upon any item in an arrest record or a conviction record described under subsection (e).

(g) Consideration of Sex Crimes Permitted. A landlord may:

(1) inquire into [[an arrest record]] a pending criminal accusation or a conviction record for:

- (A) a crime of a sexual nature under Title 3 of the Criminal Law Article of the Maryland Code; or
- (B) a violation of Sections 11-102, 11-103, 11-104, 11-305, or of Title [[2]] 11, Subtitle 3, of the Criminal Law Article of the Maryland Code;
- (2) inquire into an applicant's presence on a sex offender registry; and
- (3) base a rental decision upon [[an arrest record]] a pending criminal accusation or a conviction record under paragraph (1) of this subsection, or upon an applicant's presence on a sex offender registry.
- (h) *Rescission of a conditional offer based on criminal record.*
- (1) If a housing provider intends to rescind a conditional offer based on an item or items in the applicant's [[arrest record or conviction record]] criminal record report, before rescinding the conditional offer the provider must:
- (A) provide the applicant with a copy of any criminal record report;
- (B) notify the applicant of the intention to rescind the conditional offer and the items that are the basis for the intention to rescind the conditional offer; and
- (C) delay rescinding the conditional offer for 7 days to permit the applicant to give the housing provider notice of inaccuracy of an item or items on which the intention to rescind the conditional offer is based.
- (2) If a housing provider decides to rescind a conditional offer based upon the [[arrest record or conviction record]] criminal record

report of an applicant, the provider must notify the applicant of the rescission of the conditional offer in writing.

(i) Retaliation. A housing provider must not:

(1) retaliate against any person for:

(A) lawfully opposing any violation of this Section; or

(B) filing a complaint, testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing under this Section; or

(2) obstruct or prevent enforcement or compliance with this Section.

(j) A person aggrieved by an alleged violation of this Section may file a complaint with the Director of the Officer of Human Rights under Section 27-7.

(k) The County Executive:

(1) may adopt Method (2) regulations to implement the provisions of this Section; and

(2) must endeavor to inform prospective applicants and housing providers of their rights and responsibilities under this Section.

(l) Exemption. The prohibitions and requirements of this Section do not apply if the inquiries prohibited by this Article are expressly required by an applicable federal or State law or regulation.

Sec. 29-28. Leasing requirements generally.

* * *

(h) Rental applications. A rental application must comply with the requirements of Section 27-15A.

(i) A landlord must not increase the rent included on a completed rental application:

(1) within 7 calendar days of the application; or

(2) based upon any discriminatory purpose prohibited under Chapter
27, including the source of income of the prospective tenant.

Sec. 2. Short Title. This Act may be referred to as the Housing Justice Act.

Approved:



4/20/2021

Tom Hucker, President, County Council

Date

Approved:

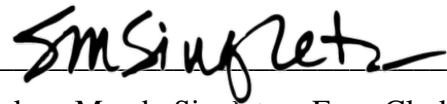


4/30/2021

Marc Elrich, County Executive

Date

This is a correct copy of Council action.



4/30/2021

Selena Mendy Singleton, Esq., Clerk of the Council

Date