

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:*

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



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

29 \* \* \*

30 **27-15A. Fair criminal history and credit screenings in rental housing.**

31 (a) Definitions. As used in this Section:

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

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

39 Conditional offer means an offer of housing conditioned solely on:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 80           (1)   require the applicant to disclose whether the applicant has an  
 81                   arrest record or conviction record, or otherwise has been accused  
 82                   of a crime;
- 83           (2)   conduct a criminal record check regarding the applicant; or
- 84           (3)   inquire of the applicant or others about whether the applicant has  
 85                   an arrest record or conviction record or otherwise has been  
 86                   accused of a crime.

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

- 91           (1)   the applicant has been arrested for, or has an arrest record for, a  
 92                   matter that did not result in a conviction; or
- 93           (2)   the applicant has an arrest record or a conviction record for, or  
 94                   otherwise has been accused of:
  - 95                   (A)   trespass under §§ 6-402 or 6-403 of the Criminal Law  
 96                               Article of the Maryland Code;
  - 97                   (B)   theft as a misdemeanor under § 7-104 of the Criminal Law  
 98                               Article of the Maryland Code;
  - 99                   (C)   a refusal or failure to leave public buildings or grounds  
 100                              under § 6-409 of the Criminal Article of the Maryland  
 101                              Code;
  - 102                   (D)   indecent exposure under § 11-107 of the Criminal Article  
 103                              of the Maryland Code;
  - 104                   (E)   public urination under § 32-17-A of this Code;
  - 105                   (F)   an open container violation under § 10-125 of the Criminal  
 106                              Law Article of the Maryland Code;

- 107                    (G) possession of marijuana as a misdemeanor or civil
- 108                    violation under Title 5 of the Criminal Article of the
- 109                    Maryland Code;
- 110                    (H) a first conviction of disturbance of the peace or disorderly
- 111                    conduct under § 10-201 of the Criminal Law Article of the
- 112                    Maryland Code;
- 113                    (I) a vehicle law violation under the Transportation Article of
- 114                    the Maryland Code;
- 115                    (J) except as provided in subsection (g), a conviction of a
- 116                    misdemeanor if at least 2 years have passed since:
- 117                    (i) the date of the conviction; and
- 118                    (ii) the date that any period of incarceration for the
- 119                    misdemeanor ended; or
- 120                    (K) a matter for which records:
- 121                    (i) are confidential under § 3-8A-27 of the Courts and
- 122                    Judicial Proceedings Article of the Maryland Code;
- 123                    or
- 124                    (ii) have been expunged under §§ 10-101 – 10-110 of
- 125                    the Criminal Procedure Article of the Maryland
- 126                    Code.
- 127                    (f) Consideration of Certain Records Prohibited. Except as provided in
- 128                    subsection (g), a housing provider must not base a rental decision upon
- 129                    any item in an arrest record or a conviction record described under
- 130                    subsection (e).
- 131                    (g) Consideration of Sex Crimes Permitted. A landlord may:
- 132                    (1) inquire into [[an arrest record]] a pending criminal accusation or a
- 133                    conviction record for:

- 134                   (A) a crime of a sexual nature under Title 3 of the Criminal  
 135                   Law Article of the Maryland Code; or
- 136                   (B) a violation of Sections 11-102, 11-103, 11-104, 11-305, or  
 137                   of Title [[2]] 11, Subtitle 3, of the Criminal Law Article of  
 138                   the Maryland Code;
- 139                   (2) inquire into an applicant’s presence on a sex offender registry;  
 140                   and
- 141                   (3) base a rental decision upon [[an arrest record]] a pending criminal  
 142                   accusation or a conviction record under paragraph (1) of this  
 143                   subsection, or upon an applicant’s presence on a sex offender  
 144                   registry.
- 145                   (h) *Rescission of a conditional offer based on criminal record.*
- 146                   (1) If a housing provider intends to rescind a conditional offer based  
 147                   on an item or items in the applicant’s [[arrest record or conviction  
 148                   record]] criminal record report, before rescinding the conditional  
 149                   offer the provider must:
- 150                   (A) provide the applicant with a copy of any criminal record  
 151                   report;
- 152                   (B) notify the applicant of the intention to rescind the  
 153                   conditional offer and the items that are the basis for the  
 154                   intention to rescind the conditional offer; and
- 155                   (C) delay rescinding the conditional offer for 7 days to permit  
 156                   the applicant to give the housing provider notice of  
 157                   inaccuracy of an item or items on which the intention to  
 158                   rescind the conditional offer is based.
- 159                   (2) If a housing provider decides to rescind a conditional offer based  
 160                   upon the [[arrest record or conviction record]] criminal record

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

163 (i) Retaliation. A housing provider must not:

164 (1) retaliate against any person for:

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

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

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

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

173 (k) The County Executive:

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

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

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

181 **Sec. 29-28. Leasing requirements generally.**

182 \* \* \*

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

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


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



188                   (2)   based upon any discriminatory purpose prohibited under Chapter  
189                                   27, including the source of income of the prospective tenant.

190    **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

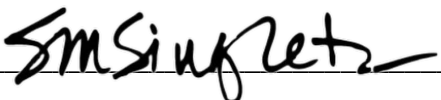
Approved:

 \_\_\_\_\_ 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