



Committee: PHP
Committee Review: At a future date
Staff: Ludeen McCartney-Green, Legislative Attorney
Purpose: To introduce agenda item – no vote expected
Keywords: #HousingJustice

AGENDA ITEM #2C
February 29, 2024
Introduction

SUBJECT

Bill 8-24, Human Rights and Civil Liberties – Fair Criminal History and Credit Screenings - Amendments

Lead Sponsor: Councilmember Sayles

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- N/A; Bill introduction

DESCRIPTION/ISSUE

Bill 8-24 would:

- require posting a notice regarding the use of criminal arrest and conviction in rental housing decisions;
- clarify a certain addendum or statement is required for rental applications;
- require annual reporting of certain disaggregated data related to rental applications;
- require a landlord retain a rental application addendum for a certain period;
- require a landlord provide to the County as part of the annual rental housing survey a completed criminal and credit screening addendum; and
- generally amend the law regarding discrimination in housing and landlord-tenant affairs.

SUMMARY OF KEY DISCUSSION POINTS

- N/A

This report contains:

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MEMORANDUM

February 29, 2024

TO: County Council

FROM: Ludeen McCartney-Green, Legislative Attorney

SUBJECT: Bill 8-24, Human Rights and Civil Liberties – Fair Criminal History and Credit Screenings – Amendments

PURPOSE: Introduction – no Council votes required

Bill 8-24, Human Rights and Civil Liberties – Fair Criminal History and Credit Screenings - Amendments, sponsored by Lead Sponsor Councilmember Sayles is scheduled to be introduced on March 5, 2024.¹ A public hearing will be scheduled at a later date. The bill will be considered by the Planning, Housing, and Parks (PHP) Committee.

Bill 8-24 would:

- require posting a notice regarding the use of criminal arrest and conviction in rental housing decisions;
- clarify a certain addendum or statement is required for rental applications;
- require annual reporting of certain disaggregated data related to rental applications;
- require a landlord retain a rental application addendum for a certain period;
- require a landlord provide to the County as part of the annual rental housing survey a completed criminal and credit screening addendum; and
- generally amend the law regarding discrimination in housing and landlord-tenant affairs.

BACKGROUND

The purpose of the bill is to strengthen compliance with “ban the box” requirements and improve renter’s knowledge as it related the use of criminal background check or credit screening during the application of rental housing.

The Council passed the Housing Justice Act in 2021, which prohibits a housing provider from conducting during the rental application process, a criminal background check or credit history before making an offer for rent to a prospective tenant. In addition, it prohibits the housing provider from inquiring into, or making housing decisions based upon, certain arrests or misdemeanors.

The Housing Justice Act, among other things, requires the housing provider clearly discloses in a rental application:

- (1) the processes the provider uses to inquire into the criminal history and credit history of an applicant; and
- (2) requirements of the provider regarding an applicant's credit history and criminal record report.²

The issue here is – whether with certainty and full transparency that each prospective applicant who is denied rental housing was actually informed of their rights during the application process. The law requires disclosure but lacks the ability to verify that a housing provider actually complied.

The Office of Human Rights and Human Rights Commission has the authority to investigate a housing discrimination complaint by an aggrieved applicant.³ However, a complaint may be limited if it lacks sufficient documentation to support a claim, or in the alternative, an applicant may never raise a complaint simply because they were not aware of their rights.

Bill 8-24 seeks to provide improve compliance by requiring record-keeping of addendums by the landlord and for the Department of Housing and Community Affairs (DHCA) to collect and store annually signed addendums by existing tenant(s).

SPECIFICS OF THE BILL

Bill 8-24 would require a landlord to post a notice where applicants are solicited for rental housing (whether paper or online posting), a statement that reads:

“In accordance with Section 27-15A, a housing provider may not ask questions related to criminal arrest or a conviction before a conditional offer for rent is made to an applicant unless otherwise permitted by law.”

The law under Chapter 27-15A already requires disclosure, but the Bill would specifically require a housing provider include **a statement or addendum with every rental application** that outlines the process and use of criminal arrest, convictions, and credit screenings in a rental housing decision (see lines 41-45). The addendum must be signed and dated by the applicant. DHCA (Office of Landlord and Tenant Affairs) already provides an addendum for landlords to include with the rental application. See © 5.

A housing provider must retain a copy of the completed disclosure addendum for at least one (1) year from the date of application for every applicant that applied for the rental housing. The addendum is subject to review by the Office of Human Rights, upon request.

For any existing tenant in the rental unit, at time the rental survey data is completed and submitted to DHCA (survey deadline is April 1), the landlord is required to upload electronically

² Montgomery County Code § 27-15A.

³ [Office of Human Rights - Ban the Box - Home Page \(montgomerycountymd.gov\)](http://montgomerycountymd.gov)

a copy of the signed addendum for the unit reported in the survey. DHCA will be the repository for the completed addendum(s).

Lastly, the bill requires the Office of Human Rights to collect and report the following data to the Council, by October 1, every year. The disaggregated data points include:

- (1) the number complaints received by the Office of Human Rights regarding the denial of rental application by a housing provider;
- (2) the specific reason an application under paragraph (1) was denied;
- (3) the number of complaints filed with the Office of Human Rights for failure to comply with this Section;
- (4) the number of complaints filed under this Section compared to other types of discriminatory complaints received by the Office of Human Rights; and
- (5) any other related data pertinent to this Act.

This packet contains:

Bill 8-24

Addendum to Rental Application (provided by DHCA)

Circle #

1

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Bill No. 8-24
Concerning: Human Rights and Civil Liberties – Fair Criminal History and Credit Screenings - Amendments
Revised: 2/29/2024 Draft No. 3
Introduced: March 5, 2024
Expires: December 7, 2026
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Sayles

AN ACT to:

- (1) require posting a notice regarding the use of criminal arrest and conviction in rental housing decisions;
- (2) clarify a certain addendum or statement is required for rental applications;
- (3) require a landlord retain a rental application addendum for a certain period;
- (4) require a landlord provide to the County as part of the annual rental housing survey a completed criminal and credit screening addendum;
- (5) require annual reporting of certain disaggregated data related to rental applications; and
- (6) generally amend the law regarding discrimination in housing and landlord-tenant affairs.

By amending

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

Montgomery County Code
Chapter 29, Landlord-Tenant Affairs
Sections 29-28 and 29-51

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>

28 Housing and Community Affairs, to provide an annual report to the
 29 County Council that includes disaggregated data on the following:

- 30 (1) the number complaints received by the Office of Human Rights
 31 regarding the denial of rental application by a housing provider;
- 32 (2) the specific reason an application under paragraph (1) was denied;
- 33 (3) the number of complaints filed with the Office of Human Rights
 34 for failure to comply with this Section;
- 35 (4) the number of complaints filed under this Section compared to
 36 other types of discriminatory complaints received by the Office of
 37 Human Rights; and
- 38 (5) any other related data pertinent to this Act.

39 **29-28. Leasing requirements generally.**

40 * * *

- 41 (h) *Rental applications.* A rental application must:
 - 42 (1) comply with the requirements of Section 27-15A[.]; and
 - 43 (2) include a statement or addendum, signed, and dated by the
 44 applicant, that details the processes for screening criminal history
 45 and credit report as required under Section 27-15A(b)(1).

46 * * *

47 **29-51. Rental housing data collection.**

48 * * *

- 49 (e) The housing data collected must be used to measure the supply and
 50 availability of rental housing, as well as other operating characteristics.
 51 Each landlord must provide the following to the County:
 - 52 (1) The location of each rental facility, including the zip code;
 - 53 (2) Structure type;
 - 54 (3) Year built;

- 55 (4) Distribution of units by standard bedroom sizes;
56 (5) The number of units by bedroom size that were re-rented during
57 the month;
58 (6) The number of vacant days applicable to those units;
59 (7) The rent charged for each rental unit;
60 (8) The rent charged for each re-rented unit before vacancy; [and]
61 (9) The new turnover rent charged for each re-rented unit[.]; and
62 (10) A copy of the addendum or statement provided under Section 29-
63 28(h) only for the tenant currently renting the unit reported under
64 this Section. If the rental housing is reported as vacant or not
65 offered for rent, the landlord is required to specify that no rental
66 application was provided within the last 12 months.

67 * * *

ADDENDUM TO RENTAL APPLICATION

Criminal History and Background Screening

This addendum **must** be presented as part of a rental application and acknowledged by applicant.

Applicant _____
Print Name

Applicant _____ Initial _____
Signature

Date _____

1. The landlord has attached the following steps/processes that the landlord will follow regarding inquiries into criminal history and credit history in evaluating this application to determine your eligibility to rent:

- The landlord may not require the applicant to disclose any criminal background history unless the landlord has made a conditional offer to the applicant.
- The landlord may **only** conduct a criminal background check concerning the applicant **after** the landlord has made a conditional offer to lease the property to the applicant.
- These processes cannot be changed during the application process.

Applicant Initial: _____

2. The landlord **must not** require applicant to reveal any arrest or criminal record prior to making a conditional offer to rent.

Applicant Initial: _____

3. The landlord may not raise the rent offered in this application within 7 days after receiving the completed application.

Per Section 27-15A and 29-28 (h) and (i), Montgomery County Code. Call 240-777-0311 if you have questions.

<https://mcgov.sharepoint.com/teams/DHCA/Housing/Landlord-Tenant/Shared Documents/Publications/Other/criminal history addendum.docx>