



Committee: PHP
Committee Review: Completed
Staff: Ludeen McCartney-Green, Legislative Attorney
Purpose: Final action – vote expected
Keywords: #HousingJustice

AGENDA ITEM #9B
July 30, 2024
Action

SUBJECT

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

Lead Sponsor: Councilmember Sayles

Cosponsors: Councilmembers Glass and Katz

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- The Planning, Housing, and Parks (PHP) Committee recommends enactment of Bill 8-24 with amendments.
- Final vote on Bill 8-24 is expected.

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]]** certify as part of the annual rental housing survey receipt of 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

- The PHP Committee held a worksession on July 15 and made the following amendments:
 - require a landlord to use the background and credit screening addendum provided by DHCA for rental applications;
 - require the lease include a signed and dated addendum for the occupying tenant;
 - remove the requirement for DHCA to collect a copy of the addendum during the annual rental survey and instead require an inquiry on the survey for the landlord to certify receipt of a completed addendum;
 - require the Office of Human Rights to perform quarterly inspections of rental applications of a multifamily building;

- require the disclosure statement posted on a website operated and controlled by a landlord and posted in a conspicuous place of a leasing office onsite; and
- adopt certain clarifying technical amendments.

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MEMORANDUM

July 25, 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: Final Action – roll call vote is required

The PHP Committee voted unanimously (3-0) to recommend enactment of the bill with amendments. The amended bill appears at ©1.

OVERVIEW

Bill 8-24, Human Rights and Civil Liberties – Fair Criminal History and Credit Screenings - Amendments, sponsored by Lead Sponsor Councilmember Sayles and Co-sponsors Councilmembers Glass and Katz was introduced on March 5, 2024.¹ A public hearing was held on June 18, 2024. The bill was considered by the Planning, Housing, and Parks (PHP) Committee on July 15, 2024. Final action on the bill is scheduled for July 30, 2024.

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]] certify as part of the annual rental housing survey receipt of 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, as introduced, 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 disclose 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). This requirement was later amended by the PHP Committee, see committee recommendations below.

SPECIFICS OF THE BILL

Bill 8-24, as introduced, 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 of the Montgomery County Code, 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.”

² Montgomery County Code § 27-15A.

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

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 68-72). 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 © 6.

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 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 of 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.

SUMMARY OF IMPACT STATEMENTS

Economic Impact

The Office of Legislative Oversight (OLO) anticipates that enacting Bill 8-24 would have an insignificant impact on economic conditions in the County in terms of the Council's priority economic indicators. Councilmembers may want to reconsider the data collection requirement in the Bill to determine if the value of information attained justifies the minor administrative expense landlords may incur by providing it. (© 7).

Climate Assessment

The Office of Legislative Oversight (OLO) anticipates Bill 8-24 will have no impact on the County's contribution to addressing climate change as the Bill is proposing changes intended to improve compliance with an existing law. (© 10).

Racial Equity & Social Justice Impact

The Office of Legislative Oversight (OLO) anticipates Bill 8-24 will have a positive impact on racial equity and social justice (RESJ) in the County. (© 13).

Fiscal Impact

Expenditures are expected to increase to accommodate up to 2.00 FTEs for the required staff support by HRC (approximately \$196,000 in the first year). Minimal operating expenditures are expected to increase for the software/database to maintain housing providers, track complaints, and to perform data analysis. This bill is not expected to impact County revenues. (© 19).

SUMMARY OF PUBLIC HEARING

A public hearing was held on June 18, 2024, at which 3 speakers testified in support of the Bill. In addition, the Council received 4 written testimonies in support by Jo Shifrin, a resident (© 21); Women’s Democratic Club (© 23); Steve Melkisetian, Advisory Committee, Montgomery County Democratic Socialists of America (© 25); and Tino Fragale (he/him) of Everyday Canvassing (© 28). Tino also provided other recommendations to further bolster the provisions of the bill.

SUMMARY OF PHP WORKSESSION

Participants in the worksession held on July 15, included Scott Bruton, Director of DHCA; James Stowe, Director of Office of Human Rights, and Ludeen McCartney-Green, Council attorney. At the worksession, **the PHP Committee voted to make the following amendments** regarding Bill 8-24:

1. require a landlord to use the background and credit screening addendum provided by DHCA for rental applications **(3-0 vote)**;
2. require the lease include a signed and dated addendum for the occupying tenant **(3-0 vote)**;
3. remove the requirement for DHCA to collect a copy of the addendum during the annual rental survey and instead require an inquiry on the survey for the landlord to certify receipt of a completed addendum **(3-0 vote)**;
4. require the Office of Human Rights to perform quarterly inspections of rental applications of a multifamily building **(3-0 vote)**;
5. require the disclosure statement posted on a website operated and controlled by a landlord and in a conspicuous place in a leasing office onsite **(3-0 vote)**; and
6. adopt certain clarifying technical amendments **(3-0 vote)**.

COMMITTEE RECOMMENDATIONS

1. Require uniform addendums.

Currently, DHCA provides a template addendum for landlords to use (© 6), but a landlord is not required to use it. This amendment would require DHCA to provide a uniform addendum for rental applications and require landlords to use it. This would ensure consistent information and reduce the landlord's burden to produce a certain type of form. It is also consistent with State law that requires disclosures on leasing applications.⁴ Office of County Attorney (OCA) suggested the amendment and Council staff agrees with the recommendation.

Amend lines 44-46, as follows:

“include a statement or addendum in a form prescribed by the Director of the Department that is signed and dated by the applicant [that] which details the processes for screening criminal history and credit report as required under Section 27-15A(b)(1).”

Decision Point: Whether to require each landlord to include the addendum prescribed by the Director of DHCA? **Committee recommendation (3-0):** Adopt the requirement for the Director to provide a uniform addendum. DHCA is in support of this amendment.

2. Amendments by Councilmember Sayles.

Councilmember Sayles may propose before the Committee friendly amendments, which include:

- **Amendment #1:** Clarifies that a lease agreement must include a signed and dated addendum by the tenant. See (© 30). **Committee recommendation (3-0):** adopted an amendment to specify the addendum must be completed and accompany the signed lease.
- **Amendment #2:** Removes the requirement for DHCA to collect from the landlord a copy of the signed addendum as a part of the annual rental survey. Rather the legislation would require DHCA to include only an inquiry on the survey for the landlord to indicate the date of when the addendum was signed by the occupying tenant. (© 31). **Committee recommendation (3-0): adopted amendment without objection.** DHCA was supported of this amendment because it would reduce the administrative burden of collecting signed addendums from each landlord.

⁴ See Md. Code, Real Property, §§ 8-203.1, 8-208, 8-210, 8-212.4, 8-218, 14-803, and 14-804.

- **Amendment #3:** To require the Director or Director’s designee to conduct quarterly inspection of an any multifamily landlord’s records of rental applications to ensure compliance with the County’s Housing Justice Act. The results of the inspections must be included in the annual report. (© 31).

The Committee had a thorough discussion regarding the Office of Human Rights ability to conduct audits and inspect rental applications addendums retained by a landlord. Director Stowe provided a detailed overview of the inspection and investigatory power of the agency, including how this amendment would further extend their authority and strengthen enforcement. **Committee recommendation (3-0): require quarterly audits with a summary of the findings to be included in the annual report.**

3. Clerical/Technical Amendments.

- a) **Use “must” instead of “may” to fulfill objective of the Bill by requiring Office of Human Rights to coordinate with DHCA.**

Amend line 28 as follows:

Annual reporting. By October 1 of each year, the Director of Office of Human Rights, ~~[[may]]~~ **must** coordinate with the Director of Department of Housing and Community Affairs, to provide an annual report to the County Council that includes disaggregated data on the following:

- b) **For consistency and clarity, OCA recommends the bill used the term “credit history” rather than “credit report.”**

Amend line 70, as follows:

Rental applications. A rental application must:

- (1) comply with the requirements of Section 27-15A[.]; and
- (2) include a statement or addendum signed and dated by the applicant that details the processes for screening criminal history and ~~[[credit report]]~~ **credit history** as required under Section 27-15A(b)(1).

- c) **Insert reference to the landlord-tenant code section that describes the requirement for the lease to include the addendum for a rental application.**

Amend lines 15-16, as follows:

A housing provider must retain for one year from the date of the rental application a copy of each applicant’s completed **statement or addendum as required under Section 29-28(h)(2)** that details the process under paragraph (1). Upon request, the

addendum may be subject to inspection and review by the Director of the Office of Human Rights.

Decision Point: Whether to accept the clerical amendments as proposed above? **Committee recommendation (3-0) to adopt all clerical amendments proposed by Council staff.**

4. Remove the requirement for the disclosure statement to appear on a paper or online rental application.

It may be difficult for landlord to ensure the required disclosure is posted on an electronic website controlled by a third party. Council staff recommended the following amendment:

Strike lines 21-27 and replace with:

Posting of disclosure notice - required. A housing provider must post a disclosure statement regarding an application for rental housing:

- (1) on a website operated and controlled by the housing provider; and
- (2) in an obvious and conspicuous place of a leasing office available for tenants.
- (3) The disclosure statement under this subsection must read: “In accordance with Section 27-15A of the Montgomery County Code, 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.”

Decision Point: Whether to remove the requirement for a paper or online posting to include certain disclosures? **Committee recommendation (3-0): adopt amendment proposed above by Council staff.**

5. Consideration of Lease Addendums in Different Languages.

As a discussion point, the Committee discussed the Department’s capacity to provide addendums in different languages similar to the requirement for model leases. Currently, under Section 29-6(f) of the Montgomery County Code, the Director must provide model leases in English, Spanish, French, Chinese, Korean, Vietnamese, and other languages, as determined necessary by the Director. This recommendation was raised during public testimony by CASA of Maryland and Everyday Canvassing (© 28).

Although, there are no requirements under the law for addendums be available for landlords or tenants in different languages, Director Bruton agreed that DHCA would work towards meeting this accommodation and making the forms publicly available.

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Bill No. 8-24
Concerning: Human Rights and Civil Liberties – Fair Criminal History and Credit Screenings - Amendments
Revised: 7/25/2024 Draft No. 4
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
Cosponsors: Councilmembers Glass and Katz

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]] certify as part of the annual rental housing survey receipt of 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 29-27, 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 Posting of disclosure notice - required. A housing provider must post a
 29 disclosure statement regarding an application for rental housing:

- 30 (1) on a website operated and controlled by the housing provider; and
 31 (2) in an obvious and conspicuous place of a leasing office available for
 32 tenants.
 33 (3) The disclosure statement under this subsection must read: “In
 34 accordance with Section 27-15A of the Montgomery County Code, a
 35 housing provider may not ask questions related to criminal arrest or a
 36 conviction before a conditional offer for rent is made to an applicant
 37 unless otherwise permitted by law.”

38 (n) Inspection of rental application. Each quarter during a calendar year,
 39 the Director must randomly conduct an inspection of completed rental
 40 applications submitted by an applicant to a landlord for any licensed
 41 rental building that has 10 or more units to ensure compliance with this
 42 Chapter. Failure of an owner to provide the dated and signed rental
 43 application with its contents for review may be considered a violation
 44 of this Chapter.

45 (o) Annual reporting. By October 1 of each year, the Director of Office of
 46 Human Rights, [[may]] must coordinate with the Director of Department
 47 of Housing and Community Affairs, to provide an annual report to the
 48 County Council that includes disaggregated data on the following:

- 49 (1) the number of complaints received by the Office of Human Rights
 50 regarding the denial of a rental applications by a housing provider;
 51 (2) the specific reason an application under paragraph (1) was denied;
 52 (3) the number of complaints filed with the Office of Human Rights
 53 for failure to comply with this Section;

- 54 (4) the number of complaints filed under this Section compared to
- 55 other types of discriminatory complaints received by the Office of
- 56 Human Rights; [[and]]
- 57 (5) summary findings of the inspections performed under subsection
- 58 (n); and
- 59 (6) any other related data pertinent to this Act.

60 **29-27. Contents of lease.**

61 * * *

62 (a)(a) include the addendum under Section 29-28(h)(2) that was signed and
63 dated by the occupying tenant.

64 **29-28. Leasing requirements generally.**

65 * * *

66 (h) *Rental applications.* A rental application must:

- 67 (1) comply with the requirements of Section 27-15A[.]; and
- 68 (2) include a statement or addendum on a form prescribed by the
- 69 Director of the Department that is signed and dated by the
- 70 applicant, [[that]] which details the processes for screening
- 71 criminal history and credit [[report]] history as required under
- 72 Section 27-15A(b)(1).

73 * * *

74 **29-51. Rental housing data collection.**

75 * * *

76 (e) The Director, at a minimum, must include in the survey a questionnaire
77 for each landlord to certify whether the occupying tenant completed a
78 criminal history and credit screening addendum as required under Section
79 29-28(h)(2). The survey form must request the date of the signed
80 addendum.

81 ~~[(e)]~~ (f) The housing data collected must be used to measure the supply and
82 availability of rental housing, as well as other operating characteristics.

83 Each landlord must provide the following to the County:

- 84 (1) The location of each rental facility, including the zip code;
- 85 (2) Structure type;
- 86 (3) Year built;
- 87 (4) Distribution of units by standard bedroom sizes;
- 88 (5) The number of units by bedroom size that were re-rented during
89 the month;
- 90 (6) The number of vacant days applicable to those units;
- 91 (7) The rent charged for each rental unit;
- 92 (8) The rent charged for each re-rented unit before vacancy; and
- 93 (9) The new turnover rent charged for each re-rented unit. ~~[[; and~~
- 94 (10) A copy of the addendum or statement provided under Section 29-
95 28(h) only for the tenant currently renting the unit reported under
96 this Section. If the rental housing is reported as vacant or not
97 offered for rent, the landlord is required to specify that no rental
98 application was provided within the last 12 months.]]

99 ~~[(f)]~~ (g) * * *

100 ~~[(g)]~~ (h)

101 ~~[(h)]~~ (i)

102 ~~[(i)]~~ (j)

103 ~~[(j)]~~ (k)

104 ~~[(k)]~~ (l) * * *

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>

Economic Impact Statement

Montgomery County, Maryland

Bill 8-24

Human Rights and Civil Liberties – Fair Criminal History and Credit Screenings – Amendments

SUMMARY

The Office of Legislative Oversight (OLO) anticipates that enacting Bill 8-24 would have an insignificant impact on economic conditions in the County in terms of the Council’s priority economic indicators. As noted under Discussion Items of this analysis, Councilmembers may want to reconsider the data collection requirement in the Bill to determine if the value of information attained justifies the minor administrative expense landlords may incur by providing it.

BACKGROUND AND PURPOSE OF BILL 8-24

Passed in 2021, the County’s Housing Justice Act “prohibits a housing provider from conducting...a criminal background check or credit history before making an offer for rent to a prospective tenant.”¹ The law also prohibits housing providers from gathering information about or making housing decisions based on certain arrests or misdemeanors, such as trespassing, misdemeanor theft, and open container violations, among others.²

The purpose of Bill 8-24 is to strengthen the compliance of housing providers to the Housing Justice Act and improve understanding among renters of their rights under the law. If enacted, Bill 8-24 would make the following changes to the Housing Justice Act:³

- **Require notice to renters of Housing Justice Act rights.** The Bill would require housing providers to post a visible notice that informs prospective renters that, unless otherwise permitted by law, a housing provider cannot “ask questions related to criminal arrest or conviction before a conditional offer for rent is made.”
- **Require housing providers to obtain a signed addendum from each prospective tenant and submit documentation to the Department of Housing and Community Affairs (DHCA).** The Bill would require housing providers to include an addendum in every rental application that is signed and dated by the applicant that “outlines the process and use of criminal arrest, convictions, and credit screenings in a rental housing decision.” Housing providers must retain the signed addenda for each applicant for at least one year from the application date and submit the signed addenda for each existing tenant to DHCA annually.
- **Require the Office of Human Rights to collect and report certain data points annually.** The Bill would require the Office of Human Rights to report several data points to the Council by October 1st of every year, including the number and nature of complaints related to rental application denials and the number of complaints filed for violations of the Housing Justice Act, among others.

¹ Introduction Staff Report for Bill 8-24.

² Montgomery County Code, Sec. 27-15A.

³ Introduction Staff Report for Bill 8-24

The Council introduced Bill 8-24, Human Rights and Civil Liberties – Fair Criminal History and Credit Screenings – Amendments, on March 5, 2024.

INFORMATION SOURCES, METHODOLOGIES, AND ASSUMPTIONS

Per Section 2-81B of the Montgomery County Code, the purpose of this Economic Impact Statement is to assess, both, the impacts of Bill 8-24 on residents and private organizations in terms of the Council’s priority economic indicators and whether the Bill would have a net positive or negative impact on overall economic conditions in the County.⁴ OLO expects that certain landlords or property managers would incur minor administrative expenses involved with posting a notice informing prospective renters of the Housing Justice Act, attaining signed criminal and credit screening addendums as part of the rental application, or submitting signed addendums as part of the process for landlords to complete the Annual Rental Housing Survey. For this reason, OLO concludes that the Bill would have an insignificant impact on economics conditions in the County in terms of the Council’s priority economic indications.

VARIABLES

Not applicable

IMPACTS

WORKFORCE ■ TAXATION POLICY ■ PROPERTY VALUES ■ INCOMES ■ OPERATING COSTS ■ PRIVATE SECTOR CAPITAL INVESTMENT ■ ECONOMIC DEVELOPMENT ■ COMPETITIVENESS

Not applicable

DISCUSSION ITEMS

Councilmembers may want to reconsider the data collection requirement in the Bill to determine if the value of information attained justifies the minor administrative expense landlords may incur by providing it. The Bill would require landlords to submit copies of addenda for tenants currently renting units. While this data may demonstrate landlords are complying with the policy, the data would not indicate whether individuals were denied rental housing because of their criminal records. Uploading addenda for individuals whose applications were denied would do so.

WORKS CITED

[“Introduction Staff Report for Bill 8-24, Human Rights and Civil Liberties – Fair Criminal History and Credit Screenings - Amendments.”](#) Montgomery County Council. Introduced March 5, 2024.

Montgomery County Code. [Sec. 2-81B, Economic Impact Statements](#).s

Montgomery County Code. [Sec. 27-15A, Fair Criminal History and Credit Screenings in Rental Housing](#).

⁴ Montgomery County Code, Sec. 2-81B.

CAVEATS

Two caveats to the economic analysis performed here should be noted. First, predicting the economic impacts of legislation is a challenging analytical endeavor due to data limitations, the multitude of causes of economic outcomes, economic shocks, uncertainty, and other factors. Second, the analysis performed here is intended to *inform* the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the Bill under consideration.

AUTHOR

Stephen Roblin (OLO) prepared this report.

Climate Assessment

Office of Legislative Oversight

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

SUMMARY

The Office of Legislative Oversight (OLO) anticipates Bill 8-24 will have no impact on the County's contribution to addressing climate change as the Bill is proposing changes intended to improve compliance with an existing law.

BACKGROUND AND PURPOSE OF BILL 8-24

Passed in 2021, the County's Housing Justice Act "prohibits a housing provider from conducting...a criminal background check or credit history before making an offer for rent to a prospective tenant."¹ The law also prohibits housing providers from gathering information about or making housing decisions based on certain arrests or misdemeanors, such as trespassing, misdemeanor theft, and open container violations, among others.²

The purpose of Bill 8-24 is to strengthen the compliance of housing providers to the Housing Justice Act and improve understanding among renters of their rights under the law. If enacted, Bill 8-24 would make the following changes to the Housing Justice Act:³

- **Require notice to renters of Housing Justice Act rights.** The Bill would require housing providers to post a visible notice that informs prospective renters that, unless otherwise permitted by law, a housing provider cannot "ask questions related to criminal arrest or conviction before a conditional offer for rent is made."
- **Require housing providers to obtain a signed addendum from each prospective tenant and submit documentation to the Department of Housing and Community Affairs (DHCA).** The Bill would require housing providers to include an addendum in every rental application that is signed and dated by the applicant that "outlines the process and use of criminal arrest, convictions, and credit screenings in a rental housing decision." Housing providers must retain the signed addenda for each applicant for at least one year from the application date and submit the signed addenda for each existing tenant to DHCA annually.
- **Require the Office of Human Rights to collect and report certain data points annually.** The Bill would require the Office of Human Rights to report several data points to the Council by October 1st of every year, including the number and nature of complaints related to rental application denials and the number of complaints filed for violations of the Housing Justice Act, among others.

The Council introduced Bill 8-24, Human Rights and Civil Liberties – Fair Criminal History and Credit Screenings – Amendments, on March 5, 2024.

ANTICIPATED IMPACTS

As the Bill is proposing changes intended to improve compliance with an existing law, OLO anticipates Bill 8-24 will have no impact on the County’s contribution to addressing climate change, including the reduction and/or sequestration of greenhouse gas emissions, community resilience, and adaptative capacity.

RECOMMENDED AMENDMENTS

The Climate Assessment Act requires OLO to offer recommendations, such as amendments or other measures to mitigate any anticipated negative climate impacts.⁴ OLO does not offer recommendations or amendments as Bill 8-24 is likely to have no impact on the County’s contribution to addressing climate change, including the reduction and/or sequestration of greenhouse gas emissions, community resilience, and adaptative capacity.

CAVEATS

OLO notes two caveats to this climate assessment. First, predicting the impacts of legislation upon climate change is a challenging analytical endeavor due to data limitations, uncertainty, and the broad, global nature of climate change. Second, the analysis performed here is intended to inform the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO’s endorsement of, or objection to, the bill under consideration.

PURPOSE OF CLIMATE ASSESSMENTS

The purpose of the Climate Assessments is to evaluate the anticipated impact of legislation on the County’s contribution to addressing climate change. These climate assessments will provide the Council with a more thorough understanding of the potential climate impacts and implications of proposed legislation, at the County level. The scope of the Climate Assessments is limited to the County’s contribution to addressing climate change, specifically upon the County’s contribution to greenhouse gas emissions and how actions suggested by legislation could help improve the County’s adaptative capacity to climate change, and therefore, increase community resilience.

While co-benefits such as health and cost savings may be discussed, the focus is on how proposed County bills may impact GHG emissions and community resilience.

CONTRIBUTIONS

OLO staffer Kaitlyn Simmons drafted this assessment.

¹ [Introduction Staff Report for Bill 8-24](#), Montgomery County Council, Introduced March 5, 2024.

² [Montgomery County Code § 27-15A](#)

³ Introduction Staff Report for Bill 8-24

⁴ Bill 3-22, Legislative Branch – Climate Assessments – Required, Montgomery County Council, Effective date October 24, 2022

Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

BILL 8-24: HUMAN RIGHTS AND CIVIL LIBERTIES – FAIR CRIMINAL HISTORY AND CREDIT SCREENINGS – AMENDMENTS

SUMMARY

The Office of Legislative Oversight (OLO) anticipates Bill 8-24 will have a positive impact on racial equity and social justice (RESJ) in the County. Black and Latinx community members would disproportionately benefit from increased staffing dedicated for enforcement of the Housing Justice Act.

PURPOSE OF RESJ IMPACT STATEMENTS

The purpose of RESJ impact statements (RESJIS) is to evaluate the anticipated impact of legislation on racial equity and social justice in the County. Racial equity and social justice refer to a **process** that focuses on centering the needs, leadership, and power of communities of color and low-income communities with a **goal** of eliminating racial and social inequities.¹ Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social inequities that have caused racial and social disparities.²

PURPOSE OF BILL 8-24

Passed in 2021, the County’s Housing Justice Act “prohibits a housing provider from conducting...a criminal background check or credit history before making an offer for rent to a prospective tenant.”³ The law also prohibits housing providers from gathering information about or making housing decisions based on certain arrests or misdemeanors, such as trespassing, misdemeanor theft, and open container violations, among others.⁴ The Housing Justice Act is intended “to mitigate discrimination and other impediments to permanent housing, especially for homeless individuals who might have histories of certain low-level misdemeanors.”⁵

The purpose of Bill 8-24 is to strengthen the compliance of housing providers to the Housing Justice Act and improve understanding among renters of their rights under the law. If enacted, Bill 8-24 would make the following changes to the Housing Justice Act:⁶

- **Require notice to renters of Housing Justice Act rights.** The Bill would require housing providers to post a visible notice that informs prospective renters that, unless otherwise permitted by law, a housing provider cannot “ask questions related to criminal arrest or conviction before a conditional offer for rent is made.”
- **Require housing providers to obtain a signed addendum from each prospective tenant and submit documentation to the Department of Housing and Community Affairs (DHCA).** The Bill would require housing providers to include an addendum in every rental application that is signed and dated by the applicant that “outlines the process and use of criminal arrest, convictions, and credit screenings in a rental housing decision.” Housing providers must retain the signed addenda for each applicant for at least one year from the application date and submit the signed addenda for each existing tenant to DHCA annually.

RESJ Impact Statement

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- **Require the Office of Human Rights to collect and report certain data points annually.** The Bill would require the Office of Human Rights to report several data points to the Council by October 1st of every year, including the number and nature of complaints related to rental application denials and the number of complaints filed for violations of the Housing Justice Act, among others.

The Council introduced Bill 8-24, Human Rights and Civil Liberties – Fair Criminal History and Credit Screenings – Amendments, on March 5, 2024.

OLO previously published RESJISs for Expedited Bill 38-23, Tenant Displacement – Right of First Refusal to Buy Rental Housing – Amendments and Bill 14-22, Police – Private Security Camera Program – Established.^{7,8} Please refer to the RESJIS for Expedited Bill 38-23 for more context on segregation and the racial wealth divide and the RESJIS for Bill 14-22 for more context on policing and racial equity.

HOMELESSNESS AND RACIAL EQUITY

Homelessness is a complex issue that can look many different ways. As explained by the National Health Care for the Homeless Council (NHCHC):

“[h]omelessness often connotes a specific image of a person’s living arrangement, usually associated with panhandling or sleeping in public spaces. But this stereotype is too narrow, reinforces stigma, and leaves out many who fit the Health and Human Services (HHS) definition.”⁹

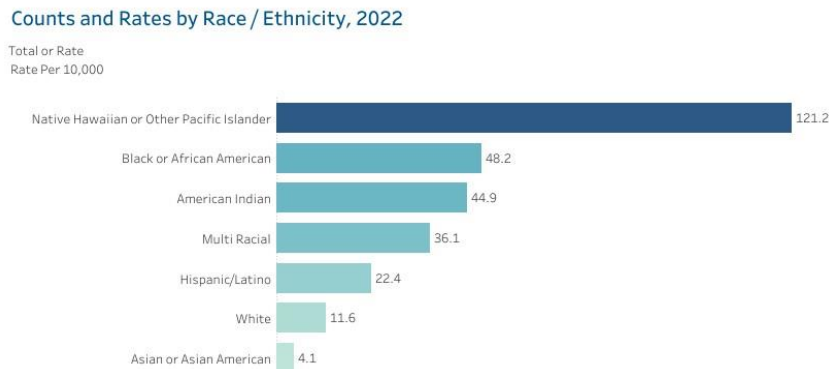
An NHCHC infographic explains how according to various federal definitions, homelessness can range from living outside or living in a shelter to exiting incarceration or “doubling-up” with others in a temporary living arrangement. While there are multiple definitions for homelessness, NHCHC stresses “the instability of an individual’s living arrangements is critical to the definition of homelessness.”¹⁰

As of January 2022, over 500,000 people in the United States were experiencing homelessness.¹¹ While this issue affects many people, racial inequities such as segregation and the racial wealth divide – established over centuries by government policies and practices such as exclusionary zoning, the exclusion of Black, Indigenous and Other People of Color (BIPOC) from federal homeownership programs, and racial restrictive covenants –¹² have created stark racial disparities in who experiences housing insecurity and homelessness. The most recent State of Homelessness Report from the National Alliance to End Homelessness shows that Native American, Black, and Native Hawaiian or Other Pacific Islander people across the country experience homelessness at 3 to 10 times the rate of White people (Figure 1).¹³

RESJ Impact Statement

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Figure 1: Rates of Homelessness per 10,000 People by Race and Ethnicity, United States.



Source: U.S. Department of Housing and Urban Development, 2022 Annual Homeless Assessment Report to Congress (AHAR); U.S. Census Bureau, 2022 Population Estimates.

Source: [National Alliance to End Homelessness](#), State of Homelessness: 2023 Edition.

BIPOC community members are also disproportionately impacted by homelessness locally. As of 2023, 625 single people and 269 people in families (including adults and children) were unhoused.¹⁴ Data summarized in Table 1 demonstrates Black people are overrepresented among people experiencing homelessness in the County. While Black community members account for 19 percent of the population, they account for 60 percent of unhoused people who are single and 73 percent of unhoused people in families. Native American community members are also overrepresented among single people experiencing homelessness. Conversely, White and Asian community members are underrepresented among people experiencing homelessness in the County, while Pacific Islander people are proportionately represented.

Table 1: Unhoused Single People and People in Families by Race and Ethnicity, Montgomery County¹⁵

Race and ethnicity	Percent of Unhoused Single People	Percent of Unhoused People in Families	County Population
Asian	3.5	1.9	15.3
Black	59.8	72.9	18.5
Native American	8.5	2.6	0.4
Pacific Islander	1.1	0.7	0.0
White	27.0	21.9	46.6

Source: [2023 Point in Time Survey](#), Services to End and Prevent Homelessness, Montgomery County Department of Health and Human Services and [Table DP05](#), 2022 American Community Survey 5-Year Estimates, Census Bureau.

Homelessness and criminal justice. As observed by researchers at the Urban Institute, “being forced to live outside can lead to citations or arrests for low-level offenses like loitering or sleeping in parks” that makes it more likely for unhoused people to interact with the criminal justice system.¹⁶ A study by the Prison Policy Initiative found that formerly incarcerated people were nearly 10 times more likely to experience homelessness than the general public.¹⁷ According to the Bureau of Justice Assistance, there are four factors that create a self-perpetuating cycle of homelessness and justice involvement: the criminalization of survival behaviors; difficulty exiting the justice system; restrictions on obtaining housing; and an increased risk of supervised violations.¹⁸

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In a policy brief on the criminalization of homelessness, the National Homelessness Law Center described how, “ordinances regulating the use of public space have long been used to exclude marginalized persons based on race, national origin, and economic class.”¹⁹ The interaction of historic racial inequities in policing and criminal justice²⁰ with racial inequities in housing puts BIPOC at higher risk of entering the cycle of homelessness and justice involvement. The study from the Prison Policy Initiative found that formerly incarcerated Black women and men each experience the highest rates of sheltered and unsheltered homelessness.²¹

ANTICIPATED RESJ IMPACTS

To consider the anticipated impact of Bill 8-24 on RESJ in the County, OLO recommends the consideration of two related questions:

- Who are the primary beneficiaries of this bill?
- What racial and social inequities could passage of this bill weaken or strengthen?

For the first question, OLO considered the demographics of community members who have been arrested and/or who have certain low-level convictions, since they could benefit from the proposed amendments to the Housing Justice Act. Data summarized in Table 2 suggests Black and Latinx community members are overrepresented among people who have been arrested in the County. While Black and Latinx people each account for 19 percent and 20 percent of the County population, they account for 48 percent and 30 percent of arrests by the Montgomery County Police Department (MCPD). White and Asian people are underrepresented among arrests, while Native American and Pacific Islander people are proportionately represented.

Table 2: MCPD Arrests by Race and Ethnicity, Montgomery County²²

Race and ethnicity	Number of Arrests	Percent of Arrests	County Population
Asian	532	2.7	15.3
Black	9,491	48.0	18.5
Native American	26	0.1	0.4
Pacific Islander	11	0.1	0.0
White	3,795	19.2	46.6
Latinx	5,890	29.8	20.0
Unknown	17	0.1	N/A

Source: OLO Analysis of [Police Arrests](#) from January 2021 to December 2023, DataMontgomery and [Table DP05](#), 2022 American Community Survey 5-Year Estimates, Census Bureau.

OLO could not find data disaggregated by race and ethnicity for the specific convictions covered by the Housing Justice Act. However, since Black people are overrepresented among people experiencing homelessness in the County (Table 1), they are likely overrepresented among people who have convictions that result from carrying out survival activities while unhoused.

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For the second question, OLO considered how Bill 8-24 could mitigate housing discrimination against people who are experiencing homelessness and/or who are justice system involved. It is uncertain how the specific provisions of this Bill would meaningfully reduce discrimination against these groups. However, according to the Fiscal Impact Statement, “Bill 8-24 will have a significant impact on staffing” with the Office of Human Rights estimating “that up to 2 Investigator I/II positions could be needed for investigation and enforcement efforts.”²³ Increased resources for staffing in the Office of Human Rights through Bill 8-24 could reduce housing discrimination through allowing more focused enforcement of the Housing Justice Act.

OLO anticipates Bill 8-24 will have a positive impact on RESJ in the County. Black and Latinx community members would disproportionately benefit from increased staffing dedicated for enforcement of the Housing Justice Act.

RECOMMENDED AMENDMENTS

The Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.²⁴ OLO anticipates Bill 8-24 will have a positive impact on RESJ in the County. As such, OLO does not offer recommended amendments.

CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

CONTRIBUTIONS

OLO staffer Janmarie Peña, Performance Management and Data Analyst, drafted this RESJ impact statement.

¹ Definition of racial equity and social justice adopted from “Applying a Racial Equity Lens into Federal Nutrition Programs” by Marlysa Gamblin, et.al. Bread for the World, and from Racial Equity Tools. <https://www.racialequitytools.org/glossary>

² Ibid.

³ [Introduction Staff Report for Bill 8-24](#), Montgomery County Council, Introduced March 5, 2024.

⁴ [Montgomery County Code § 27-15A](#)

⁵ [Introduction Staff Report for Bill 49-20](#), Montgomery County Council, Introduced December 8, 2020.

⁶ Introduction Staff Report for Bill 8-24

⁷ [RESJIS for Bill 38-23E](#), Office of Legislative Oversight, October 13, 2023.

⁸ [RESJIS for Bill 14-22](#), Office of Legislative Oversight, July 21, 2022.

⁹ Types of Homelessness, [National Health Care for the Homeless Council](#).

¹⁰ Ibid.

¹¹ [State of Homelessness: 2023 Edition](#), National Alliance to End Homelessness.

¹² RESJIS for Bill 38-23E citing [The Color of Wealth in the Nation's Capital](#), Urban Institute, November 1, 2016 and Richard Rothstein, *The Color of Law* (Liveright, 2017).

¹³ State of Homelessness: 2023 Edition

¹⁴ [2023 Point in Time Survey](#), Services to End and Prevent Homeless, Montgomery County Department of Health and Human Services.

RESJ Impact Statement

Bill 8-24

¹⁵ Separate estimates for Latinx people are not provided for this data point.

¹⁶ [Five Charts that Explain the Homelessness-Jail Cycle – and How to Break It](#), Urban Institute, September 16, 2020.

¹⁷ Lucius Couloute, [“Nowhere to Go: Homelessness Among Formerly Incarcerated People,”](#) Prison Policy Initiative, August 2018.

¹⁸ [Responding to Homelessness](#), Police-Mental Health Collaboration (PMHC) Toolkit, Bureau of Justice Assistance, U.S. Department of Justice.

¹⁹ Eric S. Tars, [“The Criminalization of Homelessness,”](#) National Homelessness Law Center, 2021.

²⁰ RESJIS for Bill 14-22

²¹ Couloute

²² Latinx people are not included in other racial groups for this data point.

²³ Fiscal Impact Statement for Bill 8-24, Montgomery County Office of Management and Budget.

²⁴ Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council



Fiscal Impact Statement

Office of Management and Budget

Bill 8-24

Human Rights and Civil Liberties - Fair Criminal History and Credit Screenings - Amendments

Bill Summary

Bill 8-24 requires landlords to post a notice visible to applicants stating the housing provider may not ask questions related to criminal arrest or a conviction before a conditional offer for rent is made and requires the housing provider to include a statement or addendum with every application that outlines the process and use of criminal arrest, convictions, and credit screening in a rental housing decision. This bill also requires landlords to provide the County a completed criminal and credit screening addendum as part of the annual rental housing survey. Landlords must also retain a copy of the completed addendum for one year from the date of the rental application, subject to review by the Office of Human Rights (HRC), upon request. In addition, Bill 8-24 requires HRC to provide an annual report to the County Council by October 1st every year that includes: (1) the number complaints received by HRC regarding the denial of rental application by a housing provider; (2) the specific reason an application was denied; (3) the number of complaints filed with HRC 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 HRC; and (5) any other related data pertinent to this legislation.

Fiscal Impact Summary

Expenditures are expected to increase to accommodate up to 2.00 FTEs for the required staff support by HRC. Minimal operating expenditures are expected to increase for the software/database to maintain housing providers, track complaints, and to perform data analysis. This bill is not expected to impact County revenues.

Fiscal Year	2024	2025	2026	2027	2028	2029	Total
Personnel Costs	\$0	\$185,206	\$185,206	\$185,206	\$185,206	\$185,206	\$926,030
Operating Expenses	\$0	\$11,000	\$0	\$0	\$0	\$0	\$11,000
Total Expenditures	\$0	\$196,206	\$185,206	\$185,206	\$185,206	\$185,206	\$937,030
Revenues	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Impact	\$0	(\$196,206)	(\$185,206)	(\$185,206)	(\$185,206)	(\$185,206)	(\$937,030)
FTE	0.00	2.00	2.00	2.00	2.00	2.00	

Fiscal Impact Analysis

There are approximately 109,000 housing rental units in the County, which includes approximately 80,000 units in nearly 700 multifamily properties and approximately 29,000 single family units. HRC asserts that Bill 8-24 will have a significant impact on staffing and estimates that up to 2 Investigator I/II positions could be needed for investigation and enforcement efforts. This analysis assumes that the bill will be effective starting FY25.

Staff Impact

Implementation of Bill 8-24 is expected to have a significant impact on staff time and duties, including investigating complaints, enforcement of landlord compliance, and the creation of a complaint registry system for report gathering and data collection/analysis. In addition, HRC will be tasked with the additional responsibility of



tracking: (1) the number of complaints received by HRC regarding the denial of a rental application by a housing provider; (2) the specific reason an application was denied; (3) the number of complaints filed with HRC 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 HRC; and (5) any other related data pertinent to this legislation. HRC does not currently perform these functions and does not currently have the capacity to absorb these additional duties with its current complement, therefore additional resources may be required to support the enforcement of this legislation.

Actuarial Analysis

The bill is not expected to impact retiree pension or group insurance costs.

Information Technology Impact

The bill is not expected to impact the County Information Technology (IT) or Enterprise Resource Planning (ERP) systems.

Other Information

Later actions that may impact revenue or expenditures if future spending is projected

Contributors

Alicia A. Singh, Office of Management and Budget
James L. Stowe, Office of Human Rights



Bill 8-24_JoShifrin_FAV
Hearing Date: June 18, 2024
Jo Shifrin
Bethesda, MD 20817

TESTIMONY ON Bill 8-24 - POSITION: FAVORABLE
**Human Rights and Civil Liberties - Fair Criminal History and Credit Screenings -
Amendments**

TO: Chair Friedson, Vice Chair Stewart, and members of the Montgomery County Council

FROM: Jo Shifrin

OPENING: My name is Jo Shifrin. I am a resident of District I. I am submitting this testimony in support of Bill 8-24.

The County 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. Additionally, it prohibits the housing provider from inquiring into, or making housing decisions based upon, certain arrests or misdemeanors.

The Housing Justice Act is a good law. However, it lacks a process to ascertain if prospective rental applicants, who were denied rental housing, were informed of their rights during the application process. The law requires disclosure but lacks the ability to verify that a housing provider complied. Aggrieved renters who are denied rental housing can complain to the Office of Human Rights. But an applicant might never complain if they are not aware of their rights. Bill 8-24 corrects for these deficiencies in the Housing Justice Act.

Why is this revision needed?

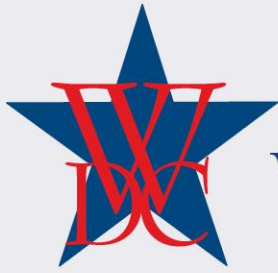
- The Department of Housing and Urban Development (HUD) issued guidelines in 2016 recognizing the disparate racial impact of housing policies that exclude people on the basis of criminal background.
- Studies consistently affirm that having a criminal record is a significant barrier to securing housing.
- People who are formerly incarcerated are almost 10 times more likely to be homeless than the general public.
- Housing insecurity is a significant factor associated with criminal recidivism.

- A study of Maryland's MOVE program found that addressing housing insecurity among the formerly incarcerated is beneficial to public safety.

As a Jew, my sense of justice is grounded in Jewish texts. The Tanakh (the Hebrew Bible) is Judaism's foundational text. There is a tremendous amount of contemporary wisdom in these writings. In the book of Isaiah, Chapter 10 there is a passage that calls to those in the government to perform their duty to ensure justice and dignity for economically insecure members of their society.

Everyone should have housing adequate to their needs. If the formerly incarcerated are to put their lives back together, be gainfully employed, return to school, parent their children, and so forth, they need a fair chance to obtain a place to live.

Bill 8-24 will improve Montgomery County Housing law and will enable a disadvantaged group of people the chance to start over. I respectfully urge you to support Bill 8-24.



MONTGOMERY COUNTY, MARYLAND
WOMEN'S DEMOCRATIC CLUB

PO Box 34047, Bethesda, MD 20827 • wdc@womensdemocraticclub.org

Montgomery County Council Legislation

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

Committee: Planning, Housing & Parks

Hearing: June 18, 2024

SUPPORT

June 17, 2024

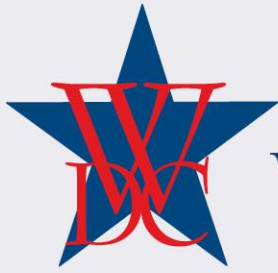
Dear Councilmembers Friedson, Fani-Gonzalez and Jawando,

Thank you for this opportunity to submit written testimony concerning a priority of the **Montgomery County Women's Democratic Club (WDC)**. WDC is one of Maryland's largest and most active Democratic clubs with hundreds of politically active members, and [our advocacy work](#) centers on helping to achieve racial, social, and economic equity for women and their families.

WDC urges the passage of 8-24 in order to reduce homelessness and housing practices that contribute to racial disparities and adverse impacts on women and their families. This bill specifically addresses the issue of housing access for individuals with criminal records.

Current County [law](#) already prohibits a landlord from conducting a criminal background check before making an offer to rent to a prospective tenant, but the law lacks an enforcement mechanism.

8-24 rectifies this deficiency by requiring landlords to post a notice about using criminal records in rental decisions and include criminal and credit screening information in their annual housing survey sent to the County. The intent of 8-24 is to make rental housing more accessible for those who have encountered our criminal justice system to become self-sufficient, contributing members of society.



MONTGOMERY COUNTY, MARYLAND
WOMEN'S DEMOCRATIC CLUB

PO Box 34047, Bethesda, MD 20827 • wdc@womensdemocraticclub.org

This bill reduces racial disparities. There is a clear disparate racial impact of housing policies that exclude people on the basis of criminal background. According to the Department of Housing and Urban Development (HUD) such policies likely violate the Fair Housing Act.

This bill reduces homelessness: People who are formerly incarcerated are almost 10 times more likely to be homeless according to the [Prison Policy Initiative](#). Women's homelessness presents a huge problem for the security of American families.

This bill supports the well-being of women and their families: While roughly 10% of MD's prison population are women, they still represent a larger portion of prisoners than in all previous decades, according to a [report](#) by *Housing Studies*. Women who are single parent households and have prior justice system involvement need laws with teeth to help them and their children live in safe housing.

WDC sees this bill as necessary so that when released from prison, women can find housing for their families and reintegrate into society. In order to ensure that having a criminal record is not a significant barrier to securing housing, we ask for your support for 8-24.

Tazeen Ahmad
WDC President

Janet Frank
WDC Advocacy Committee



Democratic Socialists of America

Montgomery County, Maryland

Testimony in Favor of Bill 8-24 Human Rights And Civil Liberties-Fair Criminal History And Credit Screenings

What Is Bill 8-24?

Bill 8-24 was introduced by Council Member At Large Laurie-Ann Sales and co-sponsored by Council Members Katz and Glass. Bill 8-24 was drafted to strengthen our County's previous Ban The Box legislation prohibiting landlords or their agents from inquiring about a potential tenant's criminal history during the initial application process, The 2021 Ban The Box law already on the books essentially stipulates that a landlord has to allow a prospective tenant to present their general qualifications to rent and have them approved before any questions are posed about engagement with the criminal justice system. Big 8-24 requires landlords to post a notice about restrictions on asking about criminal records. Housing providers are also required to include their records of criminal and credit history screening in the annual housing survey they present to the County and allow denied prospective tenants to see it upon request.

Background

In 2021 the County passed the Housing Justice Act prohibiting a landlord or agent from conducting a criminal record check or credit history before making an offer to rent to a prospective tenant, The Housing Justice Act also requires housing providers to include any criminal background and credit history requirements on their rental applications, prohibits consideration of certain types of arrests and convictions as well as source of income or other discriminatory factors. While the HJA does not guarantee that housing or job providers will not withdraw an offer because of an applicant's criminal history it was drafted to ensure that every person's qualifications be fairly considered first. A problem with the HJA is it is 'complaint based'. To take advantage of the protections of the HJA applicants must be aware of their rights under the law and file a complaint with County Office Of Human Rights before any action is taken on their behalf.

How Bill 8-24 Strengthens The Protections Of The Housing Justice Act

1. Housing providers are required to *post a notice* about an applicant's rights against improper criminal history screening,
2. Housing providers are required to prove compliance under 8-24 by mandates that they *report completed addendum information* in their annual reports to the County. In other words, if they deny housing to an otherwise qualified applicant they have to state why,

3. Improve the County's understanding of the barriers faced by folks with criminal justice histories in the housing market by requiring housing providers to report to the County disaggregated data on the number and reasons for denied applications.

Proposed Amendments To Bill 8-24.

1. Require housing providers to *retain competed addendums*.
2. Require annual randomized audits from the Office Of Human Rights to ensure landlords are *presenting criminal history and other background screening addendum** to *prospective tenants*.

*An addendum is something that has been added to a book, speech, or document. In the case of a rental application it usually spells out the reasons the prospective tenant was refused a lease, e.g. criminal or credit history.

Why Is MoCo DSA Supporting Bill 8-24?

Bill 8-24 is in perfect alignment with the racial justice and housing justice work our branch has been engaged in over the past 4+ years. During the pandemic our group lobbied relentlessly to extend eviction protections. In 2023 MoCo DSA was one of the most active partners in getting Rent Stabilization Bill 15-23 passed by the County Council and signed into law by County Executive Elrich. We phone banked, handed out fliers, confronted our elected officials when necessary and canvassed our renter neighbors to gather the necessary support to get this big win. The work goes on as our members continue to go from building to building engaging renters about their rights as tenants.

Important Considerations Supporting The Passage Of Bill 8-24

1. One in three adults in the USA has a criminal record according to The Department Of Housing And Urban Development.
2. Black people make up 37% of the overall prison population despite accounting for just 13% of the general population. Black inmates accounted for 72.4% of Maryland state prisoners in 2023 although black people make up less than a third of our state's population. *Yes, housing discrimination against those ensnared by our criminal justice system clearly has a strong and disparate racial component.*
3. In 2016 HUD issued guidance explicitly recognizing the disparate racial impact of housing policies that exclude people on the basis of a criminal background. It held that such policies likely violate the Fair Housing Act.
4. People who are formerly incarcerated are ten times more likely to be homeless than the general population.
5. Housing insecurity is a significant factor associated with criminal recidivism. The ability of the formerly incarcerated to access safe, secure and affordable housing is critical for their successful reentry to society.
6. A study of Maryland's MOVE program found that addressing housing insecurity among the formerly incarcerated is beneficial to public safety.
7. The information collected from Bill 8-24 will be critical for monitoring and tracking progress on how we are removing barriers for those seeking housing in our County.

Prepared by: Steve Melkisetian, Advisory Committee, Montgomery County DSA

Testimony in Support with Amendments for Bill 8-24: Human Rights and Civil Liberties – Fair Criminal History and Credit Screenings

Dear Members of the Montgomery County Council,

This is Tino Fragale (he/him), one of Everyday Canvassing's co-directors. We are a local nonprofit that does door knocking and street talking everyday. In particular, we have had thousands of conversations with low to moderate-income renters and people experiencing homelessness across Montgomery County. Over the years, we have built relationships with and listened to thousands of residents and stood by their side in their pursuit of stable housing and fair treatment.

The individuals we serve at Everyday Canvassing are often the most vulnerable members of our community, facing numerous obstacles in their search for stable housing. Some have records with the legal system, and many have credit histories that do not accurately reflect their current circumstances or the rent they had consistently paid for years before a crisis, or potential as tenants. The implementation changes to the Housing Justice Act proposed in Bill 8-24 will provide more transparency and accountability for landlords to follow best practice in the application process.

We commend Councilmember Sayles' office for taking the lead on 8-24, which will meaningfully improve the implementation of the Housing Justice Act.

Support for Key Provisions

1. **Transparency in Rental Applications:** By requiring landlords to disclose their processes for criminal and credit screenings upfront, applicants can better understand the criteria being used to evaluate their applications. This transparency is important to ensure all applicants are aware of their rights and the standards to which they will be held.

2. **Notice Posting Requirements:** Mandating landlords to post notices regarding the prohibition of criminal history inquiries before a conditional offer is made will help ensure that potential renters are not unfairly disqualified based on their past before having a chance to prove their current suitability.

3. **Retention and Reporting of Addendums:** The requirement for landlords to retain and submit criminal and credit screening addendums as part of the annual rental housing survey enhances accountability. It ensures that there is a verifiable record of compliance with the law, protecting applicants from potential discriminatory practices.

4. **Annual Data Reporting:** Collecting and reporting disaggregated data on rental application denials and related complaints will provide valuable insights into the implementation and impact of these policies. It will enable ongoing monitoring and adjustment of strategies to ensure they are effectively promoting fair housing practices.

5. Investment in Staffing: A bill is only as strong as its implementation. We are glad that this bill will push for the needed staffing to successfully respond to complaints that surface when landlords don't follow best practice.

Recommended Amendments

1. We ask that all addendums and public notices of tenants' rights be shared in all of the County's top 7 languages.

2. We also ask that this bill add clarity to the Housing Justice Act's language of "credit scores *within commercial reason*," as credit screenings that don't reflect an applicant's ability to pay rent are one of the most common barriers to housing that we have seen when working with at-risk renters.

3. We ask that DHCA publicly share any violations of these rights on their incoming database about multiunit housing in the county.

As our County works to strengthen tenants' rights, we thank you for considering the swift passage and implementation of Bill 8-24. We look forward to continued collaboration to ensure housing for all, as quickly as possible.

Thank you for your time and consideration.

Tino Fragale
He/Him
Co-Director
Everyday Canvassing
Montgomery County, MD

**AMENDMENT
BY
COUNCILMEMBER SAYLES**

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

Amendment #1

Beginning on page 3, insert on line 40, amending Section 29-27, as follows:

29-27. Contents of the lease.

- 1 * * *
- 2 (x) include the addendum under Section 29-28(h)(2) that was signed and
- 3 dated by the occupying tenant.
- 4 * * *

Amendment #2

Beginning on page 3, strike lines 62-66 of Section 29-51 and insert the following:

29-51. Rental housing data collection.

- 5 * * *
- 6 (d) The Director must use a survey form for collecting data designed to
- 7 minimize the repeated reporting of unchanged information, while
- 8 maintaining an accurate data base.
- 9 (e) The Director, at a minimum, must include in the survey a questionnaire
- 10 for each landlord to indicate whether the occupying tenant completed a
- 11 criminal history and credit screening addendum as required under Section
- 12 29-28(h)(2). The survey form must request the date of the signed
- 13 addendum.
- 14 ~~[(e)]~~ (f) * * *
- 15 ~~[(f)]~~ (g)
- 16 ~~[(g)]~~ (h)

- 17 ~~[(h)]~~ (i)
- 18 ~~[(i)]~~ (j)
- 19 ~~[(j)]~~ (k)
- 20 ~~[(k)]~~ (l)

21
22 * * *

23 ~~[(10)]~~ A copy of the addendum or statement provided under Section 29-
24 28(h) only for the tenant currently renting the unit reported under
25 this Section. If the rental housing is reported as vacant or not
26 offered for rent, the landlord is required to specify that no rental
27 application was provided within the last 12 months.]]

Amendment #3

28 (n) Inspection of rental application. Each quarter during a calendar year,
29 the Director must randomly conduct an inspection of completed rental
30 applications submitted by an applicant to a landlord for any licensed
31 rental building that has 10 or more units to ensure compliance with this
32 Chapter. Failure of an owner to provide the dated and signed rental
33 application with its contents for review may be considered a violation
34 of this Chapter.

35 (o) Annual reporting. By October 1 of each year, the Director of Office of
36 Human Rights, may coordinate with the Director of Department of
37 Housing and Community Affairs, to provide an annual report to the
38 County Council that includes disaggregated data on the following:

39 (1) the number of complaints received by the Office of Human Rights
40 regarding the denial of a rental applications by a housing provider;

- 41 (2) the specific reason an application under paragraph (1) was denied;
42 (3) the number of complaints filed with the Office of Human Rights
43 for failure to comply with this Section;
44 (4) the number of complaints filed under this Section compared to
45 other types of discriminatory complaints received by the Office of
46 Human Rights;
47 (5) summary findings of the inspections performed under subsection
48 (n); and
49 (6) any other related data pertinent to this Act.



MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

COUNCILMEMBER LAURIE-ANNE SAYLES

ECONOMIC DEVELOPMENT

AT LARGE

HEALTH AND HUMAN SERVICES

MEMORANDUM

July 10th, 2024

TO: PHP Committee Members
FROM: Laurie-Anne Sayles, Councilmember
SUBJECT: Proposed Amendments to Bill 8-24

Dear Colleagues,

Thank you for your consideration of my bill, 8-24 Human Rights and Civil Liberties – Fair Criminal History and Credit Screenings - Amendments.

Following my discussions with colleagues and stakeholders, I'd like to introduce the friendly amendments we've agreed upon, noted below in bold.

- Given the lack of infrastructure that would easily allow a landlord to upload a completed addendum to the annual rental survey, I am introducing an amendment that will instead **add a question to the Annual Rental Survey for each landlord to confirm if the occupying tenant signed the addendum and the date it was signed.**
- Since the county will not be the repository for these completed addendums, **the landlord must include the addendum with the tenant's lease when the lease is signed.**
- Finally, this bill intends to add accountability regarding compliance with the law. Therefore, **the Office of Human Rights will complete quarterly randomized audits at buildings with ten or more units to ensure landlords comply with the law.**

In the fiscal impact statement for this bill, HRC explains the need for these additional funds by citing that implementation of Bill 8-24 is expected to significantly impact staff time and duties, including investigating complaints, enforcing landlord compliance, and creating a complaint registry system for report gathering and data collection/analysis.

Given the initial lack of investment when the original bill was passed in 2021, Bill 8-24's fiscal impact statement includes those costs. It is crucial to prioritize fully funding this bill, as these additional resources will align with the county's goals of advancing RESJ and reducing housing discrimination.

Sincerely,

A handwritten signature in blue ink that reads "Laurie-Anne Sayles". The signature is written in a cursive, flowing style.