

Department of Legislative Services
 Maryland General Assembly
 2026 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 937

(Senator Henson)

Judicial Proceedings

Economic Matters

**Landlord and Tenant - Residential Leases - Prospective Tenant Criminal History
 Records Check (Maryland Fair Chance Housing Act)**

This bill generally establishes certain restrictions on a landlord’s use of a prospective tenant’s criminal history records, in addition to other prohibitions. Among other provisions, the bill also (1) reduces, from seven years to three years, the applicable period of criminal history included in a reusable tenant screening report and (2) mandates the data collection and annual publication of related complaint information by the Office of Tenant and Landlord Affairs (OTLA) within the Department of Housing and Community Development (DHCD). In general, the bill’s provisions apply only to a landlord that manages or owns five or more residential rental units in the State. Violation of the bill is an unfair, abusive, or deceptive trade practice under the Maryland Consumer Protection Act (MCPA); violators of the bill’s provisions are also subject to a civil penalty of up to \$500 for each violation. The bill’s provisions preempt and supersede any local law or ordinance comparable in subject matter.

Fiscal Summary

State Effect: General fund expenditures increase by \$234,900 in FY 2027 for staff and one-time programming costs. Future year expenditures reflect annualization, inflation, and elimination of one-time costs. The bill’s imposition of civil penalties may minimally increase general fund revenues (not reflected below).

(in dollars)	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	234,900	218,200	228,300	238,600	249,000
Net Effect	(\$234,900)	(\$218,200)	(\$228,300)	(\$238,600)	(\$249,000)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill does not have a material impact on local government finances or operations.

Small Business Effect: Meaningful

Analysis

Bill Summary:

Definitions

A “conditional offer” is an offer to lease residential property to a prospective tenant, contingent upon a subsequent inquiry into the prospective tenant’s criminal history.

Application

The bill’s provisions apply only to a landlord that manages or owns five or more residential rental units in the State, including any residential rental units that the landlord owns or controls (1) in whole or in part; (2) directly or indirectly; or (3) through one or more legal entities. The bill’s provisions do not apply to owner-occupied residential rental units.

Tenant History and Records Check – Generally

The bill prohibits a landlord from (1) requiring a prospective tenant to submit to a drug or alcohol test or (2) requesting or requiring a prospective tenant to consent to the release of information about the individual from a program for the prevention and treatment of substance use disorders.

A landlord that conducts a criminal history records check (CHRC) must do so for every prospective tenant. Before accepting an application fee, a landlord must provide a prospective tenant with written notice regarding the use of criminal history in leasing decisions. This notice must include a statement that a conviction for specified crimes may be considered only after a conditional offer is extended. The landlord must also provide the prospective tenant with information on the ability of the prospective tenant to provide evidence of inaccuracies in the criminal history records, evidence of rehabilitation, and any mitigating factors. Additionally, the landlord must notify the prospective tenant that an individualized assessment will be conducted.

Conditional Offer and Review

Before extending a conditional offer to a prospective tenant, a landlord is prohibited from (1) requesting or requiring the prospective tenant to disclose in a housing application whether the tenant has a criminal history or has been accused of or charged with any crimes or (2) making any inquiry regarding the prospective tenant's criminal history. However, before extending a conditional offer, a landlord may require information on and may reject a prospective tenant's application on the ground of, whether a prospective tenant has been convicted of:

- manufacturing, distributing, dispensing, or producing methamphetamine on the premises of federally assisted housing (for a tenancy in federally assisted housing);
- a sexual offense under Title 3, Subtitle 3 of the Criminal Law Article;
- child pornography under Criminal Law § 11-207;
- first-degree murder (Criminal Law § 2-201) or second-degree murder (Criminal Law § 2-204), if the conviction occurred within the 10 years immediately preceding the rental application; or
- human trafficking under Criminal Law § 3-1102.

A landlord may also require information on (and reject an application based on) whether the prospective tenant is subject to a lifetime registration requirement under a state sex offender registration program or has ever been subject to a registration requirement under a state or federal sex offender registration program.

In response to the results of a CHRC, a prospective tenant may provide, and a landlord must then consider, evidence of (1) any inaccuracies in the prospective tenant's criminal history records; (2) rehabilitation; and (3) any other mitigating factors.

After extending a conditional offer to a prospective tenant, a landlord may conduct a CHRC and consider any felony conviction under the Criminal Law Article if the conviction occurred within five years immediately preceding the rental application or any convictions listed above that the prospective tenant did not previously disclose as potential grounds for withdrawing the offer.

A landlord may withdraw a conditional offer based on a prospective tenant's CHRC only if the landlord determines the withdrawal is necessary to protect a substantial, legitimate, and nondiscriminatory interest. If a landlord withdraws a conditional offer, the landlord is required to provide the prospective tenant with written notice that includes the specific reason for the withdrawal and a statement that the prospective tenant may request a reassessment of the withdrawal by providing specified evidence, signed under the penalty of perjury, to the landlord.

A landlord's reassessment of a rental application after a prospective tenant's request for reassessment must consider (1) the nature and severity of the offense; (2) the applicant's age at the time of the offense; (3) the time elapsed since the offense; (4) evidence of rehabilitation and good conduct; (5) the degree to which a recurrence of the offense would negatively impact the safety or property of other tenants; and (6) whether the offense occurred on the property previously rented or leased by the prospective tenant.

Within 30 days of receiving notice of a conditional offer's withdrawal, the prospective tenant may request a copy of all information the landlord considered, including criminal history records. The landlord must reply within 10 days to a timely request.

Additional Provisions Regarding Landlords and the Use of Criminal History Records

Unless required by federal law, landlords are prohibited from knowingly or intentionally publishing (or causing to be published) any advertisement that expressly states a policy of excluding prospective tenants based on arrest or conviction records. Additional prohibitions are specified in the bill, including, unless required by federal law, using a prospective tenant's criminal history for a purpose inconsistent with the bill.

A landlord's decision regarding the leasing of a residential dwelling unit, whether based on an individual's criminal history or the absence of a CHRC, may not constitute grounds for legal action against the landlord.

Office of Tenant and Landlord Affairs

The bill requires that OTLA develop and publish on its website a model notice for landlords. This model notice must include:

- language for advising prospective tenants of a conditional offer withdrawal or adverse housing action taken based on criminal history; and
- language that informs prospective tenants of the right to (1) request a copy of all information relied upon by the landlord (including criminal history records) and (2) file a complaint under the MCPA.

OTLA must collect and maintain the following data on complaints filed under the bill: the number of complaints; complainant demographics (including sex and race); landlord names associated with complaints; the number of complaint investigations conducted; and the disposition of each complaint.

Annually, OTLA must publish and post on its website information regarding substantiated complaints resulting in civil penalties under the bill's provisions. The information published may remain on the website for up to five years. The bill prohibits the publication

of any identifying information about a landlord subject to a complaint if the landlord is in good faith compliance with requirements imposed under the bill. DHCD must adopt regulations to carry out the bill's provisions.

Current Law:

Reusable Tenant Screening Report

Pursuant to §8-218 of the Real Property Article, a “reusable tenant screening report” is a report prepared within the previous 30 days by a consumer reporting agency at the request and expense of a prospective tenant and made directly available to a prospective landlord at no charge for use during the rental application process. A reusable tenant screening report must contain specified information, including – for each jurisdiction indicated as a prior residence of the prospective tenant, regardless of whether the residence is reported by the prospective tenant or by a consumer reporting agency preparing a consumer report – a comprehensive CHRC for all federal, state, and local charges against and convictions of the prospective tenant over the previous seven years. (The bill decreases the period from seven years to three years.)

Maryland Consumer Protection Act

An unfair, abusive, or deceptive trade practice under MCPA includes, among other acts, any false, falsely disparaging, or misleading oral or written statement, visual description, or other representation of any kind which has the capacity, tendency, or effect of deceiving or misleading consumers. The prohibition against engaging in any unfair, abusive, or deceptive trade practice encompasses the offer for or actual sale, lease, rental, loan, or bailment of any consumer goods, consumer realty, or consumer services; the extension of consumer credit; the collection of consumer debt; or the offer for or actual purchase of consumer goods or consumer realty from a consumer by a merchant whose business includes paying off consumer debt in connection with the purchase of any consumer goods or consumer realty from a consumer.

The Consumer Protection Division is responsible for enforcing MCPA and investigating the complaints of aggrieved consumers. The division may attempt to conciliate the matter, issue a cease and desist order, or file a civil action in court. A merchant who violates MCPA is subject to a fine of up to \$10,000 for each violation and up to \$25,000 for each repetition of the same violation. In addition to any civil penalties that may be imposed, any person who violates MCPA is guilty of a misdemeanor and, on conviction, is subject to a fine of up to \$1,000 and/or imprisonment for up to one year.

State Expenditures:

Department of Housing and Community Development

General fund expenditures increase for DHCD by \$234,921 in fiscal 2027 for additional staff and to develop the database required under the bill; this estimate reflects the bill’s October 1, 2026 effective date. Such staff are necessary in order to bring anticipated enforcement actions against violators, promulgate regulations, and maintain the database required under the bill. This estimate therefore reflects the cost of hiring one assistant Attorney General and one community assistant, in addition to one-time programming costs in fiscal 2027.

Positions	2.0
Salaries and Fringe Benefits	\$166,639
Operating Expenses	18,282
One-time Programming Costs	<u>50,000</u>
Total FY 2027 State Expenditures	\$234,921

Future years reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses and the termination of programming costs.

Other Impacts Under the Bill

The bill is not expected to materially affect the operations or finances of the Judiciary or the Office of the Attorney General.

Small Business Effect: The bill may have a meaningful impact on small business landlords who are prohibited from taking specified actions and subject to certain penalties if noncompliant.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See SB 514 of 2025.

Designated Cross File: None.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); Department of Housing and Community Development; Department of Legislative Services

Fiscal Note History:
caw/jkb

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