

Department of Legislative Services  
Maryland General Assembly  
2016 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 106 (Delegate Fennell, *et al.*)  
Environment and Transportation

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**Human Relations - Discrimination in Housing - Reentry-Into-Society Status**

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This bill elevates “reentry-into-society status” to a protected class for purposes of State fair housing laws and prohibits discriminatory practices in residential real estate transactions and the sale or rental of a dwelling because of a person’s reentry-into-society status. “Reentry-into-society status” means the state of having completed a court-ordered sentence of imprisonment.

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**Fiscal Summary**

**State Effect:** General fund expenditures increase at least minimally for the Maryland Commission on Civil Rights (MCCR) to the extent that it has to investigate additional complaints. The bill does not materially impact the workload of the Judiciary or the Office of Administrative Hearings. Potential minimal increase in general fund revenues and expenditures due to the bill’s penalty provisions.

**Local Effect:** Potential minimal increase in expenditures due to the bill’s criminal penalty provisions. Revenues are not likely affected, as most of the additional criminal cases resulting from the bill fall under the jurisdiction of the District Court. The bill does not materially impact the workload of the circuit courts.

**Small Business Effect:** Minimal as discussed below.

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**Analysis**

**Bill Summary:** The bill prohibits taking the following actions because of a person’s reentry-into-society status: (1) refusing to sell or rent a dwelling after the making of a bona fide offer; (2) refusing to negotiate for the sale or rental of a dwelling; (3) making a

dwelling otherwise unavailable; (4) discriminating in the terms, conditions, or privileges of the sale or rental of a dwelling; (5) discriminating in the provision of services or facilities in connection with the sale or rental of a dwelling; (6) making, printing, or publishing or causing to be made, printed, or published, any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates a preference, limitation, or discrimination based on reentry-into-society status; (7) representing to a person that a dwelling is not available for inspection, sale, or rental when it is available; and (8) for profit, inducing or attempting to induce a person to sell or rent a dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular reentry-into-society status.

The bill prohibits a person whose business includes engaging in transactions related to residential real estate from discriminating against a person in making available a transaction, or in the terms or conditions of a transaction, because of the person's reentry-into-society status. However, a real estate appraiser may take into consideration factors other than this status. The bill also prohibits a person from denying, because of a person's reentry-into-society status, that person access to, or membership or participation in, a multiple-listing service; real estate brokers' organization; or other service, organization, or facility relating to the business of selling or renting dwellings or discriminating against a person in the terms or conditions of membership or participation.

The bill also prohibits any person, whether or not acting under color of law, by force or threat of force, from willfully injuring, intimidating, or interfering with a person's activities related to the sale, purchase, rental, or occupation of a dwelling, or to attempt to do so. Existing criminal penalties relating to these activities are expanded to include the prohibition against discrimination based on reentry-into-society status.

**Current Law:** Housing discrimination because of race, sex, color, religion, national origin, marital status, familial status, sexual orientation, gender identity, or disability is prohibited. There is no provision prohibiting housing discrimination based on reentry-into-society status. Provisions prohibiting housing discrimination do not require that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of another individual, nor do they prohibit conduct against a person because the person has been convicted of the illegal manufacture or distribution of "controlled dangerous substances" as defined in State and federal law.

A person claiming to have been injured by a discriminatory housing practice may file a complaint with MCCR or file a civil action in circuit court. If an administrative law judge (ALJ) finds that the respondent has engaged in a discriminatory housing practice, the ALJ may order appropriate relief, including actual damages and injunctive or other relief, and may assess a civil penalty against the respondent. A court may award actual or punitive damages, grant injunctive relief, and allow reasonable attorney's fees and costs.

Willfully injuring, intimidating, or interfering, by force or threat of force, with a person's activities related to the sale, purchase, rental, or occupation of a dwelling, or to attempt to do so, is a misdemeanor. A violator is subject to maximum penalties of one year imprisonment and/or a \$1,000 fine. If the violation results in bodily injury, the maximum penalty is 10 years imprisonment and/or a \$10,000 fine. If the violation results in death, the maximum penalty is life imprisonment.

**State Revenues:** General fund revenues may increase minimally as a result of the bill's monetary penalty provision from cases heard in the District Court or from additional civil penalties assessed.

**State Expenditures:** General fund expenditures increase at least minimally to the extent that any new complaints are filed. MCCR advises that it does not currently investigate this type of discrimination, and investigations would likely require disparate impact studies at an estimated cost of at least \$5,000 per study. Although MCCR receives federal reimbursement for investigating complaints related to housing discrimination from the Department of Housing and Urban Development, MCCR also advises that because reentry-into-society status is not a protected class under the federal Fair Housing Act, it would not be able to receive federal reimbursement for any expenses incurred relating to investigating these complaints. Accordingly, MCCR needs to ensure that investigating any additional cases regarding reentry-into-society status does not negatively impact its case closure rate, which may impact federal funding. Although existing staff can investigate a small number of additional cases, an additional investigator may be required to the extent that MCCR receives a large number of complaints. *For illustrative purposes only*, if an additional investigator is required, general fund expenditures increase by a minimum of \$89,000 annually.

General fund expenditures may increase minimally as a result of the bill's incarceration penalty due to the possibility of more people being committed to State correctional facilities for convictions in Baltimore City. The number of people convicted under the bill's provisions who are likely to be subject to incarceration is not expected to materially affect the expenditures of the Department of Public Safety and Correctional Services (DPSCS).

Generally, persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. The Baltimore Pretrial Complex, a State-operated facility, is used primarily for pretrial detentions.

Enhanced penalties of life imprisonment and a \$10,000 fine and/or 10 years imprisonment are provided if specified violations result in death or bodily injury, respectively. However, it is assumed that only a minimal number of people will potentially be subject to these enhanced penalties. Accordingly, DPSCS expenditures are not materially impacted as a

result of people being sentenced to State correctional facilities for longer periods of time under the enhanced penalty provisions.

**Local Revenues:** Although enhanced penalties of life imprisonment and a \$10,000 fine and/or 10 years imprisonment are provided if specified violations result in death or bodily injury, respectively, it is assumed that the potential number of people subject to these enhanced penalties does not materially impact the revenues of the circuit courts, as most of the cases fall under the jurisdiction of the District Court.

**Local Expenditures:** Expenditures may increase minimally as a result of the bill's incarceration penalty. It is expected, however, that those subject to incarceration under the bill's provisions are not likely to materially affect local government operations.

Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. Per diem operating costs of local detention facilities have ranged from approximately \$60 to \$160 per inmate in recent years.

**Small Business Effect:** Minimal. Landlords will not be able to discriminate against an individual based on his or her reentry-into-society status, however, they will still not be required to make dwellings available to individuals whose tenancy would constitute a direct threat to the health or safety of others or to individuals have been convicted for manufacturing or distributing controlled dangerous substances.

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### Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Maryland Commission on Civil Rights, Department of Juvenile Services, Department of Legislative Services

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