

With HB 4878, Michigan will Lead the Way in Increasing Access to Housing and Providing Second Chances

Every Michigander deserves a place to call home. And for people rebuilding their lives after arrest or incarceration, a stable home is an essential foundation. Studies show that securing housing is crucial to education, health, and economic mobility.¹ Stable housing has also been linked to decreased crime and improved public safety.² However, many people with conviction histories are shut out of the rental market. With the [Fair Chance Access to Housing Act \(HB 4878\)](#), Michigan can give people with conviction histories increased access to housing and a chance to thrive.

HB 4878 limits the use of criminal background checks in rental application processes, allowing Michiganders with conviction histories a chance to secure housing.

Why should Michigan pass HB 4878?

- **A conviction history does not indicate whether or not someone will be a good tenant.**
After reviewing the available evidence, the U.S. Department of Housing and Urban Development (HUD) declared, conviction history “is not a good predictor of housing success.”³ Research also finds that most people with a conviction in their past do not have another conviction.⁴
- **Conviction histories are not an effective tool for screening prospective tenants.**
HUD recommends screening tenants based on more relevant criteria, such as ability to pay rent, prior rental history, or personal references.⁵ A criminal background check provides information about a person at the time of their last conviction, but it says nothing about their current status and progress during and after incarceration (for example, gains in education, employment, and stability).⁶ Additionally, many background checks include wrong, old, or misleading information.⁷
- **People with conviction histories face impossible barriers when securing housing.**
In Michigan, nearly 3 million residents have some type of criminal background.⁸ A 2021 survey conducted by the Michigan State Housing Development Authority found that respondents with conviction histories reported the highest levels of housing discrimination overall.⁹ In fact, people who are formerly incarcerated are almost 10 times more likely than the general public to be unhoused.¹⁰
- **Housing is integral to successful reentry and public safety.**
Research shows that stable housing is the foundation for a successful transition from incarceration back into the community: people with housing are more likely to find and keep employment, rebuild supportive networks, and avoid additional convictions, stabilizing our communities and making Michigan safer.¹¹
- **Denying housing on the basis of conviction histories may violate the Fair Housing Act.**
Housing providers often use conviction histories to discriminate against Black applicants, applying different screening policies to white applicants.¹² This practice, as well as other inconsistent uses of conviction screening, can constitute a violation of the Fair Housing Act under three different theories of liability.¹³ Recently, court cases have settled in favor of plaintiffs raising disparate impact claims.¹⁴
- **Michiganders support this policy because they know secure housing increases public safety.**
A March 2023 poll of Michigan residents reveals bipartisan support across different demographic and regional groups for these types of policy changes. Michigan believes everyone deserves a second chance after incarceration and a place to live, and that people with housing are less likely to commit crime.¹⁵

Endnotes

- ¹ Kriti Ramakrishnan, Elizabeth Champion, and Megan Gallagher, et al., *Why Housing Matters for Upward Mobility* (Washington, DC: Urban Institute, January 2021), perma.cc/U42U-EWME.
- ² Richard Rosenfeld and Amanda Grigg, eds., *The Limits of Recidivism: Measuring Success After Prison* (Washington, DC: National Academies Press, 2022), 86, doi.org/10.17226/26459.
- ³ Calvin Johnson, "Tenant Screening with Criminal Background Checks: Predictions and Perceptions Are Not Causality," PD&R Edge, May 17, 2022, perma.cc/JR29-NQDA. The article further states: "A study of housing outcomes among tenants participating in an intervention based on the Housing First model found that the performance of tenants with a criminal history was similar to that of participants without a criminal history. Although few studies examine the association between criminal history and housing success, no empirical evidence exists to justify a 'blanket exclusion' of people with criminal histories from housing." For the cited study, see Daniel K. Malone, "Assessing Criminal History as a Predictor of Future Housing Success for Homeless Adults with Behavioral Health Disorders," *Psychiatric Services* 60, no. 2 (2009), 224–230, ps.psychiatryonline.org/doi/pdf/10.1176/ps.2009.60.2.224.
- ⁴ Shawn D. Bushway, Brian G. Vegetabile, and Nidhi Kalra, et al., *Providing Another Chance: Resetting Recidivism Risk in Criminal Background Checks* (Santa Monica, CA: RAND Corporation, 2022), rand.org/pubs/research_reports/RRA1360-1.html.
- ⁵ Demetria L. McCain (Principal Deputy Assistant, Secretary for Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development) to Office of Fair Housing & Equal Opportunity, Fair Housing Assistance Program Agencies, and Fair Housing Initiatives Program Grantees, "Implementation of the Office of General Counsel's Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions" memorandum, June 10, 2022, 8, perma.cc/9SGW-W86B.
- ⁶ Bushway et al., *Providing Another Chance*, 2022.
- ⁷ Consumer Financial Protection Bureau (CFPB), "CFPB Reports Highlight Problems with Tenant Background Checks," press release, November 15, 2022, perma.cc/5HEA-3JZT.
- ⁸ Michigan State Police, "Michigan Clean Slate: Setting Aside Convictions without Application," 2023, perma.cc/V7MW-DCL4.
- ⁹ David McConnell and Colleen Graber, *2021 Michigan Housing Survey and Interview Findings: September 2021* (Lansing, MI: Public Policy Associates, 2021), 2, perma.cc/AZ9N-42GA.
- ¹⁰ Lucius Couloute, "Nowhere to Go: Homelessness among Formerly Incarcerated People," Prison Policy Initiative, August 2018, perma.cc/2JST-EEJC.
- ¹¹ Jocelyn Fontaine and Jennifer Biess, *Housing as a Platform for Formerly Incarcerated Persons* (Washington, DC: Urban Institute, April 2012), perma.cc/9JMQ-4H2Y; and Phillippa Carnemolla and Vivienne Skinner, "Outcomes Associated with Providing Secure, Stable, and Permanent Housing for People Who Have Been Homeless: An International Scoping Review," *Journal of Planning Literature* 36, no. 4 (2021), 508–525, doi.org/10.1177/08854122211012911. For more on housing and recidivism, see Leah A. Jacobs and Aaron Gottlieb, "The Effect of Housing Circumstances on Recidivism: Evidence from a Sample of People on Probation in San Francisco," *Criminal Justice and Behavior* 47, no. 9 (2020), 1097–1115, doi.org/10.1177/0093854820942285. Paywall-free prepublication version available at: perma.cc/7YT4-HX9L.
- ¹² Greater New Orleans Fair Chance Housing Action Center, *Locked Out: Criminal Background Checks as a Tool for Discrimination* (New Orleans: Greater New Orleans Fair Housing Action Center, 2015), perma.cc/H7UY-CXZ2; and Equal Rights Center, *Unlocking Discrimination* (Washington, DC: Equal Rights Center, 2016), perma.cc/G8AT-Y2AH.
- ¹³ 2016 guidance from HUD outlines the three theories of liability under which conviction screening may lead to violations: "discriminatory intent (also known as disparate treatment), discriminatory effects, and refusal to make reasonable accommodations." See McCain, "Implementation of the Office of General Counsel's Guidance on Application of Fair Housing Act Standards," 2022, 3.
- ¹⁴ For example, *The Fortune Society v. Sandcastle Towers Housing Development Fund Corp.* No. 1:14-cv-6410 (E.D.N.Y.), (Amended Complaint filed May 1, 2015), perma.cc/UA76-UGKP.
- ¹⁵ Polling by QQR commissioned by Vera. QQR conducted an online survey among 800 adults in Michigan from March 12–16, 2023. Respondents were contacted from a panel sample of Michigan residents. For more information, contact John Bae, jbae@vera.org.