

Michigan Fair Chance Access to Housing Act (HB 4878): Frequently Asked Questions

What is the Fair Chance Access to Housing Act?

The Fair Chance Access to Housing Act (HB 4878) limits the use of criminal background checks when someone applies for rental housing. It would ensure that Michiganders with arrest and conviction histories have a fair chance to secure housing.

Why does Michigan need this legislation?

Access to housing reduces crime and keeps our communities safe. It substantially increases the likelihood that a person returning home from incarceration will be able to find a job, avoid additional convictions, and receive support from their family. A 2021 review analyzing 18 studies from around the world found that stable housing was associated with decreased criminal activity in every study.¹

The research is clear that housing makes us safe, yet people with conviction histories are shut out of housing opportunities in Michigan. A majority of housing providers in the state use criminal background checks to deny applicants even though they do not actually give us accurate information about an applicant's safety risk or ability to be a good tenant.² A criminal background check provides information about a person at the time of their last conviction, but it does not define a person or tell us who they have become during and after incarceration (for example, gains in education, employment, and stability). Furthermore, research shows that most people with convictions in their past do not have another conviction.³ Considerations like a person's ability to pay rent, ties to the community, employment, and personal references can provide a much more accurate picture.

With this law, Michigan will ensure that housing providers assess rental applicants on factors relevant to housing success, which will reduce crime and make our communities safer.

How many people would this legislation impact?

Nearly three million Michiganders have some type of criminal record.⁴ And there are currently more than 30,000 people in prison in the state of Michigan; 95 percent of them will eventually be released and need a place to live.⁵

This issue does not only impact people with conviction histories, but it also extends to thousands of families who face barriers to housing. One in 10 Michigan children has had a parent in prison.⁶ Increasing access to stable housing for families has been found to reduce children's absences in school, improve behavioral health issues, and improve nutritional outcomes.⁷

What would the Fair Chance Access to Housing Act do?

The Fair Chance Access to Housing Act ensures that housing providers assess rental applicants on more than just their conviction histories.

In summary, the Fair Chance Access to Housing Act will:

- prohibit housing providers from asking rental applicants about their conviction histories during the initial screening process;
- postpone any criminal background check until the applicant receives a conditional offer;
- limit the use of criminal record screening to specific types of convictions within established timeframes; and

- allow applicants to undergo an individualized review of their conviction histories and offer evidence of rehabilitation prior to denial by the housing provider.

What about the safety of other tenants?

A criminal record does not indicate that someone will be an undesirable tenant and neighbor. Factors like employment, references, and ability to pay rent are much more informative. And a conviction history does not mean that a person will commit an additional crime. The majority of people have only one conviction, meaning that a conviction history does not accurately predict an applicant's safety risk to other tenants.⁸

Increasing access to housing for people with conviction histories will keep other tenants safe. Study after study finds that people who are stably housed are less likely to commit crimes.⁹ For example, one study looking at women with felony convictions who were experiencing poverty found that stable state-sponsored housing and other economic supports reduced the odds of being arrested for a new crime or violating parole by 83 percent.¹⁰

Is this a racial justice issue?

The use of criminal background checks in rental application processes harms Black communities by worsening existing racial disparities. In Michigan, Black people are disproportionately over-arrested and incarcerated. Black people make up only 15 percent of the state's population, yet they make up 50 percent of the state's prison population.¹¹ This discrimination carries over into the community as people are released from jail and prison and are then shut out of housing.¹²

Didn't the recently passed Clean Slate legislation address this issue?

This legislation will build on the successes of Clean Slate. It is needed because not everyone qualifies for Clean Slate.¹³ Further, even if a person does qualify for Clean Slate, they must wait seven to 10 years to expunge their record.¹⁴ People cannot wait that long to find a stable home, nor can we afford that kind of instability in our communities.

Where do Fair Chance Housing policies already exist?

Ann Arbor, Detroit, Jackson, and Kalamazoo have passed local fair chance housing ordinances since 2019.¹⁵ A statewide law would strengthen these protections. New Jersey recently enacted statewide Fair Chance Housing laws and has been successful in curbing housing discrimination against people with conviction histories.¹⁶ By passing the Fair Chance Access to Housing Act, Michigan can lead the nation with the strongest statewide protections in the country.

Are housing providers liable if they rent to people with conviction histories?

No. A housing provider will not be held liable if they rent to someone with a conviction history who then commits a crime. A provision within the Act explicitly protects housing providers from liability in civil actions should this situation occur.

Do Michlganders support this issue?

Yes. A March 2023 poll of Michigan residents found bipartisan support for these policy changes across different demographic and regional groups. A majority of respondents believed that everyone deserves a second chance and a place to live after incarceration, and that people with housing are less likely to commit crime (77 percent of respondents).¹⁷

Endnotes

- ¹ 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/10.1177/0885412221101291.
- ² 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; and Calvin Johnson, "Tenant Screening with Criminal Background Checks: Predictions and Perceptions Are Not Causality," PD&R Edge, May 17, 2022, perma.cc/JR29-NQDA.
- ³ 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), 52–53, rand.org/pubs/research_reports/RR1360-1.html.
- ⁴ Michigan State Police, "Michigan Clean Slate: Setting Aside Convictions without Application," 2023, 10, perma.cc/V7MW-DCL4.
- ⁵ Robin R. Risko, *FY 2023-24: CORRECTIONS, Summary: As Passed by the Senate, Senate Bill 191 (S-3)* (Lansing, MI: House Fiscal Agency, Michigan House of Representatives, 2023), 1, perma.cc/2BUC-ELPR; and Michigan Safety & Justice Roundtable, *2019 Report: Co-Creating a Vision for Effective & Equitable Solutions for Justice-Involved Adults* (Detroit: Michigan Safety & Justice Roundtable, 2019), 3, perma.cc/P8YQ-PFQ8.
- ⁶ Annie E. Casey Foundation, *A Shared Sentence: The Devastating Toll of Parental Incarceration on Kids, Families, and Communities* (Baltimore: Annie E. Casey Foundation, 2016), 5, perma.cc/U9MG-YMGD. See also Oralandar Brand-Williams, "10 Percent of Michigan Kids Have Parents in Prison," *Detroit News*, April 25, 2016, perma.cc/22SC-FWUK.
- ⁷ See Daniel Gubits, Marybeth Shinn, Michelle Wood, et al., *Family Options Study: 3-Year Impacts of Housing and Services Interventions for Homeless Families* (Washington, DC: U.S. Department of Housing and Urban Development, Office of Policy Development and Research, 2016), xxviii, perma.cc/7LPB-UJE6; and Diana Becker Cutts, Alan F. Meyers, Maureen M. Black, et al., "US Housing Insecurity and the Health of Very Young Children," *American Journal of Public Health* 101, no. 8 (2011), 1508–1514, 1511, perma.cc/YP4K-SWSS.
- ⁸ Bushway, Vegetabile, and Kalra, *Providing Another Chance*, 52–53, 2022.
- ⁹ Carnemolla and Skinner, *Outcomes Associated with Providing Secure, Stable, and Permanent Housing*, 2021.
- ¹⁰ Kristy Holtfreter, Michael D. Reisig, and Merry Morash, "Poverty, State Capital, and Recidivism among Women Offenders," *Criminology & Public Policy* 3, no. 2 (2004), 185–208, 201, doi.org/10.1111/j.1745-9133.2004.tb00035.x.
- ¹¹ Vera Institute of Justice, "Incarceration Trends," updated August 21, 2023, trends.vera.org. To access this data, search "Michigan United States" in the search bar in the upper righthand corner, then scroll down to "Racial Disparities in Incarceration."
- ¹² See 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) (discussing this issue in Louisiana), perma.cc/H7UY-CXZ2; and Equal Rights Center, *Unlocking Discrimination* (Washington, DC: Equal Rights Center, 2016), perma.cc/G8AT-Y2AH.
- ¹³ Safe & Just Michigan, "Frequently Asked Questions: Michigan's Clean Slate Legislation," updated April 7, 2021, perma.cc/VZ9Q-JPAA.
- ¹⁴ Michigan State Police, "Michigan Clean Slate," accessed September 18, 2023, perma.cc/5L2S-PH2E.
- ¹⁵ Sophia Lada, "'Prisoner on The Outside': Flint Considers Fair Chance Housing Policy for Justice-Impacted Citizens," *Flint Beat*, September 6, 2023, perma.cc/D9MF-TUML.
- ¹⁶ Ashley Balcerzak, "NJ Warns 59 Landlords over Violating Law on Housing Rights for Formerly Incarcerated," *NorthJersey.com* (USA Today), February 24, 2023, perma.cc/2ZYD-X7VW.
- ¹⁷ Polling by GQR commissioned by Vera. GQR 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 a summary, see Vera Institute of Justice, *Michiganders Know Access to Housing Increases Public Safety* (New York: Vera Institute of Justice, 2023), vera-advocacy-and-partnerships.s3.amazonaws.com/Opening%20Doors_MI%20Polling%20on%20Fair%20Chance%20Access%20to%20Housing%20Act.pdf. For more information, contact John Bae, jbae@vera.org.

Michigan Fair Chance Access to Housing Act (HB 4878): How the Rental Application Process Will Work

Step One: Initial Screening

A housing provider may screen a rental applicant on standard criteria, including income, rental history, and credit score.

A housing provider cannot consider the applicant's conviction history at this stage in the application process.



If the housing provider decides to move forward with a qualified applicant, they will issue a conditional offer of tenancy.



Step Two: Criminal Background Check

After issuing a conditional offer, a housing provider may choose to run a criminal background check. However, the housing provider can only consider felony convictions within the previous 365 days, any convictions for arson or human trafficking, and whether the applicant is required to register on the sex offender registry.



If a background check reveals any of the of the above offenses, the housing provider must conduct an individualized assessment.

This means they must consider various factors related to the offense, including its nature and severity, age of the applicant at the time of the offense, and whether the offense was connected to a rental property in which the applicant previously lived. As part of the assessment, the applicant can provide documentation of rehabilitation efforts.



If the housing provider withdraws the conditional offer after the criminal background check, they must issue a written notice to the applicant stating the reason for the denial and instructions on how to file a complaint with the state attorney general's office, as well as return any application fee. The applicant may request the documents used by the housing provider to make their determination and can file a complaint with the attorney general's office if they believe their rights under the Fair Chance Access to Housing Act have been violated.

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

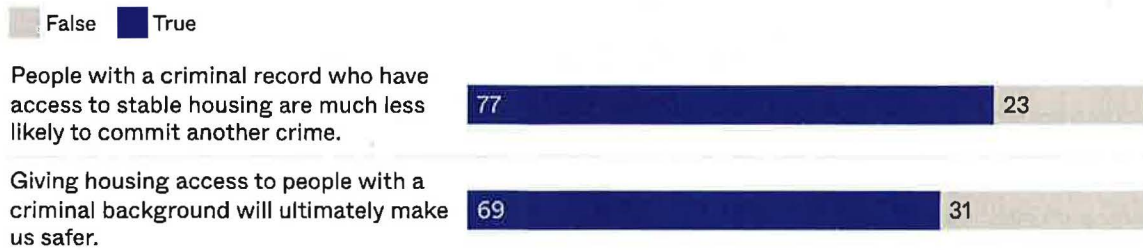
Endnotes

- 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-NODA. 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/RR1360-1.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-FFJC.
- ¹¹ Jocelyn Fontaine and Jennifer Bless, *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 GQR commissioned by Vera. GQR 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.

Michiganders Know Access to Housing Increases Public Safety

A 2023 Michigan poll confirms bipartisan support for policies like the [Fair Chance Access to Housing Act \(HB 4878\)](#). Michiganders know that people with housing are less likely to commit crimes and that housing increases public safety:

Perceptions of the Impact of housing on safety and crime

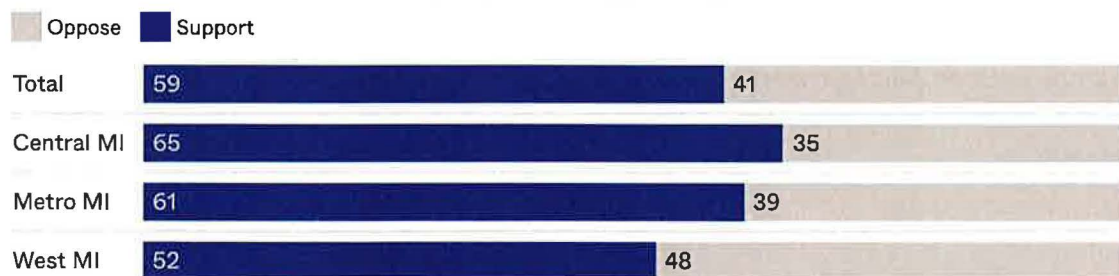


This support cuts across not just political affiliation, but also geography:

Support by party affiliation



Support by geographic region



Source: Polling by GQR commissioned by Vera. GQR conducted an online survey among 800 adults in Michigan from March 12-16, 2023. The survey was informed by a focus group of Michigan adults representing different ages, genders, and races on February 15, 2023. For more information, contact John Bae initiative director, Opening Doors, at jbae@vera.org.

Vera works to end mass incarceration, protect immigrants' rights, ensure dignity for people behind bars, and build safe, thriving communities. For more information, visit vera.org.

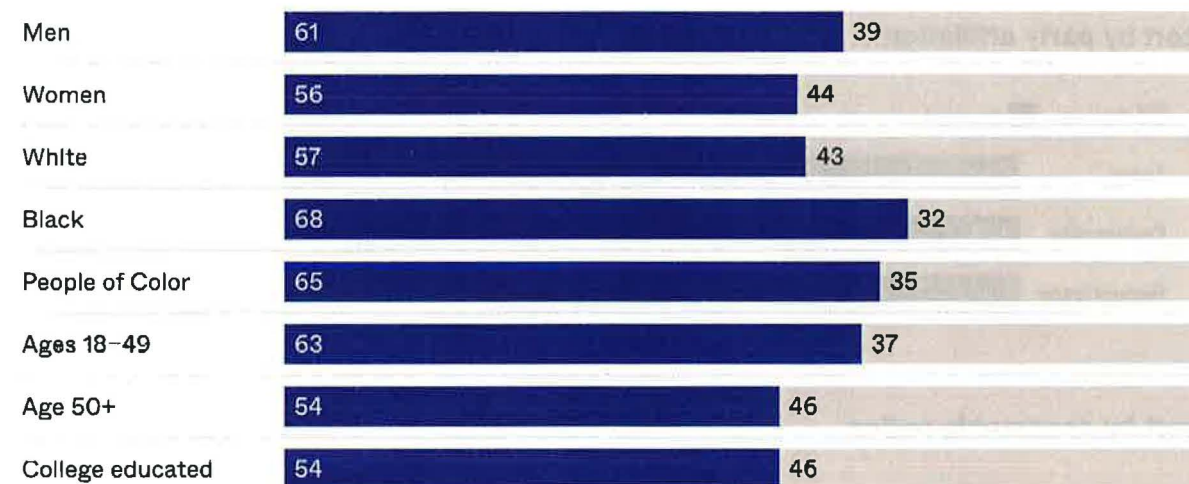
Arguments against this type of policy often center on the need to protect victims and survivors of crime, as well as people fearing crime in their communities. However, both victims of crime and those who say crime is a serious problem in Michigan support this policy:

Support among victims of crime by perception of seriousness of crime



The polling clearly reveals that virtually any way you divide the population of Michigan, support for access to housing for people with conviction histories remains strong:

Support by demographic group



The evidence is clear: Michiganders overwhelmingly recognize that policies to support and stabilize formerly incarcerated people benefit everyone. With HB 4878, we can move toward a safer, more just Michigan.