

**Testimony of Kate Coventry, Senior Policy Analyst
Public Hearing on B23-0149 - Fair Tenant Screening Act of 2019 and
B23-0195 – Michael A. Stoops Anti-Discrimination Amendment Act of 2019
DC Council Committee on Government Operations
October 27, 2020**

Chairman Todd and members of the Committee, thank you for the opportunity to testify today. My name is Kate Coventry, and I am a Senior Policy Analyst at the DC Fiscal Policy Institute. DCFPI is a nonprofit organization that promotes budget choices to address DC's economic and racial inequities and to build widespread prosperity in the District of Columbia, through independent research and policy recommendations.

I am here today to express strong support for B23-0195, the “Michael A. Stoops Anti-Discrimination Amendment Act of 2019” and B23-0149, the “Fair Tenant Screening Act of 2019.” DC residents experiencing homelessness report facing various types of discrimination because of their homelessness status but have no recourse under the current Human Rights Act. B23-0195 would address this issue and allow residents to file complaints that could result in fines, compensatory damages, or reinstatement of jobs. B23-0149 sets tenant eligibility screening standards for landlords. Given overwhelming evidence that current tenant-screening processes are rife with errors, B23-0149 is needed to ensure fairness in this process.

Homeless DC Residents Report Discrimination, DC Should Act to Prohibit This Discrimination

B23-1095 would make homelessness a protected class under the DC Human Rights Act, which prohibits discrimination on the basis of race, gender, sexuality, and income source, among other traits. This legislation would protect residents experiencing homelessness from discrimination in purposes of employment, places of public accommodation, educational institutions, public service, housing, and commercial space. It would allow residents to file a complaint with the Office of Human Rights that could result in fines, compensatory damage, or reinstatement of jobs.

In a 2014 survey of individuals experiencing homelessness in DC, nearly 93 percent reported they had been discriminated against because of their homelessness.¹ More than 70 percent reported being discriminated against by a private business, and nearly 67 percent reported being discriminated against by law enforcement. Nearly 50 percent reported being discriminated against by medical providers and 44 percent reported discrimination from social service providers. Respondents provided specific examples such as being turned away from a business or being denied medical care.

The District should join the three US cities, three states, and Puerto Rico to outlaw this discrimination by passing B23-1095.

¹ [“Discrimination and Economic Profiling among the Homeless of Washington, DC,”](#) National Coalition for the Homeless, revised April 2014.

Research Finds High Number of Errors in Tenant Screening Tools, the District Should Act to Protect Rental Applicants

Tenant screening is the process by which landlords accept and review rental applications to determine whether to offer a unit to an applicant. B23-0149 sets tenant eligibility screening standards for landlords to improve fairness in this process. Among other things, it requires landlords to:

- provide, in writing, the specific process and criteria used for tenant screening and information on rights under this law and the criminal record screening law;
- state in writing the specific reasons for any denial, including providing a copy of any records used, and inform the applicant how to appeal; and,
- allow denied applicants to provide information that the records were wrong or to provide evidence of mitigating circumstances, like an explanation for negative history, or provide information to show that the situation will not reoccur.

Providing reasons and documentation for denials as well as an opportunity to appeal is very important because of the frequency of errors in the records that are used for tenant screening. 79 percent of respondents in one study found there were errors in one of their three major consumer credit reports.² One in four of these errors were significant enough to cause a wrongful denial of credit.³ There have been dozens of lawsuits against criminal record database companies alleging that their records contain inaccurate information.⁴ And state sex offender registries are “notorious” for reporting inaccurate and outdated information.⁵ Common types of error include:

- overreporting—when a record is about a different person with the same name as the applicant;
- criminal identity theft—where a person claims to be the applicant;
- including records that have been expunged; and,
- clerical errors.

The bill also limits what information the landlords can consider, particularly limiting consideration of court cases or lease violations that happened more than two years ago. Landlords could not consider past court cases in which a landlord did not get a judgment or when the tenant filed a case against the landlord. Additionally, they could not consider a lease violation that was related to domestic violence, disability, or being the victim of a crime.

The bill also requires all applicant screening companies to register in the District and to comply with the above provisions. This is important because although they can research applicants themselves, the majority of private housing providers now purchase tenant screening reports that combine the information cited above that is already riddled with errors.⁶

² Eric Dunn and Marina Grabchuk, “[Background Checks and Social Effects: Contemporary Residential Tenant-Screening Problems in Washington State](#),” *Seattle Journal for Social Justice*, Volume 9: Issue 1.

³ Ibid

⁴ Ibid

⁵ Ibid

⁶ Anna C. Reosti, “[Tenant Screening and Fair Housing in the Information Age](#),” 2018.

The weight of the evidence “suggests that the chance of finding significant errors in a tenant-screening report is at least as high as the combined likelihood of finding errors in each particular component *and* additional opportunities for clerical errors and other mistakes tend to arise any time an agency interprets, repackages, abridges or otherwise modifies information in a component part. This is especially true of scores or recommendations based on criminal and civil litigation records, which may require substantial skills to properly interpret.”⁷

Of particular concern is that some reports only contain their opinion of whether the landlord should accept or reject the applicant without providing the underlying data for this decision. This means that when applicants ask why they received a rejection, the landlord honestly cannot tell them, and applicants have no means of disputing the rejection.

Another major issue is that unlike credit reports, applicants have no practical method to check tenant-screening reports or challenge inaccurate information prior to applying for housing. Federal law allows individuals to request a free credit report from the three major consumer credit bureaus each year, and there is a formal dispute process. In contrast, there are an estimated 2,000 companies that offer tenant-screening services⁸ and disputing an incorrect report only affects the report of the company involved.⁹ Thus an applicant may have to challenge the same error over and over again with no way to affect future reports, essentially locking them out of the rental market.¹⁰

Current Practices Are Not Sensible for Applicants with Vouchers

Finally, B23-0149 sets sensible parameters for applicants who are tenant voucher holders. Currently these applicants can be denied based on income or credit requirements that do not take into account that the government will be paying all or the majority of the rent. The DC Interagency Council on Homelessness has recognized this as a barrier to ending homelessness, finding that “clients with no or poor credit or rental history... face especially steep barriers” to securing a unit.¹¹ B23-0149 forbids these practices and should lead to more units being available to voucher holders.

DCFPI strongly supports B23-0149 and urges the Committee to work with legal advocates to resolve their concerns.

Thank you, and I am happy to answer any questions.

⁷ Eric Dunn and Marina Grabchuk.

⁸ Lauren Kirchner and Matthew Goldstein, “[How Automated Background Checks Freeze Out Renters](#),” *New York Times*, May 28, 2020.

⁹ Eric Dunn and Marina Grabchuk.

¹⁰ *Ibid.*

¹¹ The DC Interagency Council on Homelessness, “[Looking Back to Move Forward: Progress and Lessons Learned During the First Four Years of Homeward DC](#),” revised September 2019, p. 36,