

Testimony in Support of House Bill 112 (2021)

Residential Property – Eviction Proceedings – Sealing of Court Records *Before the Judiciary Committee: February 17, 2021*

House Bill 112 would mitigate the long-term consequences of eviction by limiting the time eviction case records are made available to prospective landlords. This bill requires the District Court to seal eviction records after 30 days if a case does not result in a judgment in favor of the landlord, or after three years if the landlord wins. Once sealed, a record may only be opened at the tenant’s request, or with a showing of compelling need.

Poverty is not a crime. Eviction should not be treated like a crime. Nevertheless, today’s system turns a single eviction into a long-term sentence. Yet unlike a criminal sentence, this burden does not wait for a guilty verdict to be imposed; rather, it requires no more than a \$15 filing fee and a formal complaint. Today, the mere filing of an eviction case leaves a black mark on the tenant’s record that will follow them for years into the future—regardless of whether the landlord won the case, or the tenant even went to court. An eviction record can cripple a tenant’s financial prospects, limit their opportunity to seek stable housing, and cement the cycles of inequality that contributed to their initial rent difficulties. By requiring courts to seal eviction records, House Bill 112 would eliminate the worst inequities of this system.

Eviction Records Impair Future Mobility and Opportunity

Tenants who are evicted carry the judgment with them like a criminal history. Eviction cases remain on a tenant’s public record for seven years, and are visible to landlords, rental agencies, and credit agencies. This black mark can push a tenant out of their neighborhood and cripple their ability to financially recover—they will be ineligible for favorable loans, unable to secure public housing benefits, and screened out of most applications for quality housing.¹ They may also struggle to find a job, as many employers screen for credit and do not hire candidates with debts in collection.² The culmination of these effects creates “a spiral of financial instability,” as families desperate for a home are compelled to live in substandard conditions, exposing them to additional economic hardships and health hazards.³ As a result, families who are evicted

¹ James Bell, *Beyond Displacement: How the Ripple Effects of an Eviction Can Last for Years*, Public Source (Nov. 11, 2020), <https://www.publicsource.org/eviction-collateral-impact-displacement-employment-transit-school-mental-health/>.

² Scholars Strategy Network, *How Do Employers Use Credit Reports In Hiring Decisions – And How Can the Process Be Improved*, scholars.org (Jul. 9, 2018), <https://scholars.org/contribution/how-do-employers-use-credit-reports-hiring-decisions-and-how-can-process-be-improved>.

³ Kristin Ginger, *Eviction Filings Hurt Tenants, Even If They Win*, Shelterforce (Jul. 30, 2018), <https://shelterforce.org/2018/07/30/eviction-filings-hurt-tenants-even-if-they-win/>.

frequently experience significantly higher rates of material hardship and depression for years afterward,⁴ a trend that is pronounced among children and young adults.⁵

These damaging consequences occur regardless of the outcome of the case. Eviction filings remain on a tenant's record even when the parties reach a pretrial settlement—and even when tenants win against their landlords in court. This result is surprisingly common in Maryland, where a notoriously low filing fee and an expedited summary ejection process incentivize landlords to resort to eviction early and often.⁶ According to the recent Stout Report, of approximately 140,000 eviction cases filed in Baltimore each year, only about 6,500, or 4% of total filings, result in the tenant's eviction from their home.⁷ Even accounting for repeat filings, thousands of eviction cases that never reach judgment or even go to trial will burden tenants for the better part of a decade.

House Bill 112 Would Protect Tenants Without Harming Landlords

The General Assembly should lift the burden eviction records place on low-income communities. House Bill 112 is well-suited to achieve this objective. This bill would require the District Court to seal eviction records after 30 days if a case does not result in a judgment in favor of the landlord, and after three years if the landlord wins. This approach closely mirrors a bill pending in Washington, D.C., to address this issue, and would have Maryland join California, Minnesota, Nevada, and Oregon, as the fifth state to pass laws that seal eviction records.⁸ Several cities around the country have already done the same.⁹

Requiring courts to seal eviction records would not prevent landlords from screening applicants. Opponents will argue that landlords need eviction records to assess an applicant's financial stability, but this criticism overlooks the wealth of tools landlords may use to evaluate prospective tenants. For example, landlords can run background checks, review credit reports, verify an applicant's income and employment,

⁴ Mathew Desmond & Rachel Tolbert Kimbro, *Eviction's Fallout: Housing, Hardship, and Health*, 94 *Social Forces* 295, 296 (Feb. 24, 2015), https://scholar.harvard.edu/files/mdesmond/files/desmondkimbro.evictions.fallout.sf2015_2.pdf.

⁵ Megan E. Hatch & Jinhee Yun, *Losing Your Home is Bad for Your Health: Short- and Medium-Term Health Effects of Eviction on Young Adults*, *Housing Policy Debate* 13 (Oct. 26, 2020), https://nlihc.org/sites/default/files/MEMO_Health_Effects_of_Eviction_on_Young_Adults.pdf.

⁶ Brian Frosh, *Attorney General: Maryland Eviction Process 'Unfair to Tenants'*, *Baltimore Sun* (Dec. 11, 2020), <https://www.baltimoresun.com/opinion/op-ed/bs-ed-op-1213-frosh-serial-evictions-20201211-nnu6zmiqjgc7dyohhvqxq5k3cu-story.html> (observing that “many landlords file as soon as tenants are a few days late”).

⁷ The Public Justice Center, *The Economic Impact of an Eviction Right to Counsel in Baltimore City*, *STOUT* 19–20, (May 8, 2020), <https://bmorerentersunited.org/rtc/stoutreport/>.

⁸ Dana Bartolomei, *Evicted-Navigating the Eviction Process and its Lasting Impact*, *Shelterforce* (Sep. 23, 2020), <https://shelterforce.org/2020/09/23/navigating-the-eviction-process-and-its-lasting-impact/>.

⁹ See Susan Fleurant, *Eviction Expungement: A Civil Legal Tool to Improve Housing Stability and Health*, *Network for Public Health Law* (Feb. 27, 2020), <https://www.networkforphl.org/news-insights/eviction-expungement-a-civil-legal-tool-to-improve-housing-stability-and-health/>.

ask pre-screening questions, and conduct interviews.¹⁰ Each of these options is a better predictor of an applicant's ability to pay than their eviction history—particularly when eviction records may be up to seven years old, and may not even reflect a judgment in favor of the landlord. A continued reliance on eviction records will only promote discrimination against low-income, minority tenants, and undermine an applicant's efforts to get back on their feet.

House Bill 112 offers the best approach to address this issue. All three of the record-sealing bills pending before this committee will address the worst inequity of the current system by requiring the District Court to seal or shield eviction records if the landlord does not win in court. However, only HB112 will reduce the time that a judgment in favor of the landlord remains accessible to the public, and to prospective landlords. This protection is critical today, when large swaths of the population are out of work and continue to accumulate rental debt. Around 30 million Americans¹¹ and 204,000 Maryland households will be at risk of eviction when the COVID-19 moratoriums are lifted.¹² Unless something is done to limit the long-term consequences of eviction filings, the pandemic may have crippling economic effects on these families for years to come.

Conclusion

“Eviction is not simply a condition of poverty. Rather, it's a root cause, perpetuating a cycle that can last for generations.”¹³ This bill is an important step towards breaking that cycle. Sealing eviction records will not harm landlords, but doing so will save many Marylanders from years of financial hardship by allowing them to seek new opportunities free from the burden of a prior eviction filing against them. The Judiciary Committee should report favorably on this legislation.

This testimony is submitted on behalf of the Public Health Law Clinic at the University of Maryland Carey School of Law and not by the School of Law, the University of Maryland, Baltimore, or the University of Maryland system.

¹⁰ Melanie Patterson, *How to Screen Tenants for a Rental Property in 8 Steps*, Fit Small Business (May 11, 2020), <https://fitsmallbusiness.com/how-to-screen-tenants-for-rental-property/>.

¹¹ Emily Benfer et al., *The COVID-19 Eviction Crisis: An Estimated 30-40 Million People in America Are At Risk*, Aspen Institute (Aug. 7, 2020), <https://www.aspeninstitute.org/blog-posts/the-covid-19-eviction-crisis-an-estimated-30-40-million-people-in-america-are-at-risk/>.

¹² Editorial Board, *Maryland Lawmakers Must Crack Down on the Looming Eviction Crisis*, Washington Post (Jan. 31, 2021, 6:15 p.m. EST), https://www.washingtonpost.com/opinions/maryland-lawmakers-must-crack-down-on-the-looming-eviction-crisis/2021/01/31/47552034-627e-11eb-9430-e7c77b5b0297_story.html.

¹³ Frosh, *supra* note 6.