



**Written Testimony of David Wheaton
Economic Justice Law and Policy Fellow
NAACP Legal Defense and Educational Fund, Inc.**

**Submitted to the Environment and Transportation of
the Maryland House of Delegates
In Connection with the February 20, 2024 Hearing**

I. Introduction

My name is David Wheaton, and I am an attorney with the NAACP Legal Defense and Educational Fund, Inc. (LDF). LDF offers the following testimony regarding Maryland House Bill 181, which would require courts to shield all court records within 60 days after the final resolution of a failure to pay rent if the proceeding did not result in a judgement of possession. This bill would prevent renters from being penalized or unfairly denied housing, and we urge the Maryland House of Delegates to pass it swiftly.

House Bill 181 is a critical step in protecting Maryland renters, particularly renters of color. Maryland is in the middle of a housing affordability crisis.¹ There are 207,554 extremely low-income households in Maryland, but only 61,469 affordable and available rental units.² Adding more stress to Maryland renters is the fact that rent prices in Maryland are higher than the national average.³ There is a clear correlation between a rise in rent prices and a rise in evictions.⁴ Studies have shown that when rental prices rose the eviction rate in those areas also rose.⁵ This increase in evictions has in the past and will continue to have a disproportionate impact on Black Maryland residents. Black households have the highest eviction removal count in Maryland—almost three

¹ Dwight A. Weingarten, *Maryland Housing Secretary Day Estimates 96,000-unit Housing Shortage. Bills Aim to Help*, The Herald Mail, (December 21, 2023),

<https://www.heraldmillmedia.com/story/news/state/2023/12/21/administrations-bills-aims-to-address-marylands-housing-crisis/71896971007/>

² National Low Income Housing Coalition, *Gap Report: Maryland*, (March 16, 2023), <https://nlihc.org/gap/state/md>

³ Jack Fiechtner, *Rent Prices in Maryland are Higher than the National Average*, ABC News, (April 14, 2023), <https://www.wmdt.com/2023/04/rent-prices-in-maryland-are-higher-than-the-national-average/>

⁴ Natalie Campisi, *One Year After Eviction Moratorium Ends, Renters Face Affordability Crisis*, Forbes, (August 22, 2022), <https://www.forbes.com/advisor/personal-finance/rental-housing-costs-rise/>

⁵ Id.

times higher than the eviction rate for white residents.⁶ Households headed by Black women had the highest number of eviction removals in Maryland.⁷ Furthermore, while eviction court records can often be incomplete, incorrect, and outdated,⁸ landlords frequently rely on these records to deny Black people housing.⁹ Past court eviction records can keep individuals and families locked in a cycle of poverty; force families to live in unsafe housing; and cause homelessness and a host of other collateral consequences.¹⁰ HB 181 would protect Black renters by prohibiting landlords from increasing a tenants rent because of a previous eviction filing and requiring of a shielding of previous eviction court records.

Founded in 1940 by Thurgood Marshall, LDF is the nation's oldest civil rights law organization. LDF was launched at a time when America's aspirations for equality and due process of law were stifled by widespread state-sponsored racial inequality. For more than 80 years, LDF has relied on the Constitution and federal and state civil rights laws to pursue equality and justice for Black Americans and other people of color. LDF's mission has always been transformative: to achieve racial justice, equality, and an inclusive society. Since its inception, LDF has worked to increase fair housing opportunities for Black Americans. Some of LDF's early victories in the Supreme Court came in *Shelley v. Kramer*, 334 U.S. 1 (1948), and *McGhee v. Sipes*, 334 U.S. 1 (1948), which held that the state enforcement of racially-restrictive covenants violated the Equal Protection Clause. In the decades since those victories, LDF has continued to challenge public and private policies and practices that deny Black people safe and quality housing and free from discrimination.

II. Due to Prior Discrimination, Black Marylanders are Disproportionately Renters—and Disproportionately Face Housing Instability Due to Evictions.

As a result of decades of discrimination in housing, lending, employment, and other areas, Black people are disproportionately likely to be renters, and are more likely to face evictions and other forms of housing instability.¹¹ HB 181 would help protect Black and other renters from

⁶ Tim Thomas, et al, *Baltimore Eviction Map*, The Eviction Study, (May 8, 2020), <https://evictionresearch.net/maryland/report/baltimore.html#:~:text=Black%20headed%20households%20had%20the,eviction%20rate%20of%205.2%25>).

⁷ Id.

⁸ Kim Barker and Jessica Silver-Greenberg, *On Tenant Blacklist, Errors and Renters With Little Recourse*, The New York Times, (August 16, 2016), <https://www.nytimes.com/2016/08/17/nyregion/new-york-housing-tenant-blacklist.html>.

⁹ Cleo Bluthenthal, *The Disproportionate Burden of Eviction on Black Women*, Center for American Progress, (August 14, 2023), <https://www.americanprogress.org/article/the-disproportionate-burden-of-eviction-on-black-women/#:~:text=The%20data%20are%20frequently%20made,the%20eviction%20was%20unlawfully%20filed>.

¹⁰ Jaboa Lake and Leni Tupper, *Eviction Record Expungement Can Remove Barriers to Stable Housing*, Center for American Progress, (September 30, 2021), <https://www.americanprogress.org/article/eviction-record-expungement-can-remove-barriers-stable-housing/>

¹¹ Urban Institute, *The Ghosts of Housing Discrimination Reach Beyond Redlining: Subtitle Why Historical Redlining Maps Are Not Strong Predictors of Present-Day Housing Instability*, (March 15, 2023), <https://www.urban.org/features/ghosts-housing-discrimination-reach-beyond-redlining#:~:text=Because%20of%20a%20range%20of,housing%20cost%20burden%20and%20eviction>.

abusive landlord practices, and will help avoid disproportionate harm to tenants of color, particularly Black tenants.

Black people are in need for tenant protections due to racist housing policies, which prevented Black homeownership and pushed Black residents to live in segregated areas of poverty. For decades, the federal government encouraged housing discrimination against communities of color through explicitly racist policies and practices.¹² For example, the Federal Housing Administration refused to guarantee mortgages for developers who were building subdivisions unless the deeds included racially restrictive covenants, effectively stopping development of integrated suburban communities.¹³ In Northwood, a northeast Baltimore community, developers wrote racial covenants into property deeds when the community was built in the early 1940s, barring any Black Maryland resident from purchasing property in the neighborhood.¹⁴ Another federal housing policy that targeted Black Maryland residents was “redlining.” In the 1930s, the federal government endorsed existing patterns of housing discrimination against people and communities of color through a practice that became known as redlining.¹⁵ The former Federal Home Owners’ Loan Corporation (HOLC), established in 1933, used color-coded maps to represent the perceived risk of lending in particular neighborhoods, with “hazardous” (the highest risk) areas coded in red.¹⁶ HOLC routinely gave Black communities a “hazardous” rating, discouraging lending in those “redlined” areas.¹⁷ In Baltimore, while white neighborhoods tended to fall within the green and blue grades, most of Baltimore’s Black neighborhoods, in east and south Baltimore, were almost exclusively “redlined.”¹⁸ Black neighborhoods in Baltimore suffered from high rents and poor-quality housing, and limited social and city services, leading to Grade D markings.¹⁹ Redlining led to long-term residential segregation and disinvestment in affected neighborhoods and drove the concentration of poverty in communities of color.²⁰

While the Fair Housing Act of 1968 was passed to both prevent discrimination and reverse housing segregation, Black people continue to struggle to find safe, stable, and affordable housing. Due to historical and ongoing discrimination, there is a large and growing racial homeownership gap. In 2021, Black families had a homeownership rate of 46.4% compared to 75.8% of white

¹² Danyelle Solomon, et al., *Systematic Inequality: Displacement, Exclusion, and Segregation How America’s Housing System Undermines Wealth Building in Communities of Color*, Center for American Progress, (August 2019), <https://www.americanprogress.org/wp-content/uploads/sites/2/2019/08/StructuralRacismHousing.pdf>

¹³ HEATHER MCGEE, *THE SUM OF US* 80 (2022).

¹⁴ Jayne Miller, *Racial Covenants Remain in Some Baltimore-Area Property Records*, WBALTV, (February 25, 2020), <https://www.wbalvtv.com/article/racial-covenants-baltimore-property-records/31103729#>

¹⁵ BRUCE MITCHEL & JUAN FRANCO, National Community Reinvestment Coalition, *HOLC “REDLINING” MAPS: THE PERSISTENT STRUCTURE OF SEGREGATION AND ECONOMIC INEQUALITY* (2018), <https://ncrc.org/holc/>.

¹⁶ *Id.*

¹⁷ Richard Rothstein, *THE COLOR OF LAW: A FORGOTTEN HISTORY OF HOW OUR GOVERNMENT SEGREGATED AMERICA* (2017).

¹⁸ David Armenti and Alex Lothstein, *Baltimore’s Pursuit of Fair Housing: A Brief History*, Maryland Center for History and Culture, (2020), <https://www.mdhistory.org/baltimores-pursuit-of-fair-housing-a-brief-history/#:~:text=During%20the%20early%201900s%2C%20white.against%20and%20segregate%20Black%20Baltimoreans.>

¹⁹ *Id.*

²⁰ Jason Richardson, et al, *Redlining and Neighborhood Health*, National Community Reinvestment Coalition, (2020), <https://ncrc.org/holc-health/>

families.²¹ In majority-Black Baltimore, the Black homeownership gap is 30.1%—10% higher than the statewide rate^{22 23}

Because they are locked out of homeownership, most Black people rent. In 2021, about 58% of households headed by Black adults in the U.S. rent their homes according to national Census data.²⁴ Black people live more frequently in unsafe subsidized housing,²⁵ and are disproportionately likely to spend more than 30% of their income on rent.²⁶ Black renters are disproportionately rent-burdened in Baltimore: approximately 60% of Black renters are housing cost burdened compared to 47% of white renters.²⁷ This makes residents more prone to evictions. As local, state, and national eviction moratoriums have ended and pandemic aid helping renters has faded, eviction filings have risen over 50% above pre-pandemic levels in some jurisdictions, nationally.²⁸ In Maryland, there was a total of 23,567 evictions combined in 2020, 2021, and 2022, which is an average of about 8,000 per year.²⁹ The last year before the moratorium, 2019, Maryland registered 21,676 evictions.³⁰ In 2023, with just nine months of reportable data, there were already 16,325 evictions in the state—double the number over the course of the entire prior year.³¹

Evictions have in the past and will continue to have a disproportionate impact on Black Maryland residents. According to an analysis by the ACLU, Black renters had evictions filed against them at nearly twice the rate of their white peers.³² Research by the RVA Eviction Lab

²¹ Rashawn Ray, Andre Perry, & David Harshbarger, *Homeownership, Racial Segregation, and Policy Solutions to Racial Wealth Equity*, Brookings Institute, September 1, 2021, <https://www.brookings.edu/articles/homeownership-racial-segregation-and-policies-for-racial-wealth-equity/>

²² Stateline, *Black Families Fall Further Behind on Homeownership*, Maryland Matters, (October 15, 2022), <https://www.marylandmatters.org/2022/10/15/black-families-fall-further-behind-on-homeownership/#:~:text=The%20overall%20homeownership%20rate%20is,Black%20homeownership%20rate%20is%2051%25.>

²³ Id.

²⁴ U.S. Census Bureau, *Demographic Characteristics for Occupied Housing Units*, American Community Survey, 2019, [https://data.census.gov/table?q=Owner/Renter+\(Householder\)+Characteristics&tid=ACST1Y2019.S2502](https://data.census.gov/table?q=Owner/Renter+(Householder)+Characteristics&tid=ACST1Y2019.S2502)

²⁵ Jill Rosen, *Study: Racial disparities in outcomes for those who grow up in subsidized housing have largely vanished*, Johns Hopkins University, May 8, 2017, <https://hub.jhu.edu/2017/05/08/black-white-kids-in-public-housing-fare-similarly/#:~:text=Black%20families%20getting%20subsidized%20housing,impooverished%20neighborhoods%2C%20the%20study%20found.>

²⁶ National Low Income Housing Coalition, *Gap Report*, (March 16, 2023), <https://nlihc.org/gap>

²⁷ Public Justice Center, *The Economic Impact of an Eviction Right to Counsel in Baltimore City*, (May 8, 2020), <https://cdn2.hubspot.net/hubfs/4408380/PDF/Eviction-Reports-Articles-Cities-States/baltimore-rtc-report-final-5-8-2020.pdf>

²⁸ Michael Casey & R.J. Rico, *Eviction filings soar over 50% above pre-pandemic levels in some cities as rents increase*, PBS, June 17, 2023, <https://www.pbs.org/newshour/nation/eviction-filings-soar-over-50-above-pre-pandemic-levels-in-some-cities-as-rents-increase>

²⁹ Dwight A. Weingarten, *Evictions, Rising after Rent Assistance Ran Out, Back Near pre-pandemic Levels in Maryland*, Salisbury Daily Times, (December 6, 2023), <https://www.delmarvanow.com/story/news/local/maryland/2023/12/06/marylands-rising-eviction-rate-renews-call-for-tenants-rights/71814753007/>

³⁰ Id.

³¹ Id.

³² Sophie Beiers, Sandra Park & Linda Morris, *Clearing the Record: How Eviction Sealing Laws Can Advance Housing Access for Women of Color*, AM. C.L. UNION (Jan. 10, 2020), <https://www.aclu.org/news/racial-justice/clearing-the-record-how-eviction-sealing-laws-can-advance-housing-access-for-women-of-color.>

indicated that race bore a stronger relationship to eviction than poverty, property value, or a range of other factors.³³ These burdens fall even harder on Black women, for whom 1 in 5 will face an eviction in their lifetime.³⁴ In Maryland, 1 in 4 Black children in rental households face the threat of eviction in a typical year.³⁵ Black households have the highest eviction removal count in Maryland—almost three times higher than the white resident eviction rate.³⁶

Evictions will continue to increase as rental unit prices rise and it becomes more difficult for renters in Maryland to find safe and affordable housing. In 2022, the Federal Reserve Bank of Cleveland analyzed eviction data before and after the pandemic.³⁷ Its analysis found that when rental prices rose the eviction rate in those areas also rose.³⁸ That study found that landlords in markets with higher recent rent increases are more likely to pursue eviction than those in markets with lower rent increases.³⁹ In the Baltimore -Towson metropolitan area, out-of-state investors are buying rental properties across the area and rent prices have sky-rocketed in recent years. That rise in rent correlated with more eviction filings. In 2020, Baltimore had almost 140,000 eviction case filings resulting in approximately 70,000 eviction warrants and 6,500 evictions—an eviction rate almost 2.5 times the national average.⁴⁰

There are also extreme harms that come with evictions. Eviction causes significant increases in homelessness and housing instability, and these effects can last 12 to 24 months or longer after an eviction case is filed.⁴¹ The data suggest that physical and mental health also decline after an eviction filing. Hospital visits often precede an eviction filing and visits for mental health-related conditions jumped by more than 130 percent following evictions.⁴² These results align with other

³³ Benjamin F. Teresa, *The Geography of Eviction in Richmond: Beyond Poverty*, RVA EVICTION LAB (2018), <https://cura.vcu.edu/media/cura/pdfs/cura-documents/GeographiesofEviction.pdf>

³⁴ Robert Collinson & Davin Reed, *The Effects of Evictions on Low-Income Household*, NYU L. (2018), https://www.law.nyu.edu/sites/default/files/upload_documents/evictions_collinson_reed.pdf

³⁵ Maryland Eviction Prevention Funds Alliance, *Assessment of Maryland's Need for Eviction Prevention Funds (EPF) and the Estimated Fiscal Impact of EPF*, (December 19, 2023), https://www.mdeconomy.org/wp-content/uploads/2023/12/Assessment-of-Marylands-Need-for-EPF-and-Directional-Fiscal-Impacts-of-EPF_FINAL_2023.12.19-1.pdf

³⁶ Tim Thomas, et al, *Baltimore Eviction Map*, The Eviction Study, (May 8, 2020), <https://evictionresearch.net/maryland/report/baltimore.html#:~:text=Black%20headed%20households%20had%20the,eviction%20rate%20of%205.2%25>).

³⁷ Hal Martin, *Making Sense of Eviction Trends during the Pandemic*, Federal Reserve Bank of Cleveland, (August 23, 2022), <https://www.clevelandfed.org/publications/economic-commentary/2022/ec-202212-making-sense-of-eviction-trends-during-the-pandemic>

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ Public Justice Center, *The Economic Impact of an Eviction Right to Counsel in Baltimore City*, (May 8, 2020), <https://cdn2.hubspot.net/hubfs/4408380/PDF/Eviction-Reports-Articles-Cities-States/baltimore-rtc-report-final-5-8-2020.pdf>

⁴¹ James T. Spartz, *Eviction Prevention: Reducing Harm To Households And Society*, University of Wisconsin-Madison Institute for Research on Poverty, (February 2023), <https://www.irp.wisc.edu/resource/eviction-prevention-reducing-harm-to-households-and-society/#:~:text=Eviction%20causes%20significant%20increases%20in.an%20eviction%20case%20is%20filed>.

⁴² *Id.*

evidence of eviction’s negative physical and mental health impacts on children, including increases in childhood hunger.⁴³

III. Landlords Frequently Rely on Inaccurate, Incomplete, or Outdated Eviction Court Records to Deny Black People Housing.

The eligibility criteria that landlords most frequently rely on when a prospective renter is applying to live in a property includes prior eviction history.⁴⁴ Some tenant screening companies claim that eviction records can help landlords predict whether a tenant will cause property damage or uphold their lease agreement.⁴⁵ There is no basis in fact for such claims.⁴⁶ Moreover, using eviction records in tenant screening has a disproportionate impact on people of color, there is no evidence that past evictions predict whether someone would be a good tenant; and can lead housing providers to rely on flawed or inaccurate information. Housing providers’ use of eviction records to screen prospective tenants has a disparate impact on people of color because, as discussed earlier, Black people are more likely to rent and face eviction. Using prior eviction records to screen tenants is also unreliable because these records are often incomplete or incorrect, especially for Black and Latino applicants.

Because there is no single government database that collects records from across all courts, tenant screening companies often buy records from data brokers who compile criminal or civil court records into centralized databases.⁴⁷ Some tenant screening companies rely on “name-only” matches or “wildcard” searches, gathering information from people who share the same few letters of a name.⁴⁸ According to an investigation by The Markup and the New York Times, these reports include eviction records from different people with similar names—a problem that occurs more frequently with Black or Latino applicants.⁴⁹ A report by Princeton University based on a review of 3.6 million eviction records from 12 states found that more than one in five cases had ambiguous or false records, meaning the records did not include information on how the case was resolved or falsely represented a tenant’s eviction history.⁵⁰ Moreover, even if an eviction was filed against a prospective renter, the filing of an eviction alone does give landlords sufficient information to judge whether a prospective renter would be a good tenant. In Baltimore in 2019, for example,

⁴³ Id.

⁴⁴ Abby Boshart, *How Tenant Screening Services Disproportionately Exclude Renters of Color from Housing*, Urban Institute, (December 21, 2022), <https://housingmatters.urban.org/articles/how-tenant-screening-services-disproportionately-exclude-renters-color-housing>

⁴⁵ Tinuola Dada & Natasha Duarte, *Tenant Screening Companies Profit from Eviction Records, Driving Housing Insecurity*, SHELTERFORCE (Jul. 19, 2022), <https://shelterforce.org/2022/07/19/tenant-screening-companies-profit-from-eviction-records-driving-housing-insecurity/>

⁴⁶ Id.

⁴⁷ CONSUMER FINANCIAL PROTECTION BUREAU, *TENANT BACKGROUND CHECKS MARKET 19* (2022), https://files.consumerfinance.gov/f/documents/cfpb_tenantreport_2022-11.pdf

⁴⁸ Id.

⁴⁹ Lauren Kirchner & Matthew Goldstein, *How Automated Background Checks Freeze Out Renters*, N.Y. TIMES (May 28, 2020), <https://www.nytimes.com/2020/05/28/business/renters-background-checks.html>.

⁵⁰ Adam Porton, Ashley Gromis, & Matthew Desmond, *Inaccuracies in Eviction Records: Implications for Renters and Researchers*, HOUS. POLICY DEBATE vol. 31, nos. 3–5 (2021), 377–394, <https://www.tandfonline.com/doi/epdf/10.1080/10511482.2020.1748084?needAccess=true&role=button>.

there were approximately 140,000 annual eviction filings but only an eviction rate of about four percent.⁵¹ This means that 96 percent of filings did not result in an eviction.⁵²

Currently, eviction filing records that do not result in evictions are still in the court system, are accessible to tenant screening companies, and are often used against renters even if they did not have an eviction executed against them. The simple presence of an eviction record on a tenant screening report or in public court records can completely derail a prospective tenant's chances of accessing safe, adequate, and affordable housing opportunities into the long-term future.⁵³ For example, Maryland resident named Highness Yemba, fell behind on rent during after she had to miss work to help her mother recover from COVID-19.⁵⁴ She faced eviction, but received rental assistance and was able to pay off what she owed. Despite catching up on rent, the previous eviction court records have made it difficult for her to find a new safe and affordable place to live.⁵⁵

IV. **HB 181 Would Help Ensure that Black Renters Can Access and Retain Stable Housing**

HB 181 would help protect tenants from these unfair practices. Given the historical and current landscape with evictions in Maryland, allowing a landlord to increase a residents rent due to a current or past eviction would have a disparate impact on Black Maryland residents. Additionally, having a financial penalty for a past eviction action while there is an affordability crisis in the state and there are thousands of low-income residents that are struggling to find a safe and decent place to live is bad policy. As mentioned previously, the Fair Housing Act of 1968 was passed to both prevent discrimination and reverse housing segregation. Keeping this policy in place in Maryland would allow for more discrimination and more displacement of Black Maryland residents.

Requiring that the court seal prior eviction court records when there is no actual eviction would help many Black Maryland renters be able to find more safe and affordable housing. Sealing these records would limit tenant screening companies' access to these records. This will disproportionately help Black Maryland residents who unfortunately have the highest rate of eviction filings in the state.⁵⁶

⁵¹ Public Justice Center, *The Economic Impact of an Eviction Right to Counsel in Baltimore City*, (May 8, 2020), <https://cdn2.hubspot.net/hubfs/4408380/PDF/Eviction-Reports-Articles-Cities-States/baltimore-rtc-report-final-5-8-2020.pdf>

⁵² Id.

⁵³ Policy Link, *Mapping the Growth of Eviction Record and Tenant Screening Protections*, (July 2023), <https://www.policylink.org/mapping-the-growth-of-eviction-record>

⁵⁴ Bennett Leckrone, *Bill Would Let Tenants Ask Court to Shield Pandemic-Related Eviction Records*, Maryland Matters, (March 3, 2022), <https://www.marylandmatters.org/2022/03/03/bill-would-let-tenants-ask-court-to-shield-pandemic-related-eviction-records/>

⁵⁵ Id.

⁵⁶ Tim Thomas, et al, *Baltimore Eviction Map*, The Eviction Study, (May 8, 2020), [https://evictionresearch.net/maryland/report/baltimore.html#:~:text=Black%20headed%20households%20had%20the,eviction%20rate%20of%205.2%25\).](https://evictionresearch.net/maryland/report/baltimore.html#:~:text=Black%20headed%20households%20had%20the,eviction%20rate%20of%205.2%25).)

We urge this body to adopt the language found in HB 181, but we also urge this body to do more and to seal all eviction filings no matter what the outcome of the eviction filing. Again, there is little to no evidence that eviction history will project if a prospective tenant will be a good tenant who pays their rent so there is no reason that tenant screening companies in Maryland should be able to use this data at all to deny someone housing.

V. Conclusion

Housing is the basis of stability and security for an individual or family. Allowing a landlord to increase a residents rent due to a current or past eviction would allow for more discrimination and more displacement of Black Maryland residents. Having the court seal prior eviction court records when there is no actual eviction would help many Black Maryland renters be able to find more safe and affordable housing without interference from inaccurate and misleading tenant screening reports. With rent prices rising and more parts of Maryland that are becoming unaffordable for low-income residents to live, the state needs to expand opportunities for Black and low-income residents to have safe and affordable places to live. We support HB 181's effort to reduce the burden on residents who may have had a previous eviction filing so that they will be better equipped to find a safe and affordable place to live.

Thank you for the opportunity to testify. If you have any questions, please contact David Wheaton, Economic Justice Policy Fellow, at dwheaton@naacpldf.org, or Amalea Smirniotopoulos, Senior Policy Counsel and Co-Manager of the Equal Protection Initiative, at asmirniotopoulos@naacpldf.org.