

**Testimony in Support of SB279 – FAVORABLE**  
Access to Counsel in Evictions Special Fund – Alteration  
Before the Judicial Proceedings Committee – February 9, 2022

Senate Bill 279, cross-filed with House Bill 571, will help Maryland effectuate the right to counsel in eviction proceedings that the General Assembly passed through House Bill 18 in 2021. The bill would provide funding to the Access to Counsel in Evictions Special Funds through money received by the Division of Consumer Protection of the Office of the Attorney General from violations of rental residential property rights under the Consumer Protection Act. Funding the Access to Counsel program is critical to the long-term success of providing tenants with legal representation in eviction proceedings in Maryland. Without funding, the program will not reach its full potential, and inevitably nothing will change for the many Marylanders who face eviction and their communities. Evictions are damaging to individuals and public health. Eviction defense is an effective public health measure, proven to prevent disruptive displacement of individuals and families and bring cohesion to communities. Senate Bill 279 is necessary to implement the Access to Counsel program and it is worth repeating why House Bill 18, which created the program, was passed last session.

**Eviction Has Long-Lasting and Significant Health Impacts on Individuals and Families**

Housing stability and health are directly correlated—a stable home is a basis for a healthy life. Many organizations, including the World Health Organization and the Centers for Disease Control and Prevention, recognize that housing is a “social determinant of health,”<sup>1</sup> meaning where you live plays a role in your health and longevity. Housing instability comes with long-lasting and significant damaging health consequences to individuals and families. Adults who face eviction are more likely to report symptoms of poor health, such as high blood pressure, depression, anxiety, and psychological distress.<sup>2</sup> Children in families that encounter eviction are also more likely to experience poor health, a higher prevalence of food insecurity, and worse educational outcomes than other low-income children.<sup>3</sup> Moreover, young adults who have

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<sup>1</sup> Centers for Disease Control and Prevention, *Social Determinants of Health: Know What Affects Health*, <https://www.cdc.gov/socialdeterminants/index.htm>.

<sup>2</sup> Allison Bovell-Amman, *The Hidden Health Crisis of Eviction*, BOSTON UNIV. SCHOOL OF PUB. HEALTH (Oct. 5, 2018), <https://www.bu.edu/sph/news/articles/2018/the-hidden-health-crisis-of-eviction/>.

<sup>3</sup> Gracie Himmelstein & Matthew Desmond, *Eviction and Health: A Vicious Cycle Exacerbated By A Pandemic*, HEALTH AFFAIRS (Apr. 1, 2021), <https://www.healthaffairs.org/doi/10.1377/hpb20210315.747908/full/>.

experienced eviction are at higher risk of teen pregnancy, drug use, and depression.<sup>4</sup> Eviction also directly impacts the health and social connectedness of communities—frequent moves cause individuals to feel less invested in their communities, homes, and social relationships.<sup>5</sup>

The ramifications of an eviction continue over time and eventually into all aspects of an individual's life.<sup>6</sup> An eviction record can create economic hardships and health problems. Its consequences are like having a criminal record—an eviction record remains public for seven years and remains visible to landlords, rental agencies, and potential employers during the screening process. Thus, it is difficult for individuals to find subsequent housing and jobs.<sup>7</sup> The working poor often lose their jobs because of eviction<sup>8</sup> and, once unemployed, have difficulty finding new jobs, particularly without a stable address. After displacement, families often end up moving to lower-quality homes, unsafe conditions, and into neighborhoods with higher rates of poverty and crime.<sup>9</sup> Consequently, eviction is so detrimental to individuals and Maryland communities, and it should be avoided whenever possible.

### **Legal Representation in Eviction Proceedings Reduces Eviction Rates**

The average tenant is unprepared and often unaware of how to advocate for themselves or assert valid defenses, and without legal representation most tenants lose their case and face eviction.<sup>10</sup> Last year, Maryland took an important step to address this issue and became one of three states that have a categorical right to counsel. Earlier this year, New York introduced a statewide bill that provides a right to counsel in eviction proceedings. Additionally, at least sixteen local jurisdictions have a right to counsel for tenants, including Kansas City, Minneapolis, Toledo, and Louisville.

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<sup>4</sup> Lauren Taylor, *Housing and Health: An Overview of The Literature*, HEALTH AFFAIRS (June 7, 2018), <https://www.healthaffairs.org/doi/10.1377/hpb20180313.396577/>.

<sup>5</sup> Katie Moran-McCabe & Scott Burris, *Eviction and the Necessary Conditions for Health*, NEW ENGLAND J. OF MED. (Oct. 14, 2021), <https://www.nejm.org/doi/full/10.1056/NEJMp2031947>.

<sup>6</sup> Kristin Ginger, *Eviction Filings Hurt Tenants, Even If They Win*, SHELTER FORCE (July 30, 2018), <https://shelterforce.org/2018/07/30/eviction-filings-hurt-tenants-even-if-they-win/>.

<sup>7</sup> Jake Blumgart, *To Reduce Unfair Evictions, Tenants Need Lawyers*, PLAN PHILLY (Mar. 16, 2017), <https://why.org/articles/to-reduce-unfair-evictions-tenants-need-lawyers/>.

<sup>8</sup> *Housing Instability Increases Likelihood of Job Loss*, NAT'L LOW INCOME HOUSING COAL. (Feb. 20, 2018), <https://nlihc.org/resource/housing-instability-increases-likelihood-job-loss>, summarizing Matthew Desmond & Carl Gershenson, *Housing and Employment Insecurity among the Working Poor*, SOC. PROBS. (Jan. 11, 2016), <https://scholar.harvard.edu/files/mdesmond/files/desmondgershenson.sp2016.pdf?m=1452638824>.

<sup>9</sup> Heidi Schultheis & Caitlin Rooney, *A Right to Counsel is a Right to a Fighting Chance*, CTR. AM. PROGRESS (Oct. 2, 2019), <https://www.americanprogress.org/article/right-counsel-right-fighting-chance/>.

<sup>10</sup> Schultheis & Rooney, *supra* note 9.

Research shows that one of the ways to reduce evictions for low-income tenants is to level the playing field between tenants and landlords—guaranteeing legal representation for tenants.<sup>11</sup> In 2020, one study found that 92% of tenants were able to prevent disruptive displacement when they had legal representation.<sup>12</sup> After New York City passed access to counsel, 100% of tenants who had scheduled eviction cases had full access to legal services, and 84% of tenants were able to stay in their homes.<sup>13</sup> In Cleveland, Ohio, 93% of tenants represented by legal counsel avoided eviction or involuntary moves, and 83% who were seeking additional time to move were able to do so.<sup>14</sup> Even in situations where eviction is warranted, attorneys are still able to mitigate the impacts of eviction. An attorney may be able to keep eviction filings off tenants’ records, negotiate for more time for tenants to move out, help tenants apply for rental assistance, or reduce the amount of money owed to a landlord.<sup>15</sup> These steps that attorneys can take are critical to ensuring that tenants may be able to secure healthy, safe housing later.

### **Senate Bill 279 is Necessary for Implementation of the Access to Counsel Program**

You acknowledged the need for access to counsel in eviction proceedings last year and that need has only grown since. Maryland’s legal services providers are unable to keep up with the current demand for legal representation.<sup>16</sup> Funding Maryland’s new Access to Counsel in Evictions Special Funds is necessary to fully implement the program throughout Maryland and keep pace with the demand for legal representation. Although there are concerns about the cost of implementation, the program will result in substantial savings to the State. In passing House Bill 18, the General Assembly recognized that evictions create significant costs to the State—including emergency shelters, temporary housing, mental health care, transportation costs, foster care, and costs associated with children changing schools. These costs could be avoided by funding and implementing the Access to Counsel program.

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<sup>11</sup> Schultheis & Rooney, *supra* note 9.

<sup>12</sup> *Access to Counsel Funding*, RENTERS UNITED MARYLAND (Jan. 31, 2022), <http://rentersunitedmaryland.org/housing-justice-22/>.

<sup>13</sup> Office of Civil Justice, *Universal Access to Legal Services*, NYC.GOV 1, 5–8 (2021), [https://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ\\_UA\\_Annual\\_Report\\_2021.pdf](https://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ_UA_Annual_Report_2021.pdf).

<sup>14</sup> *Right to Counsel, Free Eviction Help*, THE LEGAL AID SOC’Y OF CLEVELAND (Jan. 31, 2021), <https://lasclev.org/wp-content/uploads/January-2021-report-on-initial-6-months-of-Right-to-Counsel-Cleveland-high-res.pdf>.

<sup>15</sup> Schultheis & Rooney, *supra* note 9.

<sup>16</sup> *Access to Counsel Funding*, *supra* note 12.

The Maryland Access to Counsel in Evictions Tasks Force reported that about \$12 million in funding for fiscal year 2023 is required for the program to realize its full impact.<sup>17</sup> Many states and several cities are relying on federal funds to get access to counsel programs started,<sup>18</sup> while others have supplemented federal funding and attempted to create additional, new funding sources.<sup>19</sup> Senate Bill 279 would access an effective and appropriate funding source for the Access to Counsel program, utilizing a funding approach that the state has already successfully implemented with the Cigarette Restitution Fund and the Opioid Restitution Fund. If Senate Bill 279 passes, the funds received would be used to keep people in their homes and avoid the negative consequences of displacement, where appropriate, by providing legal representation to tenants facing eviction. Having decided last year that access to counsel for tenants is a priority, it is time for the State to ensure the program's success by seeking all viable sources of funding to put House Bill 18 into effect. Senate Bill 279 is one step in the right direction.

### **Conclusion**

“Without access to justice, the promise of equal justice rings hollow.”<sup>20</sup> Maryland took the critical step to provide tenants with access to counsel; however, the program cannot be fully implemented and reach its full potential without sufficient funding. Eviction leaves tenants and families with long-lasting and significant negative health impacts. Eviction generates avoidable costs for the State. Providing legal representation can avoid unwarranted evictions and result in positive outcomes for Maryland tenants. This bill is an important step towards creating a new and additional funding source for a new and vital program that provides the right to access counsel in eviction proceedings.

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<sup>17</sup> Reena K. Shah, *It's Time to Fund the Access to Counsel in Eviction Fund*, THE DAILY REC. (Jan. 12, 2022), <https://thedailyrecord.com/2022/01/12/its-time-to-fund-the-access-to-counsel-in-eviction-law/>.

<sup>18</sup> Connecticut has allocated \$20 million of Coronavirus State Fiscal Recovery Funds for tenant representation and local jurisdictions have also used COVID federal funding to start up the programs.

<sup>19</sup> For example, in Boulder, the city is funding the right to counsel through a new rental licensing excise tax of \$75 per year per licensed unit. Shelby R. King, *Right to Counsel Movement Gains Traction*, SHELTERFORCE (July 16, 2021), <https://shelterforce.org/2021/07/16/right-to-counsel-movement-gains-traction/>.

<sup>20</sup> Attorney General Merrick B. Garland Delivers Remarks at the White House—Justice Department Convening with Law Schools: A Call to Action for Access to Justice, DEP'T OF JUST. (Jan. 28, 2022), <https://www.justice.gov/opa/speech/attorney-general-merrick-b-garland-delivers-remarks-white-house-justice-department>.

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