

Statement in support of House Bill 729 Landlord and Tenant - Eviction Actions - Filing Surcharge and Prohibited Lease Provisions

February 15, 2021

Lillian Leung, Doctoral Student in Sociology, Princeton University

Peter Hepburn, Assistant Professor of Sociology, Rutgers University-Newark

Matthew Desmond, Maurice P. Daring Professor of Sociology, Princeton University

America is in the midst of an affordable housing and eviction crisis. Today, most Americans are burdened by the high cost of housing. According to American Community Survey data for 2019, nearly half (46.3%) of renting households nationwide are housing cost burdened, spending more than 30% of their monthly income on housing, and nearly a quarter of renters (23.9%) spend over half their income on housing.¹ Housing cost burden is highest for renters of color and low-income households. Housing cost burden in Maryland is slightly above the national average: 49.9% of renting households are classified as housing cost burdened and 24.5% are severely burdened.²

Increasing housing cost burden places a growing number at risk of eviction. Princeton University's Eviction Lab estimates that 3.7 million eviction cases were filed nationwide in 2016. That amounts to an eviction filing rate of 9.6%: 9.6 evictions filed for every 100 renting households.³ We have collected data that suggest dramatically higher eviction filing rates in Maryland—as high as 92.5% in 2019 (see Appendix A).

At first glance, these numbers appear impossible: how can so high a share of Marylanders be on the verge of displacement in a given year? Simply put, eviction cases are not always a means of removing tenants. Rather, they are often a tool for property management and rent collection.

In our research, we have analyzed serial eviction filings.⁴ Serial eviction filings take place when landlords and property managers repeatedly file evictions against the same household, at the same address, across multiple months and even years. Analyzing court records from across the country, we found that nearly one-third of households facing eviction in 2014 were filed against repeatedly

¹ Joint Center for Housing Studies at Harvard University. “The State of the Nation’s Housing 2020.” Harvard University, 2020.

² Author’s calculations based on 2019 one-year American Community Survey Data for Maryland. Underlying data are available at:

<https://data.census.gov/cedsci/table?t=Renter%20Costs&g=0400000US24&y=2019&tid=ACSDT1Y2019.B25070&hidePreview=true>

³ Ashley Gromis, et al., “Estimating the National Prevalence of Eviction Using Millions of Public Court Records,” Working Paper: Princeton University, Eviction Lab, 2020.

⁴ Lillian Leung, Peter Hepburn, and Matthew Desmond, “Serial Eviction Filing: Civil Courts, Property Management, and the Threat of Displacement,” *Social Forces* (2020): 1-29.

at the same address. Interviews with 33 landlords and property managers led us to conclude that serial eviction filings were often used as a tool to facilitate rent collection—the threat of displacement a powerful inducement to pay rent. But such practices were only plausible where eviction filing fees were low and regulatory barriers minimal.

Serial eviction filing rates varied considerably across the country. In Indiana, Illinois, and Florida, less than one in every ten cases was a repeat filing. By contrast, almost half of eviction cases filed in 2014 were part of a serial eviction case in Delaware, South Carolina, and Virginia. Our research shows that states that make eviction cheaper and quicker had significantly higher rates of serial eviction filings. In these states, eviction courts function as the court of first, not last resort.

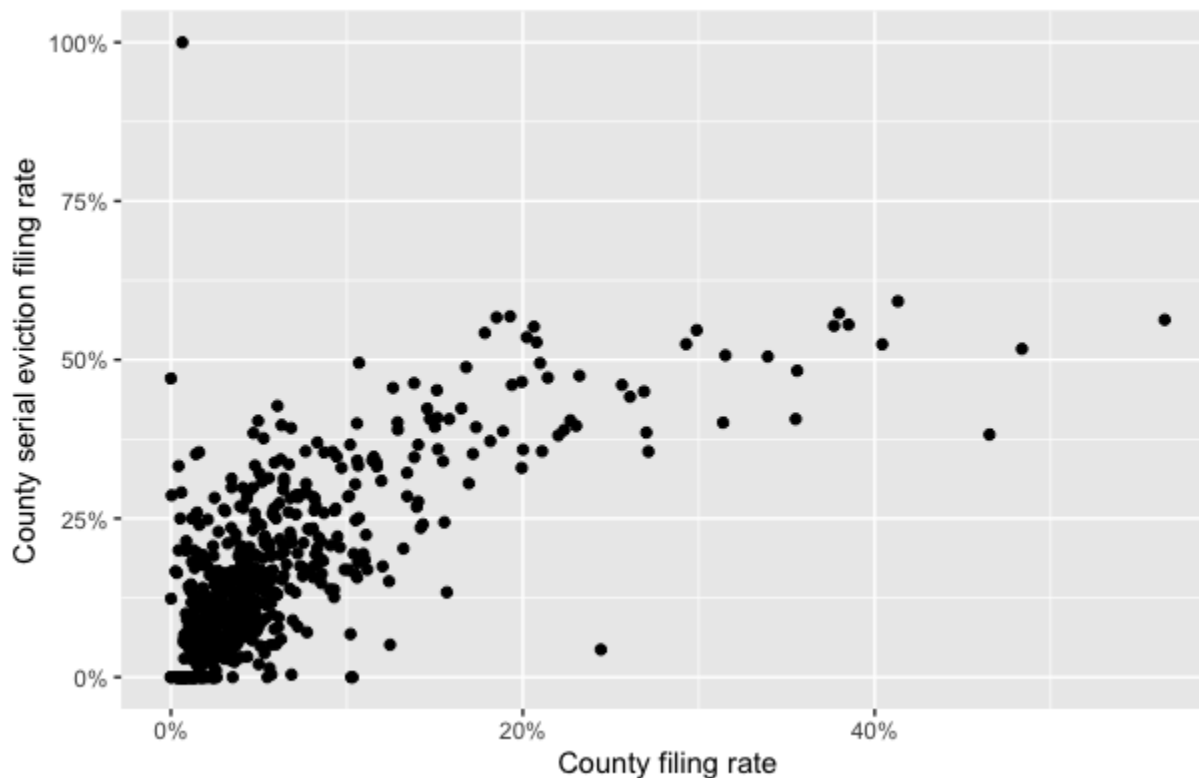
To put this in context of HB 729, the current filing fee for Failure to Pay Rent cases in Maryland is \$15 (except Baltimore City, where it costs \$25). This is among the lowest in the country. The average filing fee nationwide is \$112, with Minnesota having the highest average filing fee (\$295.5).⁵ Only Washington, D.C. has an eviction filing fee as low as Maryland's. In response to its high caseload of eviction filings, the D.C. Superior Court is currently considering raising its initial eviction filing fees from \$15 to \$100.⁶

Due to the unavailability of case-level eviction filing data in the state, we cannot estimate serial eviction filing rates in Maryland. We provide statistics from nearby and similar states in Appendix B. We conducted new analyses exploring the association between eviction filing rates and *serial* eviction filing rates. These analyses demonstrate that states with higher overall filing rates tend to also have higher serial eviction filing rates as well (see Plot 1).

⁵ Figures are based on 2018 filing fee information collected by the Eviction. Filing fees might vary across counties within the same state; figures cited are state average.

⁶ The Superior Court of the District of Columbia. "Request for Public Comment on the Initial Filing Fee for Landlord-Tenant Action." 2/19/2021. <https://www.dcbcr.org/getmedia/57613326-553d-4918-b4b1-edcaebcb659e/Notice-and-Request-for-Comment-on-Initial-Filing-Fee-for-Landlord-Tenant-Action>

Plot 1. County-level serial eviction filing rate by overall eviction filing rate.



Note: Estimates are based on data from Leung et al. (2020). All estimates pertain to rates for 2014. No serial eviction filing data are available for Maryland.

There is considerable evidence to suggest that serial eviction filings are a common occurrence in Maryland. As noted above, the state’s overall eviction filing rate—which we can calculate given aggregate statistics described in Appendix A—is extraordinarily high. In 2019, 675,625 landlord-tenant cases were processed, translating to approximately 92.54 cases per 100 renting households.⁷ In the most extreme cases, we see a filing rate of 177.0% in Baltimore County, 131.5% in Prince George’s County, and 106.5% in Baltimore City in 2019. These rates of over 100% suggest many of these filings were likely part of serial eviction cases. Extrapolating the general pattern observed in Plot 1 to the eviction rates in Maryland, it seems more likely than not that a considerable share of all eviction filing in the state are serial eviction filings.

Serial eviction filings result in serious consequences on tenants, even those who never receive an eviction judgment. Having multiple eviction filings tarnishes tenants’ rental histories and creates barriers to finding housing in the future. In our interviews with property managers, many noted that they rejected applicants with negative rental history, even those that did not culminate in an

⁷ Monthly statistic reports were summed to obtain figures for 2019:
<https://mdcourts.gov/sites/default/files/import/district/statistics/2019/Calendar19.pdf>

eviction judgment. This pattern has also been documented by a number of journalists studying the tenant screening industry.⁸

Serial eviction filings also increase housing costs for households that are already struggling to pay rent. Landlords and property managers that we interviewed noted that they typically pass court costs, including filing and attorney fees, to tenants. We estimated that, across the country, each eviction filing translates into approximately \$180 in fines and fees for the typical renter household that pays to stay in their unit, raising their monthly housing cost by 20%. This bill's provisions ensuring that landlords and property managers do not pass on these costs should help to reduce the financial burdens of tenants who are already at risk of eviction.

Increasing the filing fee for eviction cases should serve to reduce undue and frivolous eviction filings, limit serial eviction filings, and lower administrative stress and burden on the court system. Trying to put current caseloads in context, we estimate that each district court in Maryland must handle an average of almost 400 cases *weekly*.⁹ Some, however, process far more than that. A 2015 report by the Public Justice Center and the Right to Housing Alliance estimates the “rent court” in Baltimore City, which has one of the state’s highest eviction filing rates, processes roughly 1,000 cases per day. The report describes “overwhelmed dockets” and rapid processes that undermine the court’s fairness.¹⁰

Our research indicates that HB 729 (Landlord and Tenant - Eviction Actions - Filing Surcharge and Prohibited Lease Provisions) would likely result in preventing unnecessary, serial eviction filings by raising the filing fee residential landlords are required to pay to initiate eviction proceedings against a tenant, bringing that fee much more in line with other states.

⁸ Megan Kimble, “The Blacklist,” *The Texas Observer*, 12/9/2020; Lauren Kirchner, “Data Brokers May Report COVID-19–Related Evictions for Years,” *The Markup*, 8/4/2020; Kyle Swenson, “The stimulus relieved short-term pain, but eviction’s impact is a long haul,” *The Washington Post*, 2/8/2021.

⁹ We produced a back-of-the-envelope calculation by dividing the total number of filings in Maryland in 2019 by 52 weeks and by the 33 district court locations in Maryland.

¹⁰ The Public Justice Center, the Right to Housing Alliance, Dan Pasciuti, and Michele Cotton. 2015. “Justice Diverted: How Renters Are Processed in the Baltimore City Rent Court.”

http://www.publicjustice.org/wp-content/uploads/2019/09/JUSTICE_DIVERTED_PJC_DEC15.pdf

Appendix A

We have calculated state-level eviction filing rates using court statistics retrieved from Maryland's annual court reports. Data for 2000 to 2016 are drawn from Maryland Judiciary's annual Statistical Abstracts.¹¹ Data for 2017 through 2019 are sourced from monthly statistical reports on the Maryland Courts' website.¹² National filing rates are drawn from the Eviction Lab's website and are available only between 2000 and 2016.¹³

The filing rate is calculated by dividing the number of landlord-tenant cases filed that year by the number of renting households, drawn from the U.S. Census Bureau's American Community Survey. The rates below do not account for serial eviction filings.

State-level eviction filing rates in Maryland, 2000-2019

Year	Maryland Filing Rate (%)	National Filing Rate (%)
2000	82.27	6.00
2001	77.25	6.38
2002	81.14	6.96
2003	80.51	7.04
2004	79.22	7.07
2005	79.33	7.22
2006	81.62	7.49
2007	86.38	6.42
2008	88.87	6.50
2009	87.05	6.44
2010	91.25	7.05
2011	86.43	7.22
2012	88.39	6.98
2013	87.08	6.73

¹¹ <https://mdcourts.gov/publications/annualreports>

¹² <https://mdcourts.gov/district/about#stats>

¹³ <https://evictionlab.org/>

2014	83.75	6.60
2015	83.33	6.27
2016	83.65	6.12
2017	89.44	NA
2018	90.28	NA
2019	92.54	NA

Appendix B

State	Average Filing Fee (2018) (\$)	State Serial Eviction Filing Rate (%)
Delaware	40	56.3
North Carolina	126	41.3
South Carolina	40	46.7
Virginia	44.5	50.7
West Virginia	50	10
