

Testimony in Support of House Bill 52 (2021)

Real Property – Alterations in Actions for Repossession and Establishment of Eviction Diversion Program *Before the Judiciary Committee: February 17, 2021*

House Bill 52 creates a series of safeguards for tenants facing the precipitous health consequences of eviction. The centerpiece of this legislation is the Eviction Diversion Program, a package of pre-filing services such as financial assistance and mediation that will help tenants avoid eviction and homelessness. Landlords will be required to notify tenants of available financial assistance and to make good-faith efforts to resolve their claim before resorting to eviction. Additionally, House Bill 52 adjusts the eviction process by creating a two-phase proceeding with a preliminary status conference. At this status conference, the court will hear a tenant’s defenses, and may refer the parties to mediation to encourage a pre-trial settlement. This bill will also allow the court to grant tenants more time to obtain legal representation, and to delay an eviction if removing the tenant would place their life in danger or render them homeless.

This bill addresses a growing danger to the health and welfare of our most vulnerable communities. With businesses shuttered and rent moratoriums set to expire, landlords, tenants, and courts face the prospect of “an avalanche of evictions” as the rent becomes due.¹ Today, as many as 30 million Americans² and 204,000 Maryland households are at risk of losing their homes.³ House Bill 52 would have Maryland join a growing number of states and municipalities that have recognized that pre-filing intervention is an effective approach to this crisis, and one that works for all parties. This bill would provide vulnerable tenants with a lifeline, relieve the burden on the District Courts, and give landlords the best opportunity to meet their economic needs.

Evictions have Long-Lasting Impacts on Individuals, Families, and Communities

Stable housing is the foundation of a healthy life. Organizations such as the World Health Organization, the Centers for Disease Control and Prevention, and the Kaiser Family Foundation have recognized that housing is a “social determinant of health”—one of several key “conditions in the places where people live, learn, work, and play that affect a wide range of health and quality-of-life risks and

¹ Karen Tokarz et al., *Addressing the Eviction Crisis and Housing Instability Through Mediation*, 63 Wash. U. J. L. & Pol’y 243, 244 (2020).

² 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/>.

³ 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.

outcomes.”⁴ While access to quality healthcare is important, research shows that other circumstances may be responsible for as much as 80% of overall health outcomes, including quality of life and mortality.⁵

Housing instability has damaging health consequences that can last lifetimes, or even generations. Families grappling with this uncertainty often experience poor overall health, high blood pressure, and mental health challenges⁶ such as stress, depression, anxiety, and suicide.⁷ Children who endure early-age transience often struggle to build friendships, fall behind in school, and are more likely than peers with stable housing to develop behavioral problems.⁸ Adults who are evicted report more material hardship and are more likely to lose their jobs,⁹ and those who are rendered homeless often experience food insecurity,¹⁰ trauma, and substance abuse disorder.¹¹ Moreover, housing instability makes it difficult for residents to invest in their homes, social relationships, and neighborhoods.¹² Where health-supportive connections have already been made, eviction can disrupt the fabric of entire communities.

Evictions Further Entrench Poverty and Inequality

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 many forms of loans, unable to secure public housing benefits, and screened out of most applications for quality housing.¹³ This can create “a spiral of financial instability,” as families

⁴ Centers for Disease Control and Prevention, *Social Determinants of Health: Know What Affects Health* (last reviewed Jan. 26, 2021, 12:00 AM), <https://www.cdc.gov/socialdeterminants/index.htm>.

⁵ Robert Wood Johnson Foundation, *2020 County Health Rankings Key Findings Report*, [countyhealthrankings.org](https://www.countyhealthrankings.org) (2020), <https://www.countyhealthrankings.org/reports/2020-county-health-rankings-key-findings-report>.

⁶ Allison Bovell-Amman, *The Hidden Health Crisis of Eviction*, Boston University School of Pub. Health (2018), <https://www.bu.edu/sph/news/articles/2018/the-hidden-health-crisis-of-eviction/>.

⁷ Amanda Waldroupe, *The Significant Link Between Eviction and Suicide*, StreetSpirit (Jun. 1, 2019), <https://thestreetspirit.org/2019/06/01/the-significant-link-between-eviction-and-suicide/> (discussing studies).

⁸ Emma Baker, *How Does Household Residential Instability Influence Child Health Outcomes? A Quantile Analysis*, 16 Int’l J. of Env’t Res. & Pub. Health 4189, at 1–3 (2019), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6862481/pdf/ijerph-16-04189.pdf> (collecting studies).

⁹ Mathew Desmond & Rachel Tolbert Kimbro, *Eviction’s Fallout: Housing, Hardship, and Health*, 94 Social Forces 295, 299–300 (Feb. 24, 2015), https://scholar.harvard.edu/files/mdesmond/files/desmondkimbro.evictions.fallout.sf2015_2.pdf (observing that workers who experience eviction may be 11% to 15% more likely to lose their jobs).

¹⁰ Kevin M. Fitzpatrick & Don E. Willis, *Homeless and Hungry: Food Insecurity in the Land of Plenty*, 13 Food Security 3–4 (Nov. 4, 2020), <https://link.springer.com/article/10.1007/s12571-020-01115-x>.

¹¹ See Substance Abuse and Mental Health Services Administration, *Current Statistics on the Prevalence and Characteristics of People Experiencing Homelessness in the United States*, HRC (2011), https://www.samhsa.gov/sites/default/files/programs_campaigns/homelessness_programs_resources/hrc-factsheet-current-statistics-prevalence-characteristics-homelessness.pdf.

¹² Desmond & Kimbro, *supra* note 9, at 296.

¹³ 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/>.

desperate for a home are compelled to live in substandard conditions, exposing them to additional economic hardships and health hazards.¹⁴ As a result, families who are evicted experience significantly higher rates of material hardship and depression for years afterward, a trend that is pronounced among children and young adults.¹⁵

Nationwide, Black and Hispanic renters in general, and women in particular, are disproportionately threatened with eviction and disproportionately evicted from their homes.¹⁶ These results are particularly prevalent in Baltimore, where eviction rates among families headed by Black men are 51% higher than their white counterparts, and the total number of Black tenants evicted is 195% higher than the number of white residents evicted.¹⁷ The pandemic has only heightened these disparities: As the Attorney General’s COVID-19 Access to Justice Task Force Report highlights, one in six tenants nationally (17%) is currently behind on rent, but these rates are substantially higher for Black renters (31%) and multiracial renters (25%).¹⁸ These populations face the burdens of insecure housing at the same time as they are saddled with high rates of COVID-19 infection—and as eviction moratoriums begin to expire in Maryland and around the country, these communities will yet again bear a disproportionate brunt of the impacts.

The Eviction Diversion Program is a Proven Solution that Benefits All Parties

The proposed Eviction Diversion Program is premised on a simple proposition: Promoting compromise over legal consequences will achieve the best results for landlords and tenants alike. It is a hard reality that most tenants facing eviction for failure to pay rent simply do not have the money on hand.¹⁹ Removing them from their homes will not change that. Renters in crisis need “something that a judge cannot give them: additional time, a payment plan, additional resources, or flexible options to keep them housed.” This bill would not only protect tenants against the worst impacts of eviction—it would give landlords their best chance to collect. Eviction can be quite expensive for landlords,²⁰ producing costs related to vacancy and turnover while squandering any hope of collecting revenue from the evicted tenant.

¹⁴ 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/>.

¹⁵ Desmond & Kimbro, *supra* note 9, at 296; 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.

¹⁶ Peter Hepburn, Renee Louis, and Matthew Desmond, *Racial and Gender Disparities Among Evicted Americans*, Eviction Lab (Dec. 16, 2020), <https://evictionlab.org/demographics-of-eviction/>.

¹⁷ Tim Thomas et al., *Baltimore Eviction Map*, Evictions Study (May 8th, 2020), <https://evictions.study/maryland/report/baltimore.html>.

¹⁸ Maryland Office of the Attorney General and Maryland Access to Justice Commission, *Confronting the Covid-19 Access to Justice Crisis* 5 (Jan. 2021), <https://www.marylandattorneygeneral.gov/Pages/A2JC/default.aspx>.

¹⁹ Deborah Eisenberg & Noah Ebner, *Disrupting the Eviction Crisis with Conflict Resolution Strategies*, 41 Mitchell Hamline L.J. Pub. Pol’y & Prac. 125, 127–28 (2020).

²⁰ Philip Garboden, *Serial Filing: How Landlords Use the Threat of Eviction*, Am. Sociological Assn. (last visited Feb. 13, 2021), <https://www.asanet.org/serial-filing-how-landlords-use-threat-eviction>.

House Bill 52 would make Maryland the latest in a line of jurisdictions that have adopted eviction diversion programs to curb eviction rates.²¹ These programs consistently yield long-term positive outcomes. In 2009, the City of Kalamazoo, Michigan, responded to its growing homelessness crisis by implementing an Eviction Diversion Program that connects tenants to an assortment of pre-filing housing assistance services and provides mediation before an eviction hearing.²² From 2011 to 2015, Kalamazoo reported a 50% decrease in evictions, and a 9% decline in homelessness.

Such a program is desperately needed in Maryland, where eviction rates have more than quadrupled over the same span—rising from 0.52 evictions per 100 households in 2011 to 2.4 in 2015.²³ In 2019, eviction cases constituted over 40% of all District Court filings statewide,²⁴ and in 2020, there were more eviction filings than total rental households in the City of Baltimore.²⁵ By all accounts, this burden on the court system will increase as the pandemic comes to an end, the moratoriums against eviction expire, and landlords seek to collect. The solution that was embraced in Kalamazoo would be just as successful here. In 2016, the District Court of Maryland for Baltimore City ran a six-month pilot program offering pre-trial mediation services in failure-to-pay-rent cases. During this period, 85% of the landlords and tenants referred to mediation participated in the pilot.²⁶ Among them, 81% reached an agreement, and 89% were satisfied with the process. These data speak for themselves: Eviction mediation works for all parties, and may be a preferred solution for many.

The Procedural Reforms Contained in House Bill 52 Will Improve the Fundamental Fairness of the Rent Court Process

Rent court is not a tenant-friendly system. As of 2014, the Baltimore City District Court was receiving an average of 600 rent complaints each day, constituting over half of the 278,809 total filings that year.²⁷ To accommodate this caseload, the District Court uses a streamlined process called “summary ejectment,” designed to provide landlords with “‘an expedited means of regaining possession of leased premises’ without expense, ‘procedural complexities[,] and delays.’” Maryland is one of few states where

²¹ See, e.g., *Twenty-Seventh Emergency Order Regarding COVID-19 State of Disaster*, 609 S.W.3d 138 (Tex. 2020); Va. Code Ann §§ 55.1-1260 – 1262; 9 Palo Alto Code Ch. 9.72 (2002); 9 Philadelphia Code § 9-802 (2020).

²² Deborah Eisenberg et al., *The Role of Mediation in an Integrated System of Eviction Prevention*, 2 Md. B.J. 112, 113 (2020); *Kalamazoo County Eviction Diversion Program*, Michigan Legal Help (last visited Feb. 13, 2021), <https://michiganlegalhelp.org/self-help-tools/housing/kalamazoo-county-eviction-diversion-program>.

²³ Eviction Lab, *Map & Data: Maryland, USA*, evictionlab.org (last visited Feb. 4, 2021).

²⁴ Admin. Office of the Courts, *2019 Maryland Judiciary Statistical Abstract*, Maryland Courts 32 (Aug. 2020), <https://mdcourts.gov/sites/default/files/import/publications/annualreport/reports/2019/fy2019statisticalabstract.pdf>.

²⁵ The Public Justice Center, *The Economic Impact of an Eviction Right to Counsel in Baltimore City*, STOUT at 10 (May 8, 2020), <https://bmorerentersunited.org/rtc/stoutreport/>.

²⁶ District Court of Maryland ADR Office, *Mediation in Rent Court*, Maryland Courts (last visited Feb. 4, 2021), <https://mdcourts.gov/district/adr/home/rentcourt>.

²⁷ Dan Pasciuti & Michelle Cotton, *Justice Diverted: How Renters are Processed in Baltimore City Rent Court*, Public Justice Center 8 (2015), http://www.publicjustice.org/wp-content/uploads/2019/09/JUSTICE_DIVERTED_PJC_DEC15.pdf

notice is not required before filing for eviction, and has one of the nation's lowest filing fees, at only \$15. Moreover, summary ejection cases are often heard within seven to ten days after the complaint is filed, offering tenants no meaningful opportunity to marshal a defense.

House Bill 52 will improve the fundamental fairness of this process while relieving the burden on the District Court system. The Eviction Diversion Program will be established in jurisdictions with at least 10,000 eviction filings in FY2019. As such, it is well-calibrated to serve the courts and communities with the greatest need. The new notice requirements will enable residents to explore options to pay their rent and keep their home before they are burdened by an eviction filing against them. The District Court's authority to refer cases to mediation, and to give tenants time to obtain representation, will enable it to control its own docket and pump the breaks on the summary ejection process if a tenant has a valid defense. Moreover, the court's discretion to delay an eviction if a tenant is certain to become homeless gives it the opportunity to avoid the worst consequences of eviction in the most serious cases.

Conclusion

Attorney General Brian Frosh described eviction as the “loss, not just of a home, but also of possessions, school, community, employment, mental and physical health, and the ability to find another place to live.”²⁸ Today, businesses are shuttered and people are out of work—yet their rental debt continues to accumulate, raising the specter of a torrent of eviction proceedings when the governor's moratorium lifts. House Bill 52 is well calibrated to address this looming crisis. This bill would protect our most vulnerable communities against disastrous health and economic outcomes, reduce the strain on our court system, and promote a more productive, collaborative approach to rent disputes. 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.

²⁸ Reena Shah, *Brian Frosh: Leadership in a Time of Crisis*, MSBA.org (Jan. 06, 2021), <https://www.msba.org/brian-frosh-leadership-in-a-time-of-crisis/>.