February 17, 2021

The Honorable Luke Clippinger
Judiciary Committee
Room 101, House Office Building
Annapolis, Maryland 21401

RE: Testimony of Maryland Legal Aid in Support of House Bill 697 - Residential Property - Eviction Proceedings - Shielding of Court Records

Dear Chair Clippinger and Members of Committee:

Thank you for the opportunity to testify in support of HB 697. Maryland Legal Aid (MLA) is a non-profit law firm that provides free legal services to the State's low-income and vulnerable residents, including abused and neglected children, nursing home residents, and veterans. With 12 locations serving residents in each of Maryland's 24 jurisdictions, MLA handles civil legal cases involving various issues, including family law, housing, public benefits, consumer law, and criminal record expungements to remove barriers to obtaining child custody, housing, a driver's license, and employment. MLA strongly supports HB 697, with the proposed amendment below, and asks that the committee give it a favorable report.

This letter serves as notice that Douglas E. Nivens II, Esq. will testify in support of House Bill 697 on behalf of MLA at Delegate Fishers's request. This bill would shield the public disclosure of court records connected to eviction proceedings until a court issues a warrant of possession or restitution of the premises. The shield can be extended by mutual agreement of all parties or court order.

Current law does not allow parties or the courts to seal eviction proceedings under any circumstances. As such, these records remain indefinitely open for public inspection. Unlimited access to these records, regardless of the eviction proceeding outcome, serves as a barrier to many of MLA's low-income clients seeking secure housing, employment, and other basic human needs. For example, suppose a landlord files a breach of lease action against a tenant. That record remains available for future landlords or employers to review, even if the court later rules in favor of the tenant. Cases such as breach of lease, tenant holding over, and failure to pay rent frequently appear on the Maryland Judiciary Case Search Database without any context, any defenses raised, or whether the court found the allegations credible. Instead, these records become a static mark on tenants' records, which often inhibit their ability to move to another home or obtain gainful employment.

This bill would preserve the opportunity for low-income Marylanders to find new employment or alternative housing even amidst *accusations* of breach of lease, tenant holding over, or failure to pay rent. MLA's tenant clients often want to leave their current residence but cannot secure new housing due to pending litigation from the current landlord. As the pandemic limits court operations, these outstanding allegations linger online without any details explaining the tenants' side of the dispute. As a result, mere allegations are serving as barriers to those who attempt to move forward.

Employers and landlords often utilize the public website maintained by the Maryland Judiciary to screen individuals. These details are also compiled by private databases, such as CoreLogic Rental Property Solutions, which builds profiles on tenants' rental history. Consequently, a person's economic future is hampered by allegations beyond their control. HB 697 would ease this burden by allowing many MLA clients to rebuild their financial lives without untried allegations dictating the course.

MLA seeks an amendment to HB697 to include wrongful detainer in the list of possessory actions shielded from public inspection until a warrant of possession or restitution is issued. The current bill covers all possessory actions in subtitle 4, which used to include wrongful detainer (formerly section 8-402.4). That action now appears in section 14-132. Like all of the other possessory actions covered in this bill, a wrongful detainer is an action where a person may be evicted from the property. The principal difference between wrongful detainer and the other possessory actions is that the relationship between parties is not landlord-tenant.

An eviction filing is not a reliable barometer of a person's trustworthiness or good behavior. It merely tells the landlord's perception of a narrow window of time in a renter's life. That perception does not contain the tenant's side of the story. A past inability to pay rent does not equate to future nonpayment of rent. HB 697 would allow individuals to rebuild their livelihoods without past allegations holding them back.

Thank you for your consideration of this written testimony. For the reasons stated above, **Maryland Legal Aid urges a favorable report on House Bill 697 with amendments outlined above**.

/s/ Douglas E. Nivens
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