

### **Testimony in Support of HB18**

Landlord and Tenant – Eviction Action – Right to Counsel  
Before the Judiciary Committee – February 17, 2021

HB18, cross-filed as SB154, would provide low-income tenants with the right of access to legal representation in judicial or administrative actions for eviction. When current Maryland law disproportionately favors landlords, and Black and Brown households are disproportionately subject to eviction, this legislation would help to put tenants on a more equal footing with landlords by ensuring they have the opportunity to assert legitimate legal defenses. Research shows that legal representation substantially reduces eviction rates, and even when eviction proceeds, lawyers can help to mitigate the negative mental, physical, and economic impacts that typically follow eviction. Eviction defense is thus functionally a public health measure, with the potential to improve outcomes for individuals and communities, and ultimately resulting in substantial savings to the State.

#### **EVICCTIONS 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 outcomes.”<sup>1</sup> While access to quality healthcare is undeniably important, research shows that other circumstances may be responsible for as much as 80% of overall health outcomes, including quality of life and mortality.<sup>2</sup>

Housing instability has damaging health consequences that can last lifetimes, or even generations. Families grappling with this uncertainty are more likely to report poor health generally, high blood pressure, and psychological distress,<sup>3</sup> such as anxiety, depression, and suicide.<sup>4</sup> Children who experience early-age transience often struggle to build friendships, fall behind in school, and are more likely than

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

<sup>3</sup> Allison Bovell-Amman, *The Hidden Health Crisis of Eviction*, BOSTON UNIV. SCHOOL OF PUB. HEALTH (2018), <https://www.bu.edu/sph/news/articles/2018/the-hidden-health-crisis-of-eviction/> (collecting studies).

<sup>4</sup> 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/>.

peers with stable housing to develop behavioral problems.<sup>5</sup> Adults who are evicted report higher levels of material hardship and are more likely to lose their jobs,<sup>6</sup> and those who are rendered homeless as a result are more likely to experience food insecurity<sup>7</sup> and substance use disorder.<sup>8</sup> Moreover, housing instability makes it difficult for residents to invest in their homes, social relationships, and neighborhoods;<sup>9</sup> and where health-supportive connections have already been made, eviction can disrupt the fabric of entire communities.

### EVICTION FURTHER ENTRENCHES 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 during their screening processes. This black mark can push a resident out of their neighborhood and cripple their ability to get back on their feet—they will be ineligible for many forms of loans, unable to secure public housing benefits, and screened out of most applications for quality housing.<sup>10</sup> This can create “a spiral of financial instability,” as families desperate for housing are compelled to live in substandard conditions, exposing them to additional economic hardships and health hazards.<sup>11</sup> The end result is that families who are evicted often experience significantly higher rates of material hardship and depression for years afterward.<sup>12</sup>

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<sup>5</sup> Emma Baker, *How Does Household Residential Instability Influence Child Health Outcomes? A Quantile Analysis*, 16 INT'L J. OF ENVIRONMENTAL RES. & PUB. HEALTH 4189 \*1–3 (2019), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6862481/pdf/ijerph-16-04189.pdf> (collecting studies).

<sup>6</sup> Mathew Desmond & Rachel Tolbert Kimbro, *Eviction's Fallout: Housing, Hardship, and Health*, 94 SOCIAL FORCES 295 (Feb. 24, 2015), [https://scholar.harvard.edu/files/mdesmond/files/desmondkimbro.evictions.fallout.sf2015\\_2.pdf](https://scholar.harvard.edu/files/mdesmond/files/desmondkimbro.evictions.fallout.sf2015_2.pdf).

<sup>7</sup> 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>.

<sup>8</sup> 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](https://www.samhsa.gov/sites/default/files/programs_campaigns/homelessness_programs_resources/hrc-factsheet-current-statistics-prevalence-characteristics-homelessness.pdf).

<sup>9</sup> Desmond & Kimbro, *supra* note 6 at 296.

<sup>10</sup> 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/>.

<sup>11</sup> 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/>.

<sup>12</sup> Desmond & Kimbro, *supra* note 6 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 (Oct. 26, 2020), [https://nlhrc.org/sites/default/files/MEMO\\_Health\\_Effects\\_of\\_Eviction\\_on\\_Young\\_Adults.pdf](https://nlhrc.org/sites/default/files/MEMO_Health_Effects_of_Eviction_on_Young_Adults.pdf).

Nationally, Black and Hispanic renters in general, and women in particular, are disproportionately threatened with eviction and evicted from their homes.<sup>13</sup> These results are particularly prevalent in Baltimore City, 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.<sup>14</sup> The pandemic has only heightened these disparities: as the Attorney General’s COVID-19 Access to Justice Task Force Report highlighted, one in six renters nationally (17%) is currently behind on rent, but these rates are substantially higher for Black (31%) and multiracial renters (25%).<sup>15</sup> As these communities are facing higher rates of COVID-19 infection, they are also facing the burdens of insecure housing—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.

### **MARYLAND LAW DISPROPORTIONATELY FAVORS LANDLORDS.**

As Attorney General Frosh explained recently, Maryland’s “eviction process is out of balance and unfair to tenants.”<sup>16</sup> Maryland is one of few states where notice to the tenant is not required before filing for eviction;<sup>17</sup> and a landlord’s cost to file is one of the lowest in the nation. The fee in Maryland is just \$15, while the national average is \$122. Maryland’s eviction filing rate of 80% vastly exceeds the filing rates of neighboring states, which range from 5.3% to 16.9%. Opponents argue that this astronomically high rate is a result of delinquent tenants taking advantage of Maryland’s right to redemption, which allows a tenant three opportunities to stay in the property by paying rent owed any time before an eviction actually takes place.<sup>18</sup> As if tenants are simply sitting on a pile of cash they prefer not to turn over. Given the severe physical, psychological, and economic strains of eviction, are we really to believe that anyone would choose to live under the continuous burden of this threat? The more plausible answer is that the high filing rates are the result of the unusually low barriers to filing for eviction in Maryland, and the knowledge that most tenants will be unrepresented in court.

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<sup>13</sup> 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/>.

<sup>14</sup> Tim Thomas, Ian Kennedy, Alex Ramiller, Ott Toomet, and Jose Hernandez, *Baltimore Eviction Map*, THE EVICTIONS STUDY (May 8th, 2020), <https://evictions.study/maryland/report/baltimore.html>.

<sup>15</sup> Maryland Office of the Attorney General and Maryland Access to Justice Commission, *Confronting the COVID-19 Access to Justice Crisis* \*5 (2021), <https://www.marylandattorneygeneral.gov/Pages/A2JC/default.aspx>.

<sup>16</sup> Brian Frosh, *Attorney General: Maryland Eviction Process ‘Unfair to Tenants’*, BALTIMORE SUN (Dec. 11, 2020), <https://www.baltimoresun.com/opinion/op-ed/bs-ed-op-1213-frosh-serial-evictions-20201211-nnlu6zmiqjgc7dyohhvqxq5k3cu-story.html>.

<sup>17</sup> MD. CODE, REAL PROP. 8-401(b).

<sup>18</sup> MD. CODE, REAL PROP. 8-401(e).

**LEGAL REPRESENTATION CAN HELP EVEN THE PLAYING FIELD AND  
PREVENT UNWARRANTED EVICTIONS.**

Since 2017, a number of cities, including Baltimore City, have enacted legislation providing a right to counsel, and several states are currently considering similar statewide initiatives.<sup>19</sup> The results of these efforts prove what advocates have long argued: tenants often have legitimate defenses to eviction actions, and legal representation makes a difference. In New York, the first city to pass such legislation, 84% of represented tenants have remained in their homes since the right was enacted, and the eviction rate in relevant zip codes has declined more than 30%. Similarly, in San Francisco, eviction filings declined by 10%, and 67% of represented tenants have been able to stay in their homes since the right was enacted. In a pilot project in Los Angeles, 89% of tenants represented by lawyers achieved a favorable outcome. Opponents argue that the vast majority of eviction cases involve “legally uncomplicated” failure to pay rent claims that do not require legal assistance, but this argument is both undercut by such evidence and a gross oversimplification. Even when eviction is warranted and tenants are not able to stay in their homes, lawyers can help to mitigate the impacts of eviction—for example, by having the tenant’s move-out date adjusted, having back rent reduced or waived, retaining the tenant’s housing subsidy, having the case sealed from public view, or having the tenant’s credit protected.

**CONCLUSION**

Eviction has real and long-lasting physical, psychological, social, and economic impacts on individuals, families, and communities, particularly on Black and Brown communities that have been systematically oppressed for generations. Research shows that legal representation can help to avoid unwarranted evictions and to mitigate the impacts when eviction must proceed, improving outcomes not just for those directly affected, but also for the communities these residents inhabit and for the State at large. Particularly as COVID-19 has heightened the risks of eviction and put more people at risk than ever, the time to provide tenants a fair chance to defend themselves and their homes is now.

*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.*

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<sup>19</sup> Other cities with a right to legal representation in eviction proceedings include New York City, San Francisco, Newark, Cleveland, Santa Monica, and Philadelphia; while Massachusetts, Minnesota, and Connecticut are currently considering their own state-wide legislation. Stout Risius Ross, LLC, *The Economic Impact of an Eviction Right to Counsel in Baltimore City* \*30-34 (May 8, 2020), <https://bmorerentersunited.org/rtc/stoutreport/>.