

Statement in support of Senate Bill 223 Landlord and Tenant – Eviction Actions – Filing Surcharge and Prohibited Lease Provisions

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Lillian Leung, Doctoral Student in Sociology, Princeton University

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

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

America was in the midst of an affordable housing and eviction crisis well before the COVID-19 pandemic. In 2019, nearly half (46.3%) of renting households nationwide were housing cost burdened, spending more than 30% of their monthly income on housing, and nearly a quarter of renters (23.9%) spent 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 In Maryland, however, we have collected data that suggest dramatically higher eviction filing rates—as high as 92.5% in 2019 (see Appendix A).

The COVID-19 pandemic has had a particularly severe effect on renters. Between March, 2020 and March 2021, more than half of renter households lost income, and almost one in five renters struggled to pay rent in early 2021.⁴ Data from the Census Pulse Survey indicates that 17.6% of renters in Maryland were behind on rent between July and September 2021, above the national average of 15%.⁵

¹ Joint Center for Housing Studies at Harvard University. “The State of the Nation’s Housing 2021.” Harvard University, 2021.

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 Joint Center for Housing Studies at Harvard University. “The State of the Nation’s Housing 2021.” Harvard University, 2021.

⁵ Estimates for Maryland come from “The Highest Share of Households Behind on Rent were in the South” (<https://www.jchs.harvard.edu/behind-on-rent-map>) and the national average is presented in the Joint Center for Housing Studies at Harvard University’s report on “America’s Rental Housing 2022.”

However, state and local policies have helped to reduce eviction rates during the crisis. Eviction filing rates across the country fell in response to federal and state eviction moratoria, widespread availability of emergency rental assistance, and various other policies that supported housing stability.⁶ Between March, 2020 and November, 2021, 45.1% as many eviction cases as normal were filed in Maryland. Still, this amounts to 520,449 eviction filings.⁷

By way of comparison, the Eviction Lab has been collecting eviction filing data from six states and 31 cities during the pandemic. Our sample covers a quarter of all renters nationwide, but does not include Maryland.⁸ We tracked 664,244 eviction filings across all of these jurisdictions over the equivalent 21-month period, 43.1% of historical average. Compared to Maryland, reductions in eviction filings have been larger in New York City (21.7% of historical average), Philadelphia (26.0% of historical average), and Richmond, VA (26.8% of historical average). There were 82 times as many eviction cases filed in Maryland as in Minnesota over this 21-month period, despite the fact that there are only 20% more renter households in Maryland.

Maryland's high eviction filing rate reflects the fact that the threat of eviction is often used as a rent collection and property management tool, rather than a means of removing tenants. The strategic use of eviction filings was the subject of our analysis of serial eviction filings.⁹ 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 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.

Serial eviction filing is a plausible property management strategy only in places where eviction filing fees are low and regulatory barriers minimal. Jurisdictions that make eviction cheaper and quicker had significantly higher rates of serial eviction filings. 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. In these states, eviction courts function as the court of first, not last resort.

⁶ Peter Hepburn, Renee Louis, Joe Fish et al., "U.S. Eviction Filing Patterns in 2020," *Socius* (2021): 1-18.

⁷ Data are sourced from the Maryland Courts: <https://mdcourts.gov/district/about#stats>. The baseline comparison is the average number of filings over the 21-month period starting in March 2017 and March 2018 (running through November 2018 and 2019, respectively).

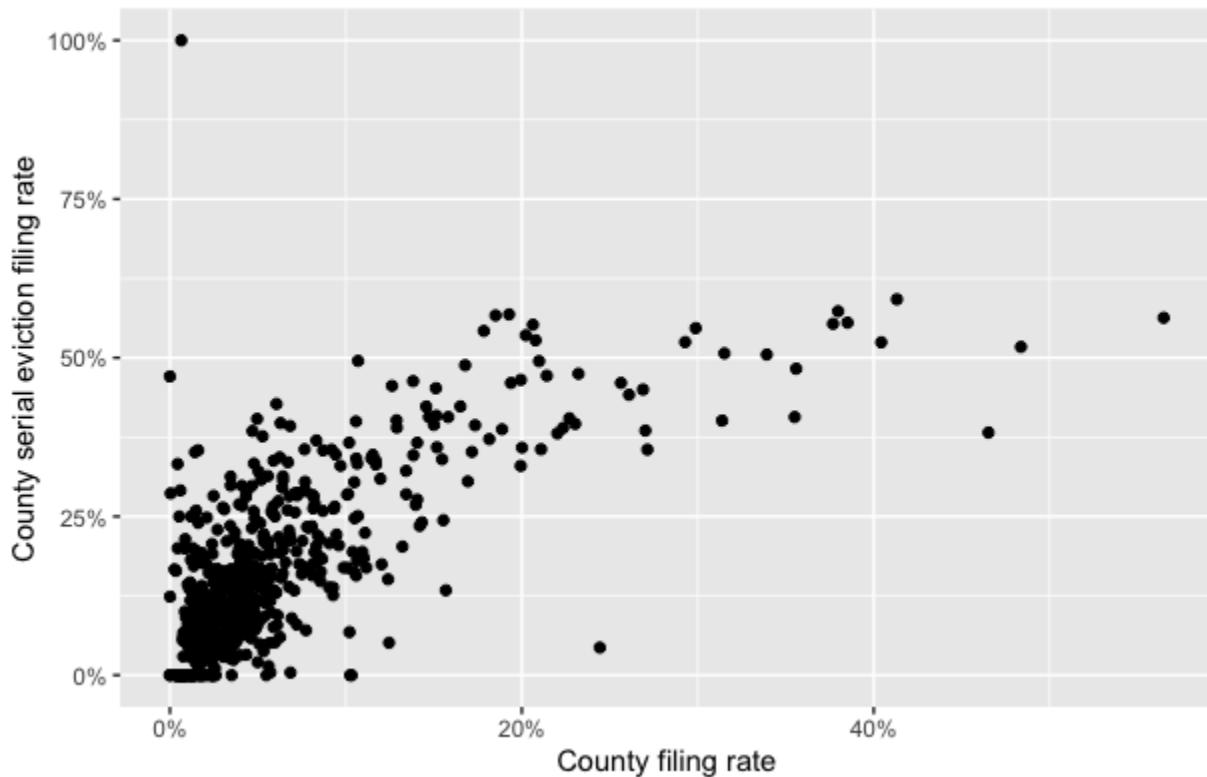
⁸ These data are available through the Eviction Tracking System: <https://evictionlab.org/eviction-tracking/>.

⁹ Lillian Leung, Peter Hepburn, and Matthew Desmond, "Serial Eviction Filing: Civil Courts, Property Management, and the Threat of Displacement," *Social Forces* (2020): 1-29.

To put this in context of SB 223, 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).¹⁰ Only Washington, D.C. has an eviction filing fee as low as Maryland's.

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. Our analyses exploring the association between eviction filing rates and *serial* eviction filing rates demonstrate that states with higher overall filing rates tend to also have higher serial eviction filing rates as well (see Plot 1).

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

¹⁰ 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.

households.¹¹ 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. 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 for 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 eviction judgment. This pattern has also been documented by a number of journalists studying the tenant screening industry.¹²

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 pre-pandemic caseloads in context, we estimate that each district court in Maryland must handle an average of almost 400 cases weekly.¹³ 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.¹⁴

Our research indicates that SB 233 (Landlord and Tenant - Eviction Actions - Filing Surcharge and Prohibited Lease Provisions) would likely reduce Maryland's eviction filing rates and result

¹¹ Monthly statistic reports were summed to obtain figures for 2019:

<https://mdcourts.gov/sites/default/files/import/district/statistics/2019/Calendar19.pdf>

¹² Megan Kimble, "The Blacklist," *The Texas Observer*, 12/9/2020; Lauren Kirchener, "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.

¹³ 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.

¹⁴ 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_DIVERITED_PJC_DEC15.pdf

in fewer unnecessary, serial eviction filings. The pass-through prohibition written into the law serves as a critical disincentive to landlords and ensuring that court costs are not passed on to tenants.

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.¹⁵ Data for 2017 through November 2021 are sourced from monthly statistical reports on the Maryland Courts' website.¹⁶ National filing rates are drawn from the Eviction Lab's website and are available only between 2000 and 2016.¹⁷

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, 2000-2021

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

¹⁵ <https://mdcourts.gov/publications/annualreports>

¹⁶ <https://mdcourts.gov/district/about#stats>

¹⁷ <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
2020	42.55	NA
2021 (partial) ¹⁸	45.15	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

¹⁸ Court data for 2021 is only available up to November 2021. The eviction rate calculated therefore is likely lower than what the actual filing rate for a complete year would be.