

Testimony in Support of SB521 – FAVORABLE

Landlord and Tenant – Access to Counsel in Evictions Special Fund – Mandatory Appropriation
Before the Judicial Proceedings Committee – February 15, 2022

Senate Bill 521, cross-filed with House Bill 712, will help Marylanders who are vulnerable access counsel in eviction proceedings, which the General Assembly prioritized when it passed House Bill 18 in 2021. The bill would provide funding to the Access to Counsel in Evictions Special Fund by requiring the Governor to appropriate federal rental assistance money to the Fund. Funding the Access to Counsel program is critical for the program to reach its full potential and give tenants the necessary tools to assert valid defenses already available to them under law. Evictions are damaging to individuals and public health. Giving tenants the opportunity to access counsel leads to fewer evictions, streamlined proceedings, and better outcomes for tenants. Eviction defense is an effective public health measure, proven to prevent disruptive displacement of individuals and families and bring cohesion to communities. Senate Bill 521 is necessary to implement the Access to Counsel program and it is worth repeating why the General Assembly created the Access to Counsel Fund last session.

Eviction Has Long-Lasting and Significant Health Impacts on Individuals and Families

Housing stability and health are directly correlated—a stable home is a basis for a healthy life. Many organizations, including the World Health Organization and the Centers for Disease Control and Prevention, recognize that housing is a “social determinant of health,”¹ meaning where you live plays a role in your health and longevity. Housing instability comes with long-lasting and significant damaging health consequences to individuals and families. Adults who face eviction are more likely to report symptoms of poor health, such as high blood pressure, depression, anxiety, and psychological distress.² Children in families that encounter eviction are also more likely to experience poor health, a higher prevalence of food insecurity, and worse educational outcomes than other low-income children.³ Moreover, young adults who have

¹ Centers for Disease Control and Prevention, *Social Determinants of Health: Know What Affects Health*, <https://www.cdc.gov/socialdeterminants/index.htm>.

² Allison Bovell-Amman, *The Hidden Health Crisis of Eviction*, BOSTON UNIV. SCHOOL OF PUB. HEALTH (Oct. 5, 2018), <https://www.bu.edu/sph/news/articles/2018/the-hidden-health-crisis-of-eviction/>.

³ Gracie Himmelstein & Matthew Desmond, *Eviction and Health: A Vicious Cycle Exacerbated By A Pandemic*, HEALTH AFFAIRS (Apr. 1, 2021), <https://www.healthaffairs.org/doi/10.1377/hpb20210315.747908/full/>.

experienced eviction are at higher risk of teen pregnancy, drug use, and depression.⁴ Eviction also directly impacts the health and social connectedness of communities—frequent moves cause individuals to feel less invested in their communities, homes, and social relationships.⁵ Notably, the consequences are not experienced equally—Black female renters face eviction twice as often as white tenants.⁶

The ramifications of an eviction multiply over time, affecting all aspects of an individual's life.⁷ An eviction record can create economic hardships and health problems. Its consequences are like having a criminal record—an eviction record remains public for seven years and remains visible to landlords, rental agencies, and potential employers during the screening process. Thus, it is difficult for individuals to find subsequent housing and jobs.⁸ The working poor often lose their jobs because of eviction⁹ and, once unemployed, have difficulty finding new jobs, particularly without a stable address. After displacement, many families must move to lower-quality homes, often with unsafe conditions, and into neighborhoods with higher rates of poverty and crime.¹⁰ Consequently, because eviction is so detrimental to individuals and Maryland communities, it should be avoided whenever there are other viable options.

Legal Representation in Eviction Proceedings Reduces Eviction Rates

The average tenant is unprepared and often unaware of how to advocate for themselves or assert the valid defenses to which they are entitled under law; therefore, without legal representation most tenants lose their cases and face eviction.¹¹ Moreover, when parties are

⁴ Lauren Taylor, *Housing and Health: An Overview of The Literature*, HEALTH AFFAIRS (June 7, 2018), <https://www.healthaffairs.org/doi/10.1377/hpb20180313.396577/>.

⁵ Katie Moran-McCabe & Scott Burris, *Eviction and the Necessary Conditions for Health*, NEW ENGLAND J. OF MED. (Oct. 14, 2021), <https://www.nejm.org/doi/full/10.1056/NEJMp2031947>.

⁶ Sophie Beiers et al., *Clearing the Record: How Eviction Sealing Laws Can Advance Housing Access for Women of Color* (Jan. 10, 2020), <https://www.aclu.org/news/racial-justice/clearing-the-record-how-eviction-sealing-laws-can-advance-housing-access-for-women-of-color/>.

⁷ Kristin Ginger, *Eviction Filings Hurt Tenants, Even If They Win*, SHELTER FORCE (July 30, 2018), <https://shelterforce.org/2018/07/30/eviction-filings-hurt-tenants-even-if-they-win/>.

⁸ Jake Blumgart, *To Reduce Unfair Evictions, Tenants Need Lawyers*, PLAN PHILLY (Mar. 16, 2017), <https://why.org/articles/to-reduce-unfair-evictions-tenants-need-lawyers/>.

⁹ *Housing Instability Increases Likelihood of Job Loss*, NAT'L LOW INCOME HOUSING COAL. (Feb. 20, 2018), <https://nlihc.org/resource/housing-instability-increases-likelihood-job-loss>, summarizing Matthew Desmond & Carl Gershenson, *Housing and Employment Insecurity among the Working Poor*, SOC. PROBS. (Jan. 11, 2016), <https://scholar.harvard.edu/files/mdesmond/files/desmondgershenson.sp2016.pdf?m=1452638824>.

¹⁰ Heidi Schultheis & Caitlin Rooney, *A Right to Counsel is a Right to a Fighting Chance*, CTR. AM. PROGRESS (Oct. 2, 2019), <https://www.americanprogress.org/article/right-counsel-right-fighting-chance/>.

¹¹ Schultheis & Rooney, *supra* note 10.

represented during an eviction case, attorneys help cases move quickly and efficiently through the court system, saving the State administrative costs and allowing courts to run more efficiently. Last year, Maryland took an important step to address this issue and became one of three states that have a categorical right to counsel. Earlier this year, New York introduced a statewide bill that provides a right to counsel in eviction proceedings. Additionally, at least sixteen local jurisdictions have a right to counsel for tenants, including Kansas City, Minneapolis, Toledo, and Louisville.

Research shows that one of the ways to reduce evictions for low-income tenants is to level the playing field between tenants and landlords—guaranteeing legal representation for tenants.¹² In 2020, one study found that 92% of tenants were able to prevent disruptive displacement when they had legal representation.¹³ After New York City passed access to counsel, 100% of tenants who had scheduled eviction cases had full access to legal services, and 84% of tenants were able to stay in their homes.¹⁴ In Cleveland, 93% of tenants represented by legal counsel avoided eviction or involuntary moves, and 83% who were seeking additional time to move were able to do so.¹⁵ Even in situations when eviction is warranted, attorneys are still able to mitigate the severe impacts of eviction. An attorney may be able to keep eviction filings off a tenant's record, negotiate a payment plan or moveout date, help a tenant apply for rental assistance, or reduce the amount of money owed to a landlord.¹⁶ Indeed, recent data ranging from March 2020 to December 2021 from San Francisco shows that 59% of represented tenants were able to remain in their homes and, of the 30% who did not remain in their homes, 70% received a favorable settlements such as a moveout with sufficient time.¹⁷ These kinds of interventions by attorneys are critical to ensuring that tenants may be able to secure healthy, safe housing later.

¹² Schultheis & Rooney, *supra* note 10.

¹³ *Access to Counsel Funding*, RENTERS UNITED MARYLAND (Jan. 31, 2022), <http://rentersunitedmaryland.org/housing-justice-22/>.

¹⁴ Office of Civil Justice, *Universal Access to Legal Services*, NYC.GOV (2021), https://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ_UA_Annual_Report_2021.pdf.

¹⁵ *Right to Counsel, Free Eviction Help*, THE LEGAL AID SOC'Y OF CLEVELAND (Jan. 31, 2021), <https://lasclev.org/wp-content/uploads/January-2021-report-on-initial-6-months-of-Right-to-Counsel-Cleveland-high-res.pdf>.

¹⁶ Schultheis & Rooney, *supra* note 10.

¹⁷ *All about the Right to Counsel for Tenants in San Francisco*, NAT'L COAL. CIV. RT. COUNS. (Feb. 3, 2022), http://civilrighttocounsel.org/major_developments/1179.

Senate Bill 521 is Necessary for Implementation of the Access to Counsel Program

You acknowledged the need for access to counsel in eviction proceedings last year and that need has only grown since. Maryland's legal services providers are unable to keep up with the current demand for legal representation.¹⁸ Funding Maryland's new Access to Counsel in Evictions Special Funds is necessary to fully implement the program throughout Maryland and keep pace with the demand for legal representation. Although there are concerns about the cost of implementation, the program will result in substantial savings to the State. In passing House Bill 18, the General Assembly recognized that evictions create significant costs to the State—including emergency shelters, temporary housing, mental health care, transportation costs, foster care, and costs associated with children changing schools. These costs could be avoided by funding and implementing the Access to Counsel program.

The Maryland Access to Counsel in Evictions Task Force reported that about \$12 million in funding for fiscal year 2023 is required for the program to realize its full impact.¹⁹ This bill's use of federal funding is an approach several jurisdictions have already implemented. For example, Connecticut has allocated \$20 million of Coronavirus State Fiscal Recovery Funds for tenant representation.²⁰ Louisville, Denver, and Toledo all rely on federal funding for their access to counsel in eviction programs as well.²¹ If Senate Bill 521 passes, the funds received would be used to keep people in their homes and avoid the negative consequences of displacement, where appropriate, by providing legal representation to tenants facing eviction. Having decided last year that access to counsel for tenants is a priority, it is time for the State to ensure the program's success by seeking all viable sources of funding to put House Bill 18 into effect. Senate Bill 521 is one step in the right direction.

¹⁸ *Access to Counsel Funding*, *supra* note 13.

¹⁹ Reena K. Shah, *It's Time to Fund the Access to Counsel in Eviction Fund*, THE DAILY REC. (Jan. 12, 2022), <https://thedailyrecord.com/2022/01/12/its-time-to-fund-the-access-to-counsel-in-eviction-law/>.

²⁰ Ginny Monk, *CT Offers Legal Help to Tenants Facing Eviction in These 14 Neighborhoods*, CT INSIDER (Jan. 31, 2022), <https://www.ctinsider.com/news/article/CT-offers-legal-help-to-tenants-facing-eviction-16818534.php>.

²¹ *The Right to Counsel for Tenants Facing Eviction: Enacted Legislation*, NAT'L COAL. CIV. RT. COUNS. (last updated Jan. 2022), http://civilrighttocounsel.org/uploaded_files/283/RTC_Enacted_Legislation_in_Eviction_Proceedings_FINAL.pdf.

Conclusion

“Without access to justice, the promise of equal justice rings hollow.”²² Maryland took the critical step to provide tenants with access to counsel; however, the program cannot be fully implemented and reach its full potential without sufficient funding. Eviction leaves tenants and families with long-lasting and significant negative health impacts. Eviction generates avoidable costs for the State. Providing legal representation can avoid unwarranted evictions and result in positive outcomes for Maryland tenants. Senate Bill 521 is essential legislation to create a stable funding source for a new and vital program that provides the right to access counsel in eviction proceedings.

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.

²² Attorney General Merrick B. Garland Delivers Remarks at the White House–Justice Department Convening with Law Schools: A Call to Action for Access to Justice, DEP’T OF JUST. (Jan. 28, 2022), <https://www.justice.gov/opa/speech/attorney-general-merrick-b-garland-delivers-remarks-white-house-justice-department>.