



## Testimony for the House Judiciary Committee

### HB 323 Real Property – Limitations on Summoning Law Enforcement or Emergency Services – Prohibition

#### FAVORABLE

The American Civil Liberties Union and the ACLU of Maryland urge a favorable report on HB 323, which prohibits a landlord from using a lease or form of lease that contains a provision that limits a tenant's ability to summon, or penalizes a tenant or another individual solely for summoning, the assistance of law enforcement or emergency services, and other related provisions.

**No one should be afraid to access emergency services or police assistance because doing so may jeopardize their housing.** However, landlords throughout Maryland have adopted provisions—known as “crime-free” leases—with this very consequence. Crime-free leases usually include a provision authorizing a landlord to evict or otherwise penalize a tenant based on any alleged criminal activity or emergency response at the property—regardless of whether the tenant was the victim, rather than the perpetrator, of the conduct or whether the emergency response was a call for medical assistance.

Many local jurisdictions also have passed local laws—often known as “crime-free” ordinances—that impose penalties based on calls for emergency aid or police assistance. These laws typically require landlords to abate the “nuisance” or face steep fines, loss of rental permits, property closure, or criminal charges. The mere threat of such penalties often leads landlords to evict or threaten to evict tenants, refuse to renew their leases, or instruct them to stop calling 911.

**Crime-free leases and nuisance ordinances disproportionately harm domestic violence survivors, people of color, and people with disabilities.** Because calling 911 can trigger “crime-free” leases or ordinances, such policies threaten the housing of victims of crime and people who need emergency aid and discourage them from accessing services. They are especially harmful to domestic violence survivors, preventing them from seeking aid when endangered by abuse in their homes and increasing housing discrimination by landlords.

Crime-free leases and ordinances also have a disproportionate impact on Black people and other people of color. Research has shown that a tenant living in a majority-Black neighborhood are significantly more likely to receive a nuisance citation compared to a tenant living in a majority-

white neighborhood who also violated the ordinance.<sup>1</sup> Researchers and advocates have documented the racially disparate impact of these policies on people of color and people with disabilities in New York, Wisconsin, Illinois, Missouri, and Ohio.<sup>2</sup> Finally, these provisions harm tenants seeking help in medical emergencies, disproportionately endangering people with physical or mental disabilities.<sup>3</sup>

**HB 323 ensures tenants can seek emergency aid and retain their housing, and protects landlords from penalty based on their tenants' calls for help.**

- HB 323 prohibits a landlord from using a lease containing any provision that limits a tenant's ability to summon, or penalizes a tenant or another individual solely for summoning, emergency services or law enforcement.
- HB 323 prohibits a landlord from taking certain retaliatory actions solely because the tenant or another individual summoned emergency services or law enforcement assistance.
- HB 323 prohibits a local jurisdiction from enacting ordinances that designate a property as a nuisance based on number of calls for emergency services or law enforcement or penalizes a property owner or occupant for calls for law enforcement or emergency assistance to a property.

Importantly, HB 323 will *not* stop landlords and local jurisdictions from addressing drug, weapon, and property crimes directly through existing laws. Instead, it ensures that such efforts do not inadvertently punish tenants for violence and other crimes committed against them or chill the right of residents to seek emergency assistance. Moreover, HB 323 preserves all the rights that landlords have under current law regarding tenants who breach their leases separate and apart from requests for emergency aid.

Several courts have found that crime-free nuisance ordinances run afoul of federal and state constitutional and statutory protections.<sup>4</sup> This leaves landlords in municipalities with crime-free

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<sup>1</sup> Matthew Desmond & Nicol Valdez, *Unpolicing the Urban Poor: Consequences of Third-Party Policing for Inner-City Women*, 78 Am. Sociological Rev. 117, 125–30 (2013), [https://scholar.harvard.edu/files/mdesmond/files/desmond.valdez.unpolicing.asr\\_\\_0.pdf](https://scholar.harvard.edu/files/mdesmond/files/desmond.valdez.unpolicing.asr__0.pdf).

<sup>2</sup> See ACLU, *I Am Not a Nuisance: Local Ordinances Punish Victims of Crime*, [www.aclu.org/notanuisance](http://www.aclu.org/notanuisance).

<sup>3</sup> Alisha Jarwala & Sejal Singh, *When Disability Is a 'Nuisance': How Chronic Nuisance Ordinances Push Residents with Disabilities Out of Their Homes*, 54 Harv. C.R.-C.L. L. Rev. 875, 883 (2019).

<sup>4</sup> The First Amendment to the U.S. Constitution, and the corresponding provisions in the Maryland Constitution, guarantee the right to petition the government, which includes the right to seek police assistance. Several courts have struck down nuisance ordinances as unconstitutional under the First Amendment because its penalties discouraged tenants from seeking police assistance. *See Bd. of Trustees of Vill. of Groton v. Pirro*, 152 A.D.3d 149, 160–61 (3d Dep't 2017). In addition, courts have held that nuisance ordinances violate the due process rights guaranteed to both landlords and tenants under the Fourteenth Amendment by failing to provide adequate procedural protections before the municipality orders a property to be vacated or pressures a landlord to evict tenants. *See, e.g., Alcorn ex rel. Proas Partners, LLC v. Muhammed*, 66 N.Y.S.2d 819, 832 (Sup. Ct. Monroe Cnty. 2017). Nuisance ordinance

nuisance ordinances with the impossible choice between violating the local ordinance—risking losing their property or facing steep fines—and violating constitutional and statutory legal obligations, exposing them to legal liability. HB 323 would eliminate this dilemma.

**Nobody should be forced to choose between their safety and their housing.** The national ACLU and the ACLU of Maryland strongly believe that HB 323 strikes a critical balance between survivors' safety needs, landlords' duty to maintain order in their properties, and municipalities' right to address community welfare. We urge its immediate passage.

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also may violate the federal Fair Housing Act's (FHA) prohibition against housing discrimination on the basis of sex, race, and/or disabilities. In 2016, the U.S. Department of Housing and Urban Development (HUD) issued guidance stating that nuisance ordinance violate the FHA where they silence or threaten the housing of domestic violence survivors and other crime victims who need to seek emergency aid. HUD, *Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Enforcement of Local Nuisance and Crime-Free Housing Ordinances Against Victims of Domestic Violence, Other Crime Victims, and Others Who Require Police or Emergency Services* (Sept. 13, 2016), <https://www.hud.gov/sites/documents/FINALNUISANCEORDGDNCE.PDF>.