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Testimony Before the District of Columbia Council
Committee on Housing & Neighborhood Revitalization &
Committee on Government Operations
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Public Hearing

B23-338, Eviction Record Sealing Authority Amendment Act of 2019

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Good morning Chairperson Todd, Chairperson Bonds, and members of the Committee on Government Operations and Committee on Housing & Neighborhood Revitalization. My name is Elizabeth Oquendo. I am a Senior Policy Attorney at Children's Law Center.¹ I am providing written testimony today on behalf of Children's Law Center, which fights so every DC child can grow up with a loving family, good health, and a quality education. With nearly 100 staff and hundreds of pro bono lawyers, Children's Law Center reaches 1 out of every 9 children in DC's poorest neighborhoods – more than 5,000 children and families each year.

Introduction

Each year, Children's Law Center represents low-income families renting apartments with deplorable health harming housing conditions.² Even in the best economic climate, many of these families routinely face evictions due to the high cost of rental housing in the District.³ The end result is oftentimes housing instability and homelessness for many of the children and families we serve. We also see retaliatory eviction cases filed when we try to help tenants obtain habitable living conditions in their units. When families try to rent a new unit, we too often see that prior evictions are a barrier to obtaining a new unit, regardless of whether the eviction case was filed for nonpayment or because it was a retaliatory eviction. By considering this key piece of legislation, the Council has an opportunity to level the playing field for these client families by ensuring eviction records are sealed after a period of three years thereby

reducing discrimination based on previous economic hardship and by providing advanced notice of eviction processes.

Pass the Eviction Record Sealing Authority Amendment Act of 2019 (The Act)

The Coronavirus pandemic has placed our nation's eviction crisis into the spotlight. With 11.1 million people estimated to be unemployed nationally, our federal government has provided some limited supports to help individuals at risk of being evicted.⁴ The Centers for Disease Control (CDC) has also recognized the health harming effects that evictions can have on individuals and families during the Coronavirus Pandemic. The CDC eviction moratorium, which lasts through December 31, 2020, cites the public health consequences of evicting tenants while also trying to control the spread of COVID-19.⁵ We appreciate that the Council has responded locally to the looming eviction cliff, passed an eviction moratorium in place since March, and also recognized that tenants had still been subject to the threat of eviction and remedied this issue through the *Eviction Notice Moratorium Temporary Amendment Act of 2020*. Although these important pieces of legislation and declarations serve as part of a patchwork of protections for low-income tenants and families in today's pandemic crisis, Children's Law Center has long recognized the harmful effects of evictions for the low income children and families we serve.

The eviction crisis is not a new issue for DC renters. In a normal year, the District has the highest eviction filing rate per capita of comparable cities.⁶ For example,

in 2016, more than 4,500 households were evicted – that’s more than a dozen households evicted each day.⁷ Landlords filed over 27,000 eviction cases in 2016, an average of nearly one eviction case for every six rental units in the city.⁸

These eviction statistics are likely to become even more dire once the moratorium lifts as the District continues to see cases of COVID-19 infection increase and as our economy continues to slowly recover. Just to give us an estimate of how many tenants might be dealing with the threat of eviction, we know that despite the initial eviction moratorium in place, some landlords still continued to both provide eviction notices to residents and file eviction actions with the D.C. Superior Court.⁹ Even though today tenants are protected from being evicted from their homes, we know eventually evictions will need to proceed. The passage of this Act further protects tenants from being discriminated against in the future due to their potential evictions once the moratorium is lifted. .

The Act Mandates Landlords Provide Written Notice 30 days Prior to Filing an Eviction Claim

One key provision of the Act is the requirement that landlords provide tenants with written notice 30 days prior to filing an eviction claim. Although there are legal services organizations in the District ready to assist tenants with eviction cases, unfortunately for many families in the District notice of their hearing comes too late to take any meaningful action. Many landlords use process servers to post notice to tenants about upcoming hearings, and this fall, our local media highlighted serious

issues with one of DCs largest eviction notice process servers. Many affidavits of service, the only evidence that shows if a tenant was informed of their eviction hearing, were shown to be demonstrably false by DCist's reporting. A leading private process server only managed to serve tenants in person 0.4 percent of the time. Reporting by DCist shows that between 2014 and 2018, almost 20,000 tenants in the District of Columbia lost their landlord-tenant cases by default simply because they did not appear at their court hearings. There are a number of reasons why this can happen: tenants may not be able to take a day off work, cannot find childcare, or believe that they do not have any options if they do go. But others say they did not show up because they had no idea their landlords had initiated eviction proceedings against them.¹⁰ Children's Law Center supports this Act's requirement to provide tenants with written notice 30 days before the landlord intends to file for eviction as this will help to ensure tenants have adequate notice and enough time to seek legal advice.

The Act Requires All Eviction Records to be Sealed after a Period of Three Years

Another important aspect of the Act is that it would require that all eviction records be sealed after a period of three years. Many of the families that Children's Law Center works with rely on the Rapid Rehousing program to transition out of homelessness. Unfortunately, due to the program's inability to assist families in raising income throughout their engagement in the program, their stay in Rapid Rehousing is short lived and they are evicted for their inability to pay rent at the end of their

program term. DHS's own statistics showed that 46% of Rapid Rehousing participants had eviction cases filed against them within.¹¹ We also know that from DHS's own numbers that last year, 42% of families who received services through Virginia Williams in FY 19 were coming from Rapid Rehousing, and it is likely an even higher number sought services and were turned away.¹² Although Rapid Rehousing accomplishes DHS's goal of improving shelter flow, for families like the ones we serve, participating in Rapid Rehousing will significantly increase the likelihood of another recent eviction on their record. Getting out of the cycle of homelessness is challenging enough during prosperous economic times, but we know that District families will be grappling with the economic effects of the pandemic for years to come. Sealing eviction records after three years would help many of the families who cycle through the homelessness system eventually overcome the negative stigma associated with eviction and hopefully obtain safe and healthy housing.

Further, we know that DC struggles with a true lack of healthy affordable housing. We often see this troubling trend play out with our clients whose eviction history prevents them from accessing healthy housing which limits their options and forces them to rent substandard housing that negatively impacts their health. Research shows that continued evictions result in tenants moving into units which cost the same or more, but are in worse condition. We also know that when an eviction action is filed, that filing remains on a tenant's record permanently regardless of whether the action

resulted in a judgement against the tenant. Landlords can employ screening policies that deny housing to renters previously named in eviction cases, regardless of whether the case was dismissed, occurred many years ago, or was filed on unlawful grounds. By sealing eviction records after three years, the Council can help to protect tenants against discrimination due to previous economic hardship and hopefully allow some of these tenants with old prior evictions the opportunity to obtain rental housing.

Conclusion

The housing insecurity generated by the pandemic throughout the District is likely to worsen as the eviction moratorium eventually ends. This legislation allows the Council to create an opportunity for low-income tenants to obtain safe and affordable housing without being subjected to discrimination based on filings by previous landlords. Children’s Law Center supports the passage of the *Eviction Record Sealing Authority Amendment Act of 2019* because it will give District courts the power to seal eviction records, require all eviction records to be sealed after a period of three years, and mandate that landlords give written notice 30 days prior to filing an eviction claim. We appreciate the opportunity to provide this written testimony and we welcome any questions the Committees may have.

¹ Children’s Law Center fights so every child in DC can grow up with a loving family, good health and a quality education. Judges, pediatricians and families turn to us to advocate for children who are abused or neglected, who aren’t learning in school, or who have health problems that can’t be solved by medicine alone. With nearly 100 staff and hundreds of pro bono lawyers, we reach 1 out of every 9 children in

DC's poorest neighborhoods – more than 5,000 children and families each year. And, we multiply this impact by advocating for city-wide solutions that benefit all children.

² Children's Law Center, *Testimony Before the District of Columbia Council Committee on Human Services*, 2010 – 2020. Available at: <https://www.childrenslawcenter.org/testimony>.

³ Many of the families we represent are low-income reside in Wards 7 and 8, where the median rent price for a two bedroom apartment is \$1,192 and \$1,156 respectively. See: Taylor, Y.S., *Appraising the District's rentals*, DC Policy Center, (Apr. 1, 2020), Available at: <https://www.dcpolicycenter.org/publications/appraising-districts-rentals/>.

⁴ The federal stimulus package in response to COVID-19 (The CARES Act) was passed on March 27 and expired July 24. Landlords are still obligated indefinitely to provide a 30-day eviction notice for any property covered by the CARES Act. This 30-day notice overrides all state and local landlord-tenant law regarding notices for properties covered by CARES. The bill includes a moratorium on some residential evictions. For a summary from the National Housing Law Project please visit: <https://www.nhlp.org/campaign/protecting-renter-and-homeowner-rights-during-our-national-health-crisis-2/#federal>.

⁵ Centers for Disease Control and Prevention, *Federal Register Notice: Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19*. (Updated Oct. 9, 2020). Available at: <https://www.cdc.gov/coronavirus/2019-ncov/covid-eviction-declaration.html>.

⁶ Cuccia, A. *Council acts to seal eviction records and tamp down on serial eviction filing*. (Oct. 15, 2020). Street Sense Media. Available at: <https://www.streetsensemedia.org/article/seal-tenant-eviction-records-limit-landlord-filing/>.

⁷ Le Dem, G. *D.C. Council Considers Bill to Seal Eviction Records*. (Jun. 19, 2020). Dcist.com. Available at: <https://dcist.com/story/19/06/19/d-c-council-considers-bill-to-seal-eviction-records/>.

⁸ Kaplan, J., *Thousands Of D.C. Renters Are Evicted Every Year. Do They All Know To Show Up To Court?*, (Oct. 5, 2020). DCist.com. Available at: <https://dcist.com/story/20/10/05/thousands-of-d-c-renters-are-evicted-every-year-do-they-all-know-to-show-up-to-court/>.

⁹ Cuccia, A. *For District residents who can't make rent, aid is still available*. (Oct. 5, 2020). Street Sense Media. Available at: <https://www.streetsensemedia.org/article/covid-housing-coronavirus-eviction-emergency/>.

¹⁰ Kaplan, J., *Thousands Of D.C. Renters Are Evicted Every Year. Do They All Know To Show Up To Court?*, (Oct. 5, 2020). DCist.com. Available at: <https://dcist.com/story/20/10/05/thousands-of-d-c-renters-are-evicted-every-year-do-they-all-know-to-show-up-to-court/>.

¹¹ The DHS data about evictions is incomplete because DHS did not ask the Court about how many cases ended in settlement to move out, how many were for nonpayment etc. Instead, DHS focused only on court-ordered evictions, which happen only after a trial, which is very rare in landlord---tenant court, or

in unusual settlements. If we consider the true picture, the eviction rate, meaning the rate of people who move out as a result of an eviction case being filed, from Rapid Rehousing is extremely high based on this data. Even if the filed case did not result in an eviction, simply the case being filed will be on the tenant's rental record for the foreseeable future when they try to rent their next apartment. *See DHS. Task Force, FRSP Presentation 10/8/19, at Slide 6. Available at:* https://dhs.dc.gov/sites/default/files/dc/sites/dhs/publication/attachments/FRSP%20Taskforce%202%20-%20Presentation%201082019_0.pdf.

¹² FY19 Hypothermia Debrief---Families. The Community Partnership at 3. *Available at:* https://ich.dc.gov/sites/default/files/dc/sites/ich/event_content/attachments/Hypothermia%20FY19%20-%20Families%20%28VWFRC%20%26%20ES%29.pdf. The DHS Oversight Responses cited lower numbers, but it looked at only a limited group.