

August 13, 2021

Honorable James Eldridge
Senate Chair, Joint Committee on Judiciary
State House, Room 511
Boston, MA 02133

Honorable Michael Day
House Chair, Joint Committee on Judiciary
State House, Room 136
Boston, MA 02133

**Re: Testimony in support of HOMES, S. 921
An Act Promoting Housing Opportunity and Mobility through Eviction Sealing**

Thank you for the opportunity to submit written remarks following the August 3, 2021 Judiciary Committee hearing. We join with over 70 organizations to support passing S. 921 as soon as possible to provide eviction record sealing protections for tenants in Massachusetts.

We are in the midst of a housing crisis in Massachusetts, which has been exacerbated by the COVID-19 pandemic. As rents skyrocket across the state, finding affordable housing is difficult to begin with, but for a household with an eviction record, it can be impossible.

In 2013, the Trial Court's case management system, MassCourts.org, became publicly available. Shortly after that, we started to hear from tenants, community groups, and legal aid organizations how eviction records that were now publicly available were becoming a significant barrier to finding housing. MLRI set out to dig deeper to understand how widespread an issue it was and spent nine months interviewing tenants, housing search workers, and housing advocates. That research resulted in our report, "[Evicted for Life](#)," which highlighted through case studies, how court record information has been harming tenants and exacerbating the housing crisis.

Here are just two stories:

*A woman with a Section 8 voucher left her home of 16 years so her landlord could sell the building. Her landlord had filed a no-cause eviction and the case was **dismissed**. Despite a steady work history and a dismissed eviction case, she was rejected from almost 100 apartments and found herself homeless for over a year. "Each time I looked for housing [the landlords] said 'I will call you.' But they did not call. My realtor told me that the eviction would make it difficult for me to find a place. I am a hard-working woman and I find myself on the street," said the tenant.*

Half of the tenants we interviewed had one or more **dismissed** cases on MassCourts. Many tenants had only dismissed cases, yet these cases cause people to have an eviction record that is being used as a reason to deny them housing.

*A family signed an **agreement** to move out so their landlord could sell the property. The court improperly coded the case as "Non-payment of Rent" on MassCourts. At least 20 realtors told the family "Don't even bother to apply if you have an eviction." That family became homeless, staying temporarily in a friend's basement, and then lost their Section 8 voucher. "It feels like defamation of character. I was never found at fault. I am assumed to be guilty even though I have never done anything wrong," said the tenant.*

Our research for “Evicted for Life” revealed that tenants who reached **agreements** often mistakenly believed that by entering into agreements they could avoid having an eviction record.

Other finding from the report included:

- Tenants were rejected for housing simply because a case was filed against them, no matter what happened in the case or why it was filed;
- Landlords assumed that a tenant who appeared on MassCourts had done something wrong, even if no allegation of wrong-doing was made;
- Tenants were denied housing because they had the same name as someone else who appeared in MassCourts (a MassCourts.org search yielded 340 Maria Riveras in Housing Court); and
- Tenants were denied housing based on eviction cases that were years, and in some cases, decades, old.

We know that evictions take a particularly devastating toll on our most vulnerable populations, including elders and poor families. Emerging research also increasingly reveals the disparate racial impact that evictions have on people and communities of color and particularly on female-headed households with children.¹ COVID-19 has exacerbated these impacts, compounding these already existing inequities and housing crises.

MassCourts was created to help facilitate case management and is ill-suited as a tenant screening tool. In considering limiting the availability of criminal records the legislature recognized, correctly, that the probative value of CORIs diminishes over time. It should now do the same for eviction records and restore the MassCourts system to its originally intended purpose. Limiting the available records to those where the court has entered judgment against a tenant after a case is heard on its merits for three years, strikes an appropriate balance.

There is momentum across the country to pass eviction record sealing protections, especially as COVID has destabilized our communities in ways that are unimaginable. Colorado recently passed legislation to protect tenants from discrimination by **automatically sealing eviction** records from the point a case is filing until the case is resolved, and opening the records only where judgment is rendered against the tenant.² California passed **automatic sealing**

¹ Unfair Eviction Screening Policies Are Disproportionately Blacklisting Black Women (March 30, 2017), Sandra Park, Senior Staff Attorney, ACLU Women's Rights Project, at <https://www.aclu.org/blog/womens-rights/violence-against-women/unfair-eviction-screening-policies-are-disproportionately>; Matthew Desmond, Eviction and the Reproduction of Urban Poverty, *American Journal of Sociology* (2012); study found that in black neighborhoods in Chicago women were more than twice as likely to be evicted as men; at <https://scholar.harvard.edu/files/mdesmond/files/desmond.evictionpoverty.ajs2012.pdf>. See also Leora Smith, The Gendered Impact of Illegal Act Eviction Laws, *Harvard Civil Rights-Civil Liberties Law Review* (2017) which focused on New York and Toronto eviction data and marked “a first attempt to quantify a phenomenon that people familiar with public housing evictions already know to be true: that illegal act evictions from public housing disproportionately affect women”; at <https://harvardcrcl.org/wp-content/uploads/sites/10/2017/07/Smith.pdf>.

² <https://leg.colorado.gov/bills/hb20-1009>

protections and other states are passing some form of protection including Wisconsin, Nevada, District of Columbia, and Illinois.³

S. 921, filed by Senator Boncore, would provide for an **automatic sealing protection** for tenants in Massachusetts that would:

- Seal all eviction cases when they are filed and while pending, until an allegation is proven.
- Seal no-fault evictions, where the tenant is not at fault.
- Make non-payment and fault eviction cases publicly available if there is a judgment against the tenant on the merits.
- Make non-payment and fault eviction cases publicly available if there is an agreement for judgment and the tenant has actually been evicted.
- Seal all eviction records after 3 years and provide a process to seal records for good cause before the 3-year point.
- Provide a process for parties, their attorneys, and other representatives to view a sealed case online so they can manage their cases remotely.
- Assure that when tenants satisfy their judgments or agreements for judgment, they can seal an open record.

A growing number of organizations are standing up to support this bill, recognizing that the unjust barrier of a misleading eviction record should not be a barrier to future housing. Please see the attached Growing List Supporters of the HOMES Act. This is a problem we can – and should – fix quickly, and give tenants a fair shot at moving on with their lives.

We urge the Committee to report **S. 921** out favorably.

Thank you for your consideration.

Annette Duke, Senior Housing Attorney

Lia Marino, Housing Attorney

³ California requires courts to seal eviction case records if the action is denied, the case dismissed, or parties stipulate to sealing. California has passed an additional law sealing more records for cases that started during the pandemic. Washington prohibits tenant screening services from disclosing a sealed eviction record or using it as a factor in determining any score or recommendation in a tenant screening report. New Jersey recently passed a bill making landlord-tenant court records related to nonpayment of rent filed during an “emergency period” confidential. Washington DC requires that eviction case records be sealed 30 days after resolution of the case if the tenant prevails or 3 years if the landlord prevails after the resolution of the case. Tenants can also motion to have cases sealed at any time. <https://code.dccouncil.us/dc/council/code/sections/42-3505.09.html>. In Illinois, eviction cases, including all cases from the pandemic, that were filed due to financial hardship will be sealed. Oregon courts will grant a motion to seal the eviction case record if the tenant complies with the stipulation agreement or if judgment was given in the tenant's favor, among other reasons. Texas established the Texas Eviction Diversion Program that can seal a currently pending eviction case. Cleveland, Ohio automatically seals dismissed eviction cases upon request, and evictions where the landlord prevailed if the tenant has not been evicted within the last five years and can show that “extenuating circumstances” apply. Several states have eviction sealing bills that were introduced or are being debated such as Connecticut (HB6528), Arkansas (SB476), Florida (HB1195, HB1193), Louisiana (HB46), Maryland (HB112), Minnesota (HB27), Ohio (SB158), Pennsylvania (HB2382), Rhode Island (H5075), and South Carolina (3074).

HOMES Act Supporters

- A Better Cambridge
- Alliance of Cambridge Tenants (ACT)
- American Civil Liberties Union of Massachusetts
- American Civil Liberties Union Women's Rights Project
- Arise for Social Justice
- Boston Area Rape Crisis Center
- Boston Medical Center
- Boston Tenant Coalition
- Cape Cod DSA
- Central West Justice Center
- Chelsea Collaborative
- Children's HealthWatch
- Citizens' Housing and Planning Association
- City Life/Vida Urbana
- City Mission Boston
- Coalition for Occupied Homes in Foreclosure
- Coalition for Social Justice
- Community Action Agency of Somerville
- Community Action Pioneer Valley
- Community Health Network for North Central Mass
- Craig's Doors - A Home Association
- De Novo Center for Justice and Healing
- DOVE (Domestic Violence Ended)
- Dudley Street Neighborhood Initiative
- Easthampton Affordable and Fair Housing Partnership
- Eliot Community Human Services
- Family Promise Metrowest
- Father Bill's & MainSpring
- Food Bank of Western Massachusetts
- Greater Boston Labor Council
- Greater Boston Legal Services
- Greater Springfield Habitat for Humanity
- GreenRoots
- Grow A Strong Family
- Hildebrand Family Self-Help Center
- Homes for Families
- HomeStart, Inc.
- Housing Families
- Housing Justice for Survivors
- Jewish Alliance for Law & Social Action
- Jewish Family & Children's Services
- Justice Center of Southeast Massachusetts
- Law Office of Muska Yousuf
- League of Women Voters Massachusetts
- Legal Services Center of Harvard Law School
- Massachusetts Alliance of HUD Tenants
- Massachusetts Association of Community Development Corporations
- Massachusetts Coalition for the Homeless
- Massachusetts Communities Action Network
- Massachusetts Fair Housing Center
- Massachusetts Jobs with Justice
- Massachusetts Law Reform Institute
- Massachusetts Public Health Association
- Massachusetts Smart Growth Alliance
- Matahari Women Workers' Center/Centro de Mujeres Trabajadoras de Matahari
- Mayor Joseph A. Curtatone, Somerville
- Metropolitan Mayors Coalition
- National Association of Social Workers, MA Chapter
- Neighbor to Neighbor Massachusetts
- Progressive Democrats of Massachusetts
- Progressive Mass
- Project Hope
- Right To The City Boston
- Rosie's Place
- Saint Mary's Center for Women and Children
- SEIU, 888
- ServiceNet
- Solidarity Lowell
- Somerville YIMBY
- Springfield Dementia Friendly Coalition
- Springfield Food Policy Council
- Springfield Partners for Community Action, Inc.
- The Second Step
- United Way of Massachusetts Bay and Merrimack Valley
- Walk UP Roslindale
- Western Mass Network to End Homelessness
- Womanshelter/Compañeras
- YMCA of Western Mass