


SERIES: PREVENTING HOUSING INSTABILITY  
**Fact Sheet**

## Deterring Serial Eviction Filing

### The Problem

Between 2000 and 2016, more than 61 million eviction complaints were filed in the United States.<sup>1</sup> However, not all eviction filings result in an executed eviction, when a tenant is removed from their home. Data suggest that there was roughly 1 eviction filing for every 17 renter households (5.8%) during this time, but far fewer—only 1 in 40 renter households (2.5%)—were actually removed.<sup>2</sup> In some areas, like Baltimore City, the difference between the number of eviction filings and the number of executed evictions is even greater. In Baltimore, there are roughly 140,000 annual filings for just 125,000 rental units—an eviction rate of more than 100%—but only 6,500 of those filings (4.6%) result in removal.<sup>3</sup> In some cases, eviction filings don't result in executed evictions because tenants are able to avoid removal by paying owed rent or otherwise curing a relevant lease violation. In others, tenants prevail in court or are able to reach an agreement with their landlord to avoid displacement. Recent research has helped to identify another reason for the disproportionate number of filings: the practice of [serial eviction filing](#). While some landlords only turn to eviction as a last resort, others—particularly larger, corporate property owners and managers—turn to eviction as a first resort, repeatedly filing against a tenant as a means of collecting rent and additional fees, rather than as a means of removing the tenant from the property.<sup>4</sup> In 2014, nearly one-third of households facing eviction nationally were filed against multiple times. In some jurisdictions, an even higher percentage of households face this repeated threat.<sup>5</sup>

Eviction has long-lasting physical, psychological, and economic impacts on individuals, families, and communities.<sup>6</sup> But even when threats of eviction do not result in removal and displacement, tenants still experience negative consequences as a result of eviction filings. Regardless of the outcome, filings create a durable public record that can have long-lasting limitations on a tenant's ability to qualify for future housing.<sup>7</sup> Qualitative research shows that “landlords often presume culpability from the existence of an eviction filing on the public record, regardless of the actual outcome of the court case,” and most resist renting to tenants with multiple eviction filings, even if eviction was never executed.<sup>8</sup> This makes it nearly impossible for tenants to find safe, decent, and affordable housing, which “can kick off or deepen a spiral of financial instability.”<sup>9</sup> The threat of eviction can impact tenants' current housing quality, too. Tenants who are behind on rent and facing the threat of eviction are less likely to advocate for their legal rights regarding housing quality or code



enforcement.<sup>10</sup> Landlords know this and may take advantage of the fact that they wield more coercive power over these tenants to avoid making repairs or otherwise fulfilling their legal and contractual obligations.

Serial eviction filing also has financial consequences. Repeat filings mean more administrative costs for courts. For tenants, “each eviction filing translates into approximately \$180 in fines and fees for the typical renter household, raising their monthly housing cost by 20%.”<sup>11</sup> For households already struggling to meet their monthly rental responsibilities, these added costs can cause them to fall further into debt and put stability further out of reach. As a result of this practice, many low-income renters “live in an extended and repeated state of housing insecurity, facing fees and legal sanction, with substantial negative impacts for their sense of safety, home, and community.”<sup>12</sup>

## Potential Policy Solutions

Serial eviction filing rates are higher in jurisdictions where filing for eviction is cheap, fast, and easy for landlords and lower in jurisdictions where barriers to filing are high. Thus state and local governments may be able to deter landlords from using the eviction process as a means of rent collection by raising the barriers to eviction filing.<sup>13</sup> Policy interventions that expand pre-filing notice requirements, increase eviction filing fees, prevent fees from being passed on to tenants, and require landlords filing for eviction to have clean hands are four such avenues.


### Expand Pre-Filing Notice Requirements

Pre-filing notice requirements slow the eviction process, providing tenants with an opportunity to cure (or fix) the triggering condition (e.g., late rent or unsubstantial breach of lease) and prohibiting landlords from turning to the courts as a first, rather than a last, resort. As a result, greater notice requirements are associated with lower serial eviction filing rates,<sup>14</sup> suggesting that policy measures that expand such requirements may deter the practice of serial eviction filing.

Most states require landlords to provide tenants with some form of advance notice. Some, however, still allow landlords to skip this stage and proceed directly to filing, functionally depriving tenants of the chance to right the situation before a lease is terminated, a legal record is created, and additional fees are incurred. In Maryland, for example, landlords must provide tenants with 30 days’ notice for a lease violation,<sup>15</sup> but as soon as rent is overdue, a landlord may file an eviction lawsuit in court.<sup>16</sup>

Even among states that require pre-filing notice, there is substantial variation in the length of the notice period; what information, if any, must be included in the notice; and the permitted methods of notice delivery. Minimum notice periods vary from as little as 3 days to as many as 30 days, depending on the reason for eviction and the state.<sup>17</sup> In some jurisdictions, landlords can also include lease provisions that further shorten the notice period or waive the tenant’s right to notice entirely.<sup>18</sup> Some states, like Tennessee, have no requirements for what goes into the notice or how it is delivered—other than that it is “in writing”—while others, like Texas, only have requirements for how the notice can be delivered.<sup>19</sup> The result is that even where notice is technically required, tenants may not receive the relevant information, or sometimes any information at all, to meaningfully respond to notice of an impending eviction. State-level policies that expand notice requirements—by requiring (longer) notice periods, specifying that key information must be included in a notice, and/or requiring that notice be delivered in ways that better ensure timely receipt—may all therefore help to intercept eviction cases before they make their way into court.

Local jurisdictions may also impose additional requirements on landlords. For example, under California law, landlords must only provide a tenant who fails to pay rent or violates the rental agreement with three days’ written notice to cure.<sup>20</sup> The City of San José imposes the additional requirements that landlords include with any eviction notice a list of resources for tenants, and that landlords submit a copy of the notice to a



government agency to help ensure that the notice is properly delivered and to provide the City with an opportunity for earlier outreach to at-risk tenants.<sup>21</sup> Thus the opportunity to increase notice requirements exists on both the state and local levels.

## Increase Eviction Filing Fees

Research shows that the cost of filing eviction proceedings is negatively associated with the number of evictions that occur, suggesting that increasing these costs may deter landlords from filing frivolous or repetitive eviction actions.<sup>22</sup> One such obvious cost comes in the form of court surcharge and filing fees. Nationally, the average cost to file an eviction is between \$112 and \$122.<sup>23</sup> Like notice requirements, however, these costs vary widely from jurisdiction to jurisdiction. Maryland and Washington, DC, have the lowest filing fees in the country at just \$15,<sup>24</sup> while Minnesota has the highest at nearly \$300.<sup>25</sup> Especially in states with below-average fees, increasing these costs may result in fewer filings, which would in turn reduce the administrative burden on the courts and the myriad of burdens on threatened tenants.<sup>26</sup> Importantly, these increased fees could also provide an added boost to funding for legal services organizations that provide free representation to low-income residents in civil proceedings. Given that many such organizations have seen their revenue sources reduced as a result of COVID-19, increased fees could serve a dual purpose in this regard.

## Prevent Fees from Being Passed on to Tenants

Recent qualitative research confirms that landlords typically pass the costs of eviction filing on to their tenants, making the process even cheaper for landlords and more burdensome to tenants.<sup>27</sup> If this pattern continues, increased filing fees may cause tenants who are already behind to fall even further into debt. Thus, increased filing fees alone, without assurance that landlords will be forced to bear those costs themselves, may not be sufficient to deter unnecessary filings. Recognizing this potential loophole, some advocates support legislation that would expressly prohibit courts or landlords from passing these costs along.<sup>28</sup> This approach is relatively untested in the eviction context, but common sense suggests this may prove to more effectively disincentivize the practice of serial eviction filing.

## Require That Landlords Have Clean Hands

Policy approaches related to notice and fees are aimed at preventing landlords from filing for eviction in bad faith. Prohibiting landlords with housing violations from filing evictions also addresses this concern of bad faith activity. Such policies are sometimes referred to as “clean hands” requirements. Not only do they have the potential to limit eviction filings, they also serve to protect tenants who exercise their legal right to safe and habitable housing by preventing landlords from filing for eviction in retaliation to a complaint.

Several jurisdictions have considered recent legislation along these lines.<sup>29</sup> For example, in 2018 the Philadelphia [Mayor’s Task Force on Eviction Prevention and Response](#) made several recommendations for policy changes that would help ensure that landlords filing for eviction have in good faith carried out their legal responsibilities to tenants.<sup>30</sup> Among the Task Force’s recommendations were a requirement that landlords document delivery of required materials regarding rental suitability and safety to the tenant at the time of move-in; and creation of a rule that would enable courts to reject, rather than simply flag, any eviction filings if the landlord does not, at the time of filing, have a rental license, certificate of rental suitability, lead safe certificate (if required), or documentation of delivery of required materials.<sup>31</sup> To make it easier for tenants to identify property owners who are not in compliance with other laws, such as the building code, the Task Force also recommended developing a unified database of publicly available information about landlords and rental properties.<sup>32</sup>

## Conclusion

Any effort to make the process of filing for eviction more costly or difficult is likely to meet with resistance from landlords, who sometimes describe eviction as their only recourse against tenants who fail to pay rent or abide by lease requirements. As recent studies have shown, however, some landlords take advantage of low barriers to eviction filing by engaging in the process not to evict tenants, but rather to collect rent and additional fees. As a result, rent court dockets are clogged with repetitive filings. Threatened tenants face the emotional and psychological tolls of living “in an extended and repeated state of housing insecurity” and are charged with fees that make catching up with their financial obligations virtually impossible. Jurisdictions seeking to deter serial eviction filing practices and their associated harms may choose to promote policies that make the eviction filing process slower and more costly for landlords.

## SUPPORTERS



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- <sup>1</sup> *On the Brink of Homelessness: How the Affordable Housing Crisis and the Gentrification of America Is Leaving Families Vulnerable: Hearing Before the H. Comm. on Fin. Servs.*, 116th Cong. (Jan. 14, 2020) (statement of Mathew Desmond, Principal Investigator, Eviction Lab, Princeton University), <https://docs.house.gov/meetings/BA/BA00/20200114/110362/HHRG-116-BA00-Wstate-DesmondM-20200114.pdf>.
- <sup>2</sup> *National Estimates: Eviction in America*, EVICTION LAB (May 11, 2018), <https://evictionlab.org/national-estimates/>.
- <sup>3</sup> STOUT RISIUS ROSS, LLC, THE ECONOMIC IMPACT OF AN EVICTION RIGHT TO COUNSEL IN BALTIMORE CITY \*19 (May 8, 2020), <https://bmorerentersunited.org/rtc/stoutreport/>.
- <sup>4</sup> Lillian Leung, Peter Hepburn, and Matthew Desmond, *Serial Eviction Filings: How Landlords Use the Courts to Collect Rent*, EVICTION LAB (Sept 15, 2020) <https://evictionlab.org/serial-eviction-filings/>.
- <sup>5</sup> See e.g. Brian J. McCabe & Eva Rosen, *Eviction in Washington, DC: Racial and Geographic Disparities in Housing Instability* \*5 (Fall 2020), <https://georgetown.app.box.com/s/df0d4mruf59wcvqm6cqo9a8pyu8ukeuk> (“Among [D.C.] households with an eviction filing in 2018, nearly 60 percent had at least one additional filing against them at some other point between 2014 and 2018.”).
- <sup>6</sup> Mathew Desmond & Rachel Tolbert Kimbro, *Eviction’s Fallout: Housing, Hardship, and Health*, 94 SOCIAL FORCES 295 (Feb. 24, 2015), [https://scholar.harvard.edu/files/mdesmond/files/desmondkimbro.evictions.fallout.sf2015\\_2.pdf](https://scholar.harvard.edu/files/mdesmond/files/desmondkimbro.evictions.fallout.sf2015_2.pdf).
- <sup>7</sup> James Bell, *Beyond Displacement: How the Ripple Effects of an Eviction Can Last for Years*, PUBLIC SOURCE (Nov. 11, 2020), <https://www.publicsource.org/eviction-collateral-impact-displacement-employment-transit-school-mental-health/>.
- <sup>8</sup> HOUSING ACTION ILLINOIS & LAWYERS’ COMMITTEE FOR BETTER HOUSING, PREJUDGED: THE STIGMA OF EVICTION COURT RECORDS \*5, (Mar. 2018), <https://lcbh.org/sites/default/files/resources/Prejudged-Eviction-Report-2018.pdf>.
- <sup>9</sup> Kristin Ginger, *Eviction Filings Hurt Tenants, Even If They Win*, SHELTERFORCE (Jul. 30, 2018), <https://shelterforce.org/2018/07/30/eviction-filings-hurt-tenants-even-if-they-win/>.

- 10 Philip ME Garboden & Eva Rosen, *Serial Eviction: How Landlords Use the Threat of Eviction*, 18:2 CITY & COMMUNITY 638, 640 (June 2019), available at <https://onlinelibrary.wiley.com/doi/10.1111/cico.12387>.
- 11 Lillian Leung, Peter Hepburn, Matthew Desmond, *Serial Eviction Filing: Civil Courts, Property Management, and the Threat of Displacement*, SOCIAL FORCES 1, 10–11 (Sept. 11, 2020), <https://academic.oup.com/sf/advance-article/doi/10.1093/sf/soaa089/5903878>.
- 12 Garboden & Rosen, *supra* note 10 at 640.
- 13 Leung et al., *supra* note 11 at 2, 24.
- 14 *Id.* at 16.
- 15 MD. CODE ANN. REAL PROP. § 8-402.1.
- 16 MD. CODE ANN. REAL PROP. § 8-401. Maryland advocates are, however, working to advance legislation that would require landlords to provide advance notice in failure to pay rent cases. *See e.g.* H.B. 52/S.B. 454, 442d Sess. (Md. 2021), <https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/hb0052> (including the requirement that landlords serve tenants with a “Notice of Delinquency and Legal Rights” seven days prior to filing an eviction in court).
- 17 *See* Ranya Ahmed, Sarah Abdelhadi, Madeline Youngren, and Carlos Manjarrez, *The Effect of State & Local Laws on Evictions*, LEGAL SERVICES CORPORATION \*2 (Jan. 2021), <https://lsc-live.app.box.com/s/4kp7h53gwkg5338wp5u5c2yb5oattqxp> (citing TENN. CODE ANN. § 66-7-109 and TEX. PROP. CODE § 24.005); *see also* McCabe & Rosen, *supra* note 5 at 9 (explaining D.C. notice requirements).
- 18 *See e.g.* TEX. PROP. CODE § 24.005; McCabe & Rosen, *supra* note 5 at 9 (explaining the possibility of waiver of the notice requirement in D.C.).
- 19 Ahmed et al., *supra* note 17 at 2 (citing TENN. CODE ANN. § 66-7-109 and TEX. PROP. CODE § 24.005).
- 20 CAL. CIV. PROC. CODE §§ 1161(2)–(4).
- 21 City of San Jose, *Termination Procedures*, (last accessed Mar. 17, 2021), <https://www.sanjoseca.gov/your-government/departments-offices/housing/landlords-property-managers/eviction-procedures> (last accessed Mar. 2021) (citing TENANT PROT. ORDINANCE, SAN JOSE CODE, § 17.23.1200 et seq.).
- 22 Ashley C. Bradford & David W. Bradford, *The Effect of State and Local Housing Policies on County-Level Eviction Rates in the United States, 2004-2016*, at 39 (Working Paper 2020), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3623318](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3623318).
- 23 *See* Leung et al., *supra* note 11 at 19; Brian Frosh, *Attorney General: Maryland Eviction Process ‘Unfair to Tenants’*, BALTIMORE SUN (Dec. 11, 2020), <https://www.baltimoresun.com/opinion/op-ed/bs-ed-op-1213-frosh-serial-evictions-20201211-nnlu6zmiqjc7dyohhvqx5k3cu-story.html>.
- 24 *District Court of Maryland Cost Schedule*, <https://www.courts.state.md.us/sites/default/files/import/district/forms/acct/dca109.pdf> (last accessed Mar. 17, 2021); District of Columbia Courts, *Filing Fees*, <https://www.dccourts.gov/services/civil-matters/filing-fees> (last accessed Mar. 17, 2021).
- 25 Minnesota Judicial Branch, *District Court Fees*, <https://www.mncourts.gov/Help-Topics/Court-Fees/District-Court-Fees.aspx> (last accessed Mar. 17, 2021).
- 26 Both the Maryland General Assembly and the DC City Council considered proposals to raise their comparatively low filing fees to more closely match the national average. H.B. 729/S.B. 530, 2021 Leg., 442d Sess. (Md. 2021), <http://mgaleg.maryland.gov/mgawebsite/Legislation/Details/HB0729?ys=2021RS>; Superior Court of the District of Columbia, *Request for Public Comment on the Initial Filing Fee for Landlord-Tenant Action*, <https://www.dcbbar.org/getmedia/57613326-553d-4918-b4b1-edcaebcb659e/Notice-and-Request-for-Comment-on-Initial-Filing-Fee-for-Landlord-Tenant-Action> (last accessed Mar. 17, 2021).
- 27 Leung et al., *supra* note 11 at 19.
- 28 *See e.g.* H.B. 31, 2021 Leg., 442d Sess. (Md. 2021), <https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/hb0031?ys=2021RS> (providing that eviction surcharges “shall be assessed against a landlord and may not be awarded or assigned by the District Court as a fee or cost against a residential tenant for the first three surcharges assessed in a year,” and prohibiting a landlord from using a lease that obligates the tenant to be responsible for these payments).
- 29 *See e.g.* S. 5278, 2020-2021 Leg. Sess., (N.Y. 2020), <https://www.nysenate.gov/legislation/bills/2021/S5278>; H.B. 523, 2021 Leg., 442d Sess. (Md. 2021), <http://mgaleg.maryland.gov/mgawebsite/Legislation/Details/hb0523?ys=2021RS>.
- 30 *Mayor’s Taskforce on Eviction Prevention and Response*, CITY OF PHILA. (June 2018), available at <https://www.phila.gov/hhs/accomplishments/Pages/Taskforce.aspx>.
- 31 *Id.* at 42.
- 32 *Id.* at 36.