

SERIES: PREVENTING HOUSING INSTABILITY
Fact Sheet

Limiting Public Access to Eviction Records

The Problem: Eviction Records Create Financial Instability

The consequences of eviction do not end with a tenant's removal from their home. Many tenants fail to recognize that a trip to housing court creates a long-term public record. Much like a criminal record, an eviction record can persist for years, following the tenant as they search for new homes and opportunities, and precipitating "a spiral of financial instability" that contributes to a lifetime of poor health and economic outcomes.¹ As a result, evictions have been labelled the "top driver of homelessness," and a "root cause" of poverty.²

"False Positives" – Records That Do Not Reflect Evictions

An eviction record is created the moment an eviction case is filed—and remains public if the parties settle, the case is dismissed, or the tenant wins.³ In their 2018 Report, [Prejudged](#), Housing Action Illinois and the Lawyers' Committee for Better Housing found that 39% of 105,272 public eviction cases in Cook County from 2014 to 2017 did not end in the tenant's eviction—burdening 15,091 residents each year with an eviction record despite no judgment against them.⁴ This problem is exacerbated in jurisdictions known for serial eviction filings: In Philadelphia, only 5.9% of 22,573 filings in 2016 came before a judge,⁵ and in Baltimore, only 4% of about 140,000 annual filings result in the tenant's eviction.⁶

The result of this disparity is that many records do not represent completed evictions. Many of these filings represent legitimate complaints that were resolved by the parties. In more malicious circumstances, they mask "dirty information" or "no-fault evictions"—eviction complaints filed erroneously, cases that never had merit, or punitive filings that were intended to dissuade tenants from exercising their legal rights.⁷ For example:

- **Domestic Violence:** Studies have shown landlords often file against victims of domestic violence who report the actions of their abusers, on the grounds that properties with frequent 911 calls can be classified as nuisances.⁸

- **Habitability Claims:** Tenants who exercise their legal right to withhold rent to compel their landlord to fix unsafe and unsanitary living conditions often have to defend an eviction case based on their failure to pay rent and emerge with a filing on their record.⁹
- **Landlord Foreclosure:** Tenants in full compliance with the terms of their lease have experienced eviction filings when the landlord failed to pay their mortgage.¹⁰
- **Filing in Error:** Eviction records remain public even when the landlord failed to comply with applicable pre-filing requirements or filed against the wrong party.¹¹

Downstream Impacts of Eviction Records

The long-term effects of eviction records can be devastating. Eviction filings have been compared to a “black mark,”¹² a “red flag,”¹³ and a “scarlet E.”¹⁴ They create long-lasting stigma that curtails a tenant’s future opportunities, regardless of the outcome of the case or any intervening changes to their financial status.

Eviction records become visible to the public regardless of the resolution of the case. Under the Fair Credit Reporting Act, consumer reporting agencies may disclose eviction records for seven years,¹⁵ while courts and privately operated online databases can maintain records for much longer—sometimes permanently.¹⁶

Evictions do not affect credit directly. However, a majority of evictions are caused by the tenant’s failure to pay rent.¹⁷ These filings are accompanied by civil judgments and ancillary debt collection efforts, both of which will drag down a tenant’s credit score.¹⁸ As a result, these renters will be ineligible for favorable loans, and may be denied employment opportunities.¹⁹

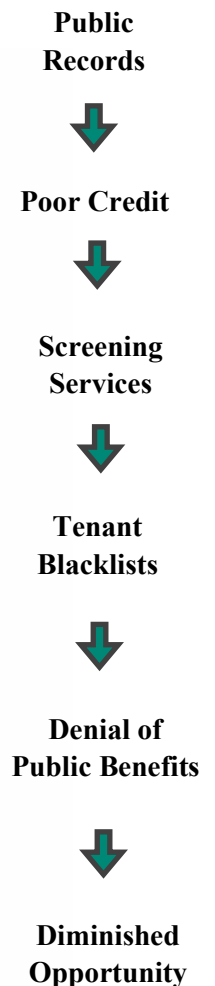
Commercial screening services such as [Experian](#) and [AAA Credit](#) provide prospective landlords an at-a-glance look at a tenant’s eviction history.

Screening agencies “have little or no incentive to avoid accurate but misleading items,” and many do not differentiate between case outcomes, exacerbating the impact of filings that end favorably for the tenant.²⁰ Many recommend turning down tenants solely based on their eviction history, without considering other factors.²¹

Approximately 90% of landlords use commercial screening services, and about 85% review applicants’ eviction records.²² Most landlords consider any eviction history a nonstarter, notwithstanding the underlying facts, the time that has passed, or the tenant’s financial standing—functionally “blacklisting” tenants “without context or nuance.”²³ As a result, an eviction record will “all but assure denial” of a rental application.²⁴

Evicted tenants may struggle to find public housing. Some public housing authorities collaborate with screening services to deny tenants with evictions or criminal histories.²⁵ Applicants for Section 8 housing vouchers and equivalent programs in high-demand jurisdictions are sometimes denied benefits due to an adverse eviction record.²⁶

These barriers make quality housing inaccessible to the families with the greatest need.²⁷ Evicted renters are “pushed to the very bottom of the rental market,” forced to accept poor housing from unreliable landlords in dangerous



neighborhoods at a higher cost.²⁸ “Once a renter is trapped in this cycle, homelessness becomes more and more likely.”²⁹

Policy Solution: Sealing Eviction Records

The ideal policy solution is to limit access to eviction records at the point of filing, or after the case is resolved. These processes curb the long-term consequences of eviction without undercutting landlords’ ability to evict delinquent, disruptive, or dangerous tenants. Moreover, landlords have a wealth of other screening methods at their disposal that are better calibrated to assess a tenant’s financial stability.³⁰

<p style="text-align: center;">Terminology</p> <p>Sealing: Records are made “unavailable to the public,” but may be reopened.¹</p> <p>Expungement: Filings are “eliminated from the record” and can never be retrieved or reopened.¹</p>

State Solutions: Laws that Seal Eviction Records

Laws that seal court records generally fall into two categories: Mandatory and discretionary.³¹ Mandatory expungement laws provide guaranteed relief, typically without further action by the tenant. Discretionary expungement is at the judgment of the court, and requires the tenant to have the knowledge, resources, and acumen to litigate. Although discretionary expungement laws are more flexible, they have been criticized as “time-consuming and costly,” particularly for low-income tenants who are seeking new housing opportunities.³² Some leading examples are below:

Illinois

Illinois allows discretionary sealing in cases that were “without a basis in fact or law,” enabling tenants to remove meritless filings from the record. This law authorizes mandatory sealing of eviction filings caused by a foreclosure of the landlord’s premises. However, this provision is “inconsistently” followed,³³ and has been treated as discretionary by some courts, which require the tenant to file a motion.³⁴

Minnesota

Minnesota authorizes mandatory expungement in certain eviction cases caused by the foreclosure of the landlord’s premises if the tenant vacated before filing or the tenant was not given proper notice. Tenants may also seek discretionary expungement if the case was “without basis in law or fact” and the interests of justice outweigh the public’s interest in access to the eviction record.

Oregon

Oregon provides for mandatory expungement if (1) the eviction case was dismissed; (2) the parties settled and the tenant complied with all terms of the settlement agreement; or (3) the tenant was evicted, five years have passed, and all rental debt has been paid. Oregon does not authorize discretionary expungement.

Nevada

Nevada automatically seals any case that does not result in a judgment for the landlord. Nevada also provides discretionary sealing on terms similar to Minnesota, allowing tenants to request that their records be sealed if the judgment was entered in error and the interests of justice outweigh the public’s interest in accessing the eviction record.

California

California automatically seals any case that does not result in a judgment for the landlord. The state further provides automatic sealing for all other cases unless the landlord wins within 60 days. Records may be unsealed after 60 days if the landlord won at trial and can demonstrate extenuating circumstances.



Proposed Legislation

In the wake of the COVID-19 pandemic, between 30 and 40 million Americans are behind on their rent and may be at risk of eviction when moratoriums expire nationwide.³⁵ To respond to this emergency, a number of jurisdictions are considering sealing legislation that echoes the approaches referenced above. Other states, such as [Maryland](#) and [Illinois](#), proposed sealing legislation that never gathered the support necessary to advance before the end of the legislative session.

<p>Ohio</p> <p>Bipartisan Senate Bill 158 (2021) would require records to be sealed after seven years, with a rebuttable presumption in favor of sealing after three. The bill would also allow discretionary sealing if the case “is no longer a reasonable predictor of future tenant behavior,” or if sealing “is clearly in the interests of justice.”³⁶</p>	<p>Massachusetts</p> <p>Sections of House Bill 5250 (2020) would have sealed eviction records in “no-fault” cases and restricted the use of eviction records by consumer credit reporting agencies. These provisions were pocket vetoed in January 2021,³⁷ but have been reintroduced as standalone legislation in the 2021 session.³⁸</p>
<p>Washington, D.C.</p> <p>The Fairness in Renting Emergency Amendment Act of 2020 is temporary legislation that seals all eviction cases (1) after 30 days if the tenant wins; (2) after 3 years if the landlord wins; or (3) on the tenant’s motion if the landlord violated one of several laws. Pending bill B24-0096 would make these protections permanent.³⁹</p>	<p>Connecticut</p> <p>Connecticut’s House Bill 6528 (2021) would seal eviction proceedings until a judgment is reached in favor of the landlord, and prohibit landlords from refusing to rent to tenants based on their involvement in a sealed proceeding.</p>

Alternative Approaches

Cities, states, and municipalities have experimented with policy solutions that limit the impact of eviction records without sealing or expunging. One common approach is to restrict the online dissemination of these records. A [Colorado law](#) enacted in December 2020 directs courts to “suppress” eviction records during the pendency of the case, preventing the names of the parties from being posted online.⁴⁰ Records suppressed in accordance with this law are only released to the public if the landlord wins, and may remain restricted on mutual agreement of the parties. Similarly, Wisconsin keeps evictions on the books for 20 years, but authorizes tenants to remove dismissed eviction cases from the online [Consolidated Court Automation Programs](#) after two years.⁴¹ Each of these laws protects tenants from filings that do not result in eviction, but provide minimal relief if the landlord prevails.

Other jurisdictions regulate the use of screening reports to protect tenants against unfair rejections. Although Minnesota’s record-sealing provisions are narrow, state law requires landlords to give tenants a copy of their screening reports and an opportunity to make corrections,⁴² and a Minneapolis ordinance precludes denials of rental applications based on evictions that are more than three years old.⁴³ New York City is considering a bill that would preclude landlords from considering court proceedings that did not result in judgments for the

landlord,⁴⁴ and another that would add participants in housing court proceedings to the list of protected classes under the state's antidiscrimination laws.⁴⁵ Similarly, at the federal level, the [Tenant Protection Act of 2017](#) and the bipartisan [Eviction Crisis Act of 2019](#) would allow tenants to access information included in consumer screening reports, affording them the opportunity to correct any errors. Although neither of these bills advanced after their introduction, it is possible that they will accrue additional support under the new administration.

Conclusion

Eviction is a perilous experience for families in need, and its consequences are only exacerbated by the prevalence and permanence of eviction records. Most jurisdictions allow eviction filings to remain visible to the public for decades—even if the case was dismissed, the parties settled, or the tenant prevailed. Consumer reporting agencies do little to ameliorate the effects of erroneous filings, or eviction records that fail to tell the whole story. Sealing eviction records in meritless cases, reducing the time that a judgment for the landlord remains a public record, and requiring accountability from consumer reporting agencies will correct the worst inequities of the current system and reduce its long-term impacts. These policies will not prejudice landlords who wish to recover property from delinquent tenants—but they will promote a measure of stability and opportunity that will allow those tenants to get back on their feet after they have been removed from their homes.

SUPPORTERS



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¹ 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/>.

² Brian G Gilmore, "Everybody Loves the Landlord": *Evictions and the Coming Prevention Revolution*, 41 MITCHELL HAMLINE L.J. PUB. POL'Y & PRAC. 201, 229 (2020); 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-nnlu6zmiqjgc7dyohvqxq5k3cu-story.html>.

³ MASS. L. REFORM INST., *EVICTED FOR LIFE: HOW EVICTION COURT RECORDS ARE CREATING A NEW BARRIER TO HOUSING 1* (2019), https://www.passtheshomesact.org/uploads/2/7/0/4/27042339/evicted_for_life_mlri.pdf.

⁴ HOUS. ACTION ILL., *PREJUDGED: THE STIGMA OF EVICTION RECORDS 8* (2018), <https://lcbh.org/sites/default/files/resources/Prejudged-Eviction-Report-2018.pdf>.

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- ⁵ Jake Blumgart, *To Reduce Unfair Evictions, Tenants Need Lawyers*, WHY.Y.com (Mar. 16, 2017), <https://why.org/articles/to-reduce-unfair-evictions-tenants-need-lawyers/>.
- ⁶ Public Just. Ctr., *The Economic Impact of an Eviction Right to Counsel in Baltimore City*, STOUT 19–20 (May 8, 2020), <https://bmorerentersunited.org/rtc/stoutreport/>.
- ⁷ Shannon Price, *Stay at Home: Rethinking Rental Housing Law in an Era of Pandemic*, 28 Geo. J. on Poverty L. & Pol'y 1, 302 (2020); Paula A. Franzese, *A Place to Call Home: Tenant Blacklisting and the Denial of Opportunity*, 45 FORDHAM URB. L.J. 661, 670–72 (2018); *What is a No Fault Eviction?*, Smarter Landlording (Jul. 20, 2016), <https://smarterlandlording.com/what-is-a-no-fault-eviction/>.
- ⁸ See Matthew Desmond & Nicol Valdez, *Unpolicing the Urban Poor: Consequences of Third-Party Policing for Inner-City Women*, 78 Am. Sociological Rev. 117, 121, 125, 131 (2012); see generally Meliah Schultzman, *Housing Rights of Domestic Violence Survivors: A State and Local Law Compendium*, Nat'l Hous. L. Proj. (Jan. 2013), <https://nhlp.org/files/Domestic%20violence%20housing%20compendium%20FINAL7.pdf>.
- ⁹ See Franzese, *supra* note **Error! Bookmark not defined.**, at 665–66 (“[T]he problems associated with vindicating the statutory and judge-made rights to safe and inhabitable housing cannot be solved until aggrieved tenants are assured that they will not be stigmatized and denied future renting opportunities should they assert those rights.”).
- ¹⁰ See, e.g., *Id.* at 680.
- ¹¹ ¹¹ See, e.g., HOUS. ACTION ILL., *supra* note 4, at 9–12 (recounting incidents where landlord’s rent collector was stealing rent payments, eviction case was still pending, and tenant was erroneously listed as defendant despite never receiving eviction notice).
- ¹² Sandra Park, *Unfair Eviction Screening Policies Are Disproportionately Blacklisting Black Women*, ACLU (Mar. 30, 2017, 1:15 PM), <https://www.aclu.org/blog/womens-rights/violence-against-women/unfair-eviction-screening-policies-are-disproportionately>.
- ¹³ Kaycee Miller, *Tenant Screening Red Flags*, Rentec Direct (Aug. 21, 2019), <https://www.rentecdirect.com/blog/tenant-screening-red-flags/> (“If your tenant has a history of evictions, you should not let them live in your rental.”).
- ¹⁴ Kaelyn Forde, *“Scarlet E”: An Eviction in the US Can Become a Life Sentence*, Al Jazeera (Aug. 21, 2020), <https://www.aljazeera.com/economy/2020/8/21/scarlet-e-an-eviction-in-the-us-can-become-a-life-sentence>.
- ¹⁵ 15 U.S.C. § 1681c(a)(2); see Allyson E. Gold, *No Home for Justice: How Eviction Perpetuates Health Inequity Among Low-Income and Minority Tenants*, 24 GEO. J. POVERTY L. & POL’Y 59, 81 (2016).
- ¹⁶ See, e.g., HOUS. ACTION ILL., *supra* note 4, at 7; MASS. L. REFORM INST., *supra* note 3, at 1.
- ¹⁷ *The Most Common Reasons for Eviction*, FREEWAY INS. (Sep. 15, 2020), <https://www.freewayinsurance.com/blog/home/the-most-common-reasons-for-eviction/>.
- ¹⁸ Jake Blumgart, *To Reduce Unfair Evictions, Tenants Need Lawyers*, WHY.Y.com (Mar. 16, 2017), <https://why.org/articles/to-reduce-unfair-evictions-tenants-need-lawyers/>.
- ¹⁹ See generally Scholars Strategy Network, *How Do Employers Use Credit Reports In Hiring Decisions – And How Can the Process Be Improved*, scholars.org (Jul. 9, 2018), <https://scholars.org/contribution/how-do-employers-use-credit-reports-hiring-decisions-and-how-can-process-be-improved>.
- ²⁰ Price, *supra* note **Error! Bookmark not defined.**, at 30 (internal citation omitted).
- ²¹ NAT’L L. CTR. ON HOMELESSNESS & POVERTY, PROTECT TENANTS, PREVENT HOMELESSNESS 18 (2018), <https://nlchp.org/wp-content/uploads/2018/10/ProtectTenants2018.pdf>.
- ²² *Id.* at 31.
- ²³ Franzese, *supra* note **Error! Bookmark not defined.**, at 688; Matthew Desmond, *Eviction and the Reproduction of Urban Poverty*, 118 AM. J. SOCIOLOGY 88 (2012), <https://scholar.harvard.edu/files/mdesmond/files/desmond.evictionpoverty.ajs2012.pdf>; Teri Karush Rogers, *Only the Strongest Survive*, N.Y. TIMES (Nov. 26, 2006), <http://www.nytimes.com/2006/11/26/realestate/26cov.html>.
- ²⁴ Franzese, *supra* note **Error! Bookmark not defined.**, at 669.
- ²⁵ See, e.g., Chester Hartman & David Robinson, *Evictions: The Hidden Housing Problem*, 14 HOUS. POL’Y DEBATE 461, 464 (2003) (observing that “[p]ublic as well as private landlords use [screening] services,” and recounting how local public housing authorities “share information with each other regarding tenants who should be excluded from eligibility based on their prior tenant and criminal history”).
- ²⁶ See Matthew Desmond, *Eviction and the Reproduction of Urban Poverty*, 118 AM. J. SOCIOLOGY 88, 119 (2012), <https://scholar.harvard.edu/files/mdesmond/files/desmond.evictionpoverty.ajs2012.pdf>.

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- ²⁷ Hartman & Robinson, *supra* note 25, at 468.
- ²⁸ Desmond, *supra* note 26, at 118; NAT'L L. CTR. ON HOMELESSNESS & POVERTY, *supra* note 21, at 32.
- ²⁹ NAT'L L. CTR. ON HOMELESSNESS & POVERTY, *supra* note 21, at 7.
- ³⁰ See, e.g., Melanie Patterson, *How to Screen Tenants for a Rental Property in 8 Steps*, FIT SMALL BUS. (May 11, 2020), <https://fitsmallbusiness.com/how-to-screen-tenants-for-rental-property/>.
- ³¹ Cf. *What Are the Different Types of Expungement and What Do They Require?*, Roadmap to Reentry, <https://roadmap.rootandrebond.org/understanding-cleaning-up-your-criminal-record/cleaning-up-your-criminal-record-later-in-reentry/california-expungement-of-state-convictions/what-are-the-different-types-of-expungement-and-wh/> (last accessed Apr. 18, 2021) (illustrating similar taxonomy in sealing of criminal records).
- ³² See Marissa Evans, *DFL Lawmakers Sponsor Bill to Erase Eviction Records*, Star Tribune (May 15, 2019, 10:26 PM), <https://www.startribune.com/dfl-lawmakers-want-tenants-to-escape-stigma-of-eviction-record/509966702/>.
- ³³ HOUS. ACTION ILL., *supra* note 4, at 14.
- ³⁴ See *Removing an Eviction Case From my Record*, Illinois Legal Aid Online (last revised May 24, 2020), <https://www.illinoislegalaid.org/legal-information/removing-eviction-case-my-record>.
- ³⁵ Emily Benfer et al., *The COVID-19 Eviction Crisis: An Estimated 30-40 Million People in America Are At Risk*, ASPEN INST. (Aug. 7, 2020), <https://www.aspeninstitute.org/blog-posts/the-covid-19-eviction-crisis-an-estimated-30-40-million-people-in-america-are-at-risk/>.
- ³⁶ See Doug Livingston, *Bipartisan State Proposal Would Allow Renters to Seal Eviction Cases Tracked by Landlords*, AKRON BEACON J. (Apr. 16, 2021, 5:59 a.m. ET), <https://www.beaconjournal.com/story/news/2021/04/16/renters-could-expunge-seal-evictions-proposed-ohio-senate-bill/7226991002/>.
- ³⁷ See Rich Vetstein, *Gov. Baker Vetoes Tenant Right to Purchase and Eviction Record Sealing Bills*, Mass. Real Estate L. Blog (Jan. 16, 2021), <https://massrealestatelawblog.com/2021/01/16/gov-baker-vetoes-tenant-right-to-purchase-and-eviction-record-sealing-bills/>.
- ³⁸ See S.B. 824, 2021 Legislative Session (Mass. 2021), <https://malegislature.gov/Bills/192/S921>; H.B. 1808, 2021 Legislative Session (Mass. 2021), <https://malegislature.gov/Bills/192/H1808>.
- ³⁹ The D.C. Council is also considering [B24-0106](#), which would restrict the use of credit and income history by landlords in the rental screening process.
- ⁴⁰ Moe Clark, *New Colorado Law Allows Courts to Suppress Records of Pending Eviction Cases*, Colo. Newsline (Dec. 10, 2020), <https://coloradonewsline.com/2020/12/10/new-colorado-law-eviction-records-suppression/>.
- ⁴¹ Laura, *CCAP: The Good, The Bad, and the Ugly*, TENANT RES. CTR. (Jun. 10, 2014), <https://www.tenantresourcecenter.org/ccap>.
- ⁴² Minn. Stat. §504B.241 (2020).
- ⁴³ Jason Reed, *Minneapolis Tenant Screening Law – What Landlords Need to Know*, DUPLEX DOCTORS (Jan. 1, 2020), <https://www.theduplexdoctors.com/blog/minneapolis-tenant-screening-law>.
- ⁴⁴ N.Y.C. ADMIN. CODE §§ 20-807, 20-808 (2017).
- ⁴⁵ N.Y. City Council Res. 0625-2015, 2015 Council (N.Y. 2015), <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=2141275&GUID=A28C7554-0B3F-4529-8CC2-455DBD9E6D3D>.