

The Economic Impact of an Eviction Right to Counsel in Delaware

Prepared for: Community Legal Aid Society, Inc.

May 3, 2021

ACKNOWLEDGEMENT

This report was made possible with the support of a New Castle County CARES Health Equity Grant as well as the Vision Grant Program, a program of the Delaware COVID-19 Strategic Response Fund.

The mission of the New Castle County CARES Health Equity Grand Program was to specifically support organizations in closing the gaps in health disparities by expanding access to quality care for underserved individuals and families.

The Strategic Response Fund Vision Grants Program is a partnership of the Delaware Community Foundation and Philanthropy Delaware which promoted innovative solutions to emerging and evolving needs arising from exacerbated by the COVID-10 pandemic.

Additionally, special appreciation to the Longwood Foundation for its support for legal aid strategies to serve those impacted most by the eviction crisis.

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Section I

Stout Profile and Qualifications

1. Stout Risius Ross, LLC (Stout) is a premier global advisory firm that specializes in Investment Banking, Valuation Advisory, Transaction Advisory, Disputes, Compliance, & Investigations, and Specialty Services. In addition to these services, Stout’s professionals have expertise in strategy consulting involving a variety of socioeconomic issues, including issues of or related to access to justice and the needs of low-income individuals and communities.
2. Under the direction of Neil Steinkamp, who leads Stout’s Transformative Change Consulting practice, Stout is a recognized leader in the civil legal aid community and offers the following services:
 - Economic impact assessments and policy research for civil legal aid initiatives;
 - Strategy consulting and action plan development for issues relating to access to justice;
 - Non-profit budget development, review, and recommendations;
 - Cost-benefit and impact analyses for non-profit initiatives and activities;
 - Data-driven program evaluation and implementation; and
 - Dispute consulting and damages analyses for low-income individuals.
3. Neil Steinkamp is a Managing Director at Stout in the firm’s New York City office. He has extensive experience providing a broad range of strategic, business, and financial advice to business and community leaders and their advisors.
4. Mr. Steinkamp has nearly 20 years of experience covering many industries and matter types resulting in a comprehensive understanding of the application of strategic assessment, risk analysis, financial consulting, and other complex analyses. His work has involved complex problem solving involving large-scale industry and social issues. In certain matters, he has provided testimony during bench and jury trials, domestic and international arbitration, as well during city council hearings. He has also assisted parties in a variety of complex resolutions involving settlement negotiations, mediation, and facilitation.

Section II

Executive Summary

276% - The estimated economic benefits of a right to counsel for tenants facing eviction in Delaware is 276% greater than the estimated costs of providing representation. For every dollar invested in a right to counsel for low-income tenants facing eviction in Delaware, Stout conservatively estimates a cost savings to Delaware of at least \$2.76. Significant additional cost savings are likely to be recognized by cities and counties across Delaware without any incremental investment.

5. Stout was engaged by Community Legal Aid Society, Inc., in coordination with a coalition of Delaware organizations, to perform an analysis of the cost and benefits associated with a right to counsel for low-income tenants in eviction proceedings in Delaware and the cost savings that Delaware may realize by enacting such a right.
6. Throughout this report, Stout uses the phrases “a right to counsel” and “representation.” In Delaware, landlords can be represented in eviction proceedings by non-lawyer agents. As such, while Stout refers to a “right to counsel” throughout this report, it may also be that a right to representation by certain non-lawyer advocates in conjunction with legal counsel would be equally impactful.
7. **Key Finding.** With an annual investment of approximately \$3.4 million in a right to counsel, Delaware may save at least an estimated \$9.4 million in costs related to disruptive displacement of tenants annually.¹ For every dollar the State of Delaware invests in providing free representation to eligible tenants through a right to counsel, the state may reduce social safety net responses to disruptive displacement by at least \$2.76. Additional social safety net responses to disruptive displacement may be funded by counties, cities, or municipalities within Delaware. Stout did not quantify these local cost savings, but there would certainly be local social safety net cost savings if a right to counsel were implemented statewide. These local social safety net cost savings would be realized without additional local investment and would be in addition to the amounts calculated herein. For example, Stout’s cost-benefit analysis of a right to counsel in Baltimore quantified potential cost savings to Baltimore and Maryland. Stout’s estimated return per dollar invested to Baltimore in a right to counsel in Baltimore was at least \$3.06, and the return per dollar invested to Maryland was at least \$3.18 for a total return per dollar

¹ Stout uses the phrase “disruptive displacement” to include circumstances where a tenant may not have had an executed eviction warrant against them, but the tenant has likely experienced some level of housing disruption due to the eviction filing and the eviction process, including moving before the impending writ issued.

invested of at least \$6.24.² The statewide return per dollar invested in Maryland is comparable to Stout’s estimated return per dollar invested in Delaware. Given the comparability, it would be reasonable to expect that local jurisdictions (e.g., cities, counties) in Delaware that are funding social safety net responses to disruptive displacement would realize a similar return per dollar invested. In December 2020, Baltimore enacted a right to counsel. As of May 3, 2021, statewide right to counsel legislation in Maryland is awaiting the governor’s signature.³

8. The impact of the COVID-19 pandemic also highlights the importance of a right to counsel, perhaps particularly in Delaware based on how some eviction filings are likely used as a rent collection mechanism by landlords (as described further herein). As a result of the pandemic, low-income tenants have and will become more economically and financially disadvantaged, more likely to miss one or more rent payments, and more likely to experience increasing pressure from landlords, who may also be experiencing economic and financial pressures of their own. In these circumstances, it is critically important for low-income tenants to remain in their homes or be connected to services that can assist with finding alternative safe, stable housing – both of which can be achieved by representation through a right to counsel. In the face of impending financial challenges for municipalities affected by the economic consequences of the pandemic, an investment in a right to counsel is fiscally prudent and will result in significant cost savings relative to the extraordinary costs that would be incurred to support low-income Delaware residents left to endure the trauma of the eviction process without the assistance of a lawyer. Further, attorneys will be able to provide tenants with assistance in navigating complex rental assistance applications and systems. That is, a right to counsel will likely improve the likelihood of success for Delaware rental assistance programs, like DEHAP (Delaware Housing Assistance Program).
9. **The Eviction Right to Counsel Movement.** For tenants facing eviction in cities across the country, having legal representation is often the difference between keeping their home or becoming homeless.⁴ New York City, San Francisco, Newark, Cleveland, Philadelphia, Baltimore, Boulder, and Seattle have all passed legislation guaranteeing counsel to tenants. Each right to counsel legislation in these jurisdictions has been customized to meet local needs and target certain populations (e.g., people living in public housing,

² “The Economic Impact of an Eviction Right to Counsel in Baltimore City.” Stout Risius Ross. May 2020.

³ Weill-Greenberg, Elizabeth. “Maryland Could Be the First State to Provide Lawyers for Tenants Facing Eviction.” The Appeal. April 16, 2021.

⁴ Brey, Jared. “How Cities Are Trying to Level the Playing Field for Tenants Facing Eviction.” Spotlight on Poverty and Opportunity. October 18, 2017.

households with children). Over the past year, there has been increased interest in a right to counsel at the state level, and numerous states (New York, California, Pennsylvania, Maryland, Massachusetts, Connecticut, South Carolina, Nebraska, Indiana, and Minnesota) are now considering statewide right to counsel legislation. On April 23, 2021, Washington became the first state to enact eviction right to counsel legislation statewide.

10. **Benefits of an Eviction Right to Counsel.** From 2019 to 2020, Delaware had a 26 percent increase in the number of people experiencing homelessness – the largest increase in the country.⁵ While people who are evicted may not immediately experience homelessness, research from a variety of jurisdictions has indicated that eviction is often a primary reason as to why people have entered the shelter system. One benefit, among many others, is that a right to counsel can keep people in their homes and out of the shelter system. Additional benefits of having a right to counsel in eviction proceedings have been well documented by numerous studies throughout the country. While the benefits are vast, they include, at a minimum:
 - More favorable outcomes for tenants, including decreased displacement;
 - Increased housing stability and ability to re-rent, if necessary;
 - Decreased impact on employment, credit score, and eviction record;
 - Decreased impact on physical and mental health of people in eviction proceedings and a reduction in excess mortality;
 - Decreased negative impact on children, including their health, education, and potential future earnings;
 - Increased family and community stability; and
 - Increased trust in the justice system and civic engagement.

11. **Benefits of an Eviction Right to Counsel to Landlords.** When the landlord is represented (by lawyers or non-lawyer agents, as is often the case in Delaware) and not the tenant – as is the case in 86 percent of landlord-tenant proceedings in Delaware, there is an imbalance of power and tenants often lack the understanding of the eviction process and related legal consequences. While initially expressing concerns or anxiety regarding eviction right to counsel, housing court judges and landlords in jurisdictions that have implemented eviction Right to Counsel legislation have later expressed their preference to be interacting with tenant lawyers rather than unrepresented (pro se) tenants. They have noted that when

⁵ “2020 AHAR: Part 1 – PIT Estimates of Homelessness in the U.S.” Department of Housing and Urban Development, Office of Policy Development and Research. March 2021.

tenants are represented, out of court resolutions are more likely, less time is spent by judges explaining rights and court processes to tenants, the resolutions are more fair, more robust law is created through motion practice and judicial opinions, agreements are more likely to be upheld, tenants are more likely to be connected to supportive services and benefits, and landlords are more likely to receive amounts due and owing without costly collection efforts.

12. **Stout’s Analysis of Eviction Filings in Delaware.** Two unique features of the eviction landscape in Delaware are: a relatively low filing fee for landlords and landlords’ ability to be represented by non-attorneys. In Delaware, the cost to landlords to file an eviction is only \$45 – the eleventh lowest filing fee in the country. Delaware Supreme Court Rule 57 (Rule 57) allows landlords that are artificial entities (e.g., limited liability companies – LLCs) to be represented by non-attorney employees in civil actions, including evictions.⁶ These non-attorney agents are often repeat players in landlord-tenant matters, developing a familiarity with the courts and its processes, which gives them an advantage over unrepresented tenants who do not benefit from Rule 57. Because of the relatively low cost of filing an eviction case in Delaware, many landlords use eviction filings as a rent collection mechanism. The result of this practice is an elevated eviction filing rate, tenants paying the rent owed, and landlords withdrawing the cases. Based on the experience and expertise of Delaware eviction defense providers, as well as research by the Delaware State Housing Authority, a portion of these withdrawn cases are also likely circumstances in which the housing unit would be classified as “unlivable” due to conditions issues. In these situations, representation can assist in correcting unlivable conditions by using the courts to compel landlords to make the necessary repairs. Furthermore, there is no minimum amount of rent owed for which landlords can file an eviction. Tenants can be and have had evictions filed against them for less than \$20.
13. Stout analyzed 18,000 eviction case filings from the Delaware Justice of the Peace Courts and found that **approximately 2 percent of tenants were represented, and 86 percent of landlords were represented** (either by an attorney or an agent). Stout found that unrepresented tenants are likely experiencing disruptive displacement in approximately 81 percent of eviction proceedings, and represented tenants are likely experiencing disruptive displacement in approximately 20 percent of eviction proceedings. That is, represented tenants are 4 times more likely to avoid disruptive displacement than unrepresented tenants.

⁶ Rule 57. Rules of the Supreme Court of the State of Delaware.

14. **The Intersection of Eviction and Race in Delaware.** Zip codes in Delaware with higher proportions of Black residents have higher eviction rates. In zip codes with the highest eviction rates per capita from 2017 to 2019, the proportion of Black residents was 21 percent to 75 percent. In zip codes with the lowest eviction rates per capita for the same period, the proportion of Black residents was 0 percent to 16 percent. The strongest zip-code level indicator of low eviction rates in Delaware is a high proportion of Non-Hispanic white residents. That is, the proportion of Non-Hispanic white residents is a protective factor against evictions, and the proportion of Black residents is a risk factor for eviction.
15. **The Estimated Incremental Impact of a Right to Counsel.** To estimate the impact of a right to counsel in Delaware, Stout compared the number of households that could avoid the high likelihood of disruptive displacement if a right to counsel were implemented and compared it to the number of households that are currently avoiding the high likelihood of disruptive displacement (i.e., without a right to counsel). Stout estimates that 3,210 households annually would likely avoid the high likelihood of disruptive displacement if a right to counsel were implemented compared to approximately 879 households currently avoiding the high likelihood of disruptive displacement each year for an incremental impact of 2,331 renter households (or approximately 6,993 people) avoiding the high likelihood of disruptive displacement.
16. **The Cost of a Right to Counsel.** Providers of eviction defense in Delaware estimate the cost of fully implementing a right to counsel in Delaware to be approximately \$3.4 million annually. This includes personnel costs for the hiring of staff attorneys, supervisors, paralegals, social workers,⁷ intake specialists, and case processing paralegals to support the representation of eligible tenants through a right to counsel. This estimate also includes costs for facilities, technology, equipment, training, outreach and other costs necessary to provide representation under a right to counsel. Our analysis estimates that, at full implementation, providers of eviction defense in Delaware would represent approximately 4,000 tenant households annually through a right to counsel, resulting in a cost per case of approximately \$850 for those cases for which representation is provided. Stout understands that a pre-filing eviction diversion program is being contemplated in Delaware. Stout's cost of a right to counsel, estimated cost savings as a result of a right to counsel, and return for every dollar invested assumes tenants who need representation receive representation, whether pre-filing or post-filing. Stout's expectation is that the cost of representation and the impact of representation in these situations is reasonably

⁷ This could include a variety of necessary support positions for lawyers and tenants, including social workers, housing navigators, or others who can assist residents with their housing or other needs.

incorporated in its estimates herein. Costs associated with any supplemental administration of an eviction diversion program are not included in Stout's calculations.

17. **Estimated Annual Cost Savings as a Result of a Right to Counsel.** With an annual investment of approximately \$3.4 million by Delaware, the state could expect to save at least \$9.5 million annually in social safety net responses to disruptive displacement if a right to counsel were enacted. There may be additional cost savings to counties, cities, and municipalities within Delaware, depending on how the social safety net responses are funded, without any additional local investment. Stout quantified potential benefits or costs avoided related to emergency shelter and transitional housing, transportation for students experiencing homelessness, Medicaid spending on health care, and foster care.
18. **Stout's estimate of the annual cost savings may be significantly understated.** Included in the calculation are benefits of a right to counsel that are quantifiable and reasonably reliable with available data. However, if tenants experienced more stable housing, Delaware would enjoy many benefits that are not at this time reliably quantifiable and therefore are not included in Stout's calculations. The costs that would be avoided and benefits that would be enjoyed by Delaware include, but are not limited to:
 - The education costs, juvenile justice costs, and child welfare costs associated with children experiencing homelessness;
 - The effects of stabilized employment and income and the economic and tax benefits to the state associated with consumer spending;
 - The negative impact of eviction on tenants' credit score, ability to re-rent, and the potential loss of a subsidized housing voucher;
 - The cost of providing public benefits when jobs are lost due to eviction or the eviction process;
 - The cost of mental health care;
 - Certain additional costs associated with homelessness, such as additional law enforcement and incarceration costs;
 - The cost of family, community, and neighborhood instability;
 - Preservation of financial and personal assets; and
 - A reduction, over time, of the number of eviction cases filed resulting in improved use of Delaware Justice of the Peace Courts' resources.

Section III

Housing and Eviction Trends

National Housing and Eviction Trends

19. More than a decade after the Great Recession and the bursting of the housing bubble in 2009, more Americans are now living in rental housing than has been reported since 1965.⁸ After peaking in 2016 with approximately 37 percent of Americans renting, the rentership rate declined slightly to approximately 35 percent through the first quarter of 2020.⁹ Figure 1 shows the annual change in renter households and rentership rate from 2004 through the first quarter of 2020.

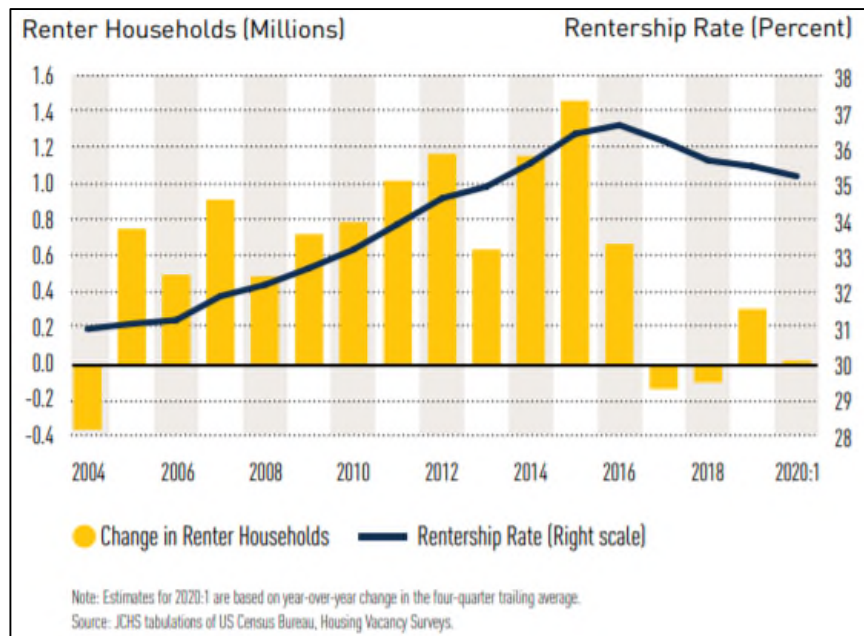


Figure 1

20. Young adults, Black, Hispanic, and households with lower levels of education have historically been more likely to rent than others, and while rental rates have increased among these groups over the past 10 years, rental rates have also increased among groups that have historically been less likely to rent – white households and middle-aged adults.¹⁰ Figures 2, 3, and 4 illustrate the increases in rental rates for different demographic groups.

⁸ Cilluffo, Anthony et al. “More U.S. households are renting than at any point in 50 years.” Pew Research Center. July 19, 2017.

⁹ “The State of the Nation’s Housing.” Joint Center for Housing Studies of Harvard University. 2020.

¹⁰ Cilluffo, Anthony et al. “More U.S. households are renting than at any point in 50 years.” Pew Research Center. July 19, 2017.

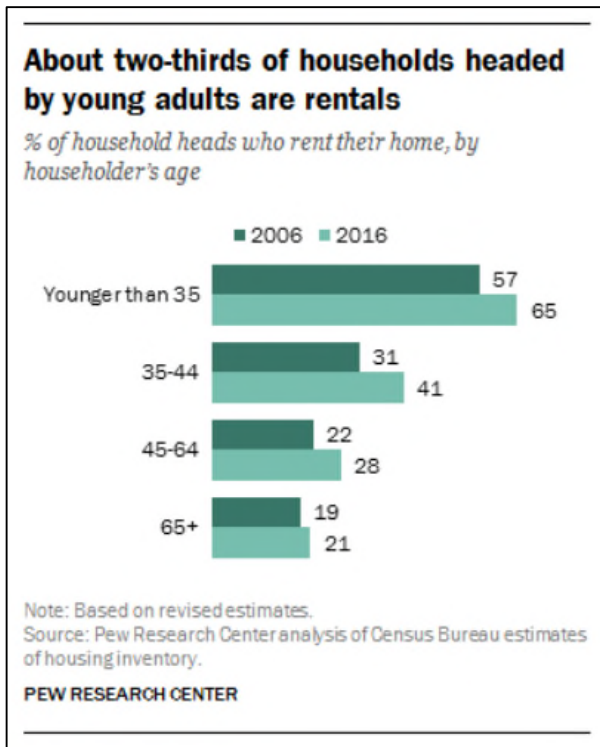


Figure 2

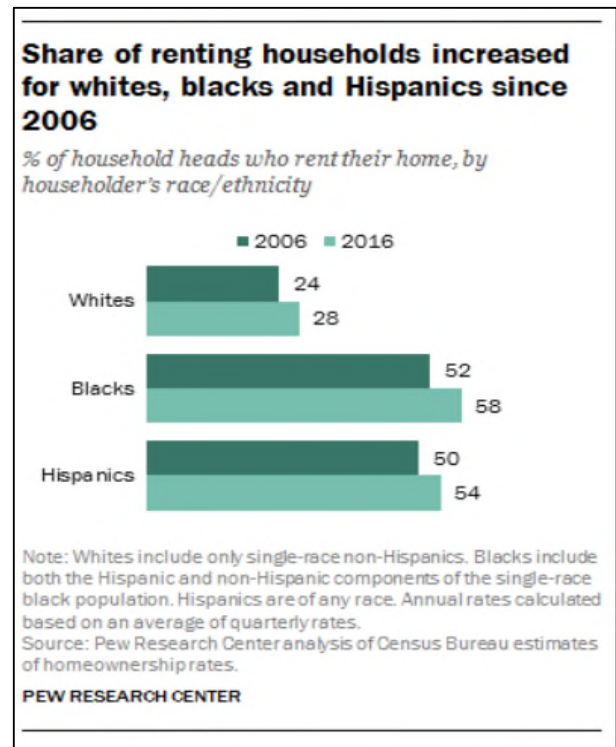


Figure 3

21. As shown in Figure 2, generational trends have contributed to the increased number of renters. Millennials, and more recently, Generation X and Baby Boomers are renting instead of owning. These generations are also choosing to live in urban areas, where renting is most common, more frequently than in the past.¹¹ Approximately 83 percent of the U.S. population is currently living in urban areas compared to 64 percent in 1950.¹² By 2050, approximately 89 percent of the U.S. population is expected to be living in urban areas.¹³

22. In 2019, the median renter household income was approximately \$42,500 – only a 3 percent increase since

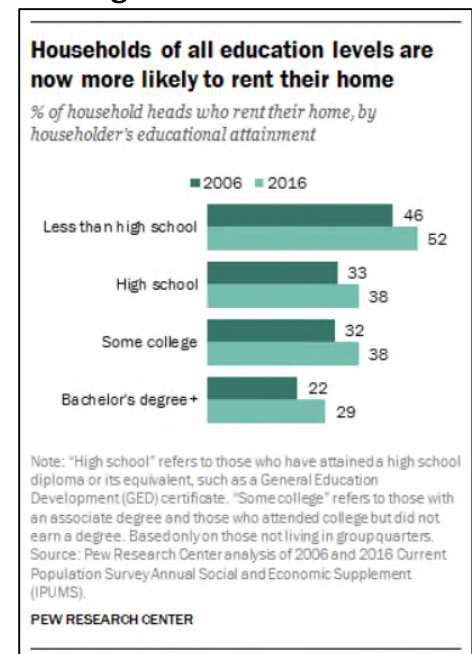


Figure 4

¹¹ Westcott, Lucy. "More Americans Moving to Cities, Reversing the Suburban Exodus." The Atlantic. March 27, 2014.

¹² Center for Sustainable Systems, University of Michigan. 2020. "U.S. Cities Factsheet." Pub. No. CSS09-06.

¹³ Ibid.

2001– while median rental housing costs (i.e., rent and utilities) increased 15 percent.¹⁴ Figure 5 illustrates this trend.

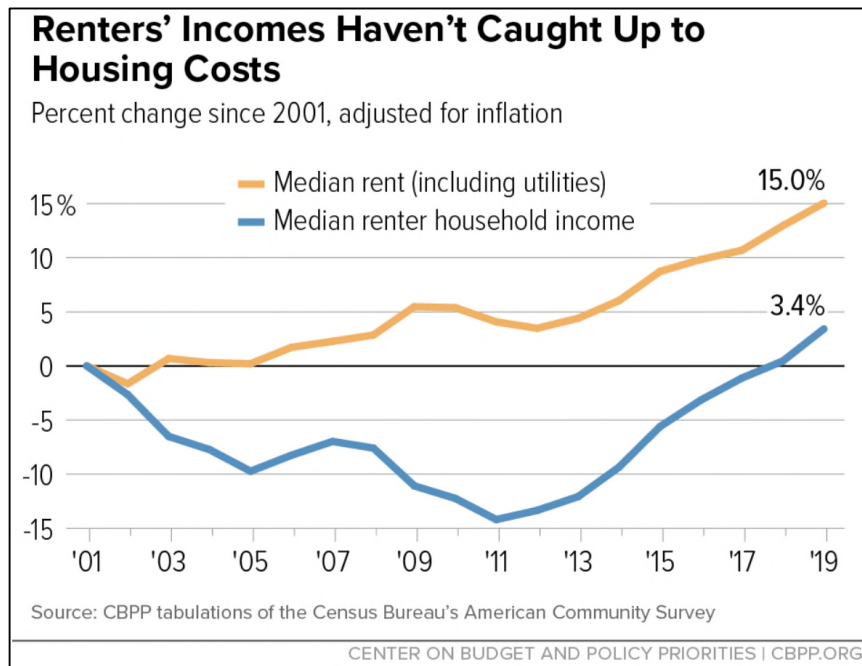


Figure 5

23. Median renter household income decreased significantly during the recessions that began in 2001 and 2007 before increasing again in 2012, approximately two years after the Great Recession ended.¹⁵ Renter household income levels did not fully recover from the recessions until 2017, when renter household income returned to 2001 levels.¹⁶ In 2018, renter households incomes barely surpassed 2001 renter household income levels, and in 2019, median renter household income increased 3 percent while median rent increased 2 percent – a modest gain for renter households.¹⁷ However, the COVID-19 recession may threaten this trend.
24. Applications for state unemployment benefits remain more than three times higher than before the pandemic, and job loss has continued to be concentrated among low-wage workers.^{18,19} Unsurprisingly, rental affordability issues, before the pandemic and certainly

¹⁴ Gartland, Erik. “2019 Income-Rent Gap Underscores Need for Rental Assistance, Census Data Show.” Center on Budget and Policy Priorities. September 18, 2020.

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Pickert, Reade et al. “U.S. Recovery Sustains Positive Momentum as Economy Reopens.” Bloomberg. March 2021.

¹⁹ “Employment recovery in the wake of the COVID-10 pandemic.” U.S. Bureau of Labor Statistics. December 2020.

after it, are and will be the most problematic for the lowest wage earners. During the pandemic, the U.S. Census Bureau, in collaboration with numerous federal agencies, deployed the Household Pulse Survey (HPS). The HPS was designed to collect data about households' experiences during the pandemic quickly and efficiently. One topic explored in the HPS was whether renter households were current or behind on their rent. As of March 15, 2021, approximately 20 percent of renter households across the country with incomes less than \$50,000 were behind on their rent. In Delaware, approximately 24 percent of renter households were behind on their rent.

25. Of the nation's 44 million renter households, approximately 10.8 million have extremely low incomes (i.e., having household income at or below the Federal Poverty Level or 30 percent of area median income "AMI," whichever is higher).²⁰ Assuming housing costs should be no more than 30 percent of household income ("the accepted standard" for housing affordability that evolved from the United States National Housing Act of 1937²¹), only 7.4 million rental homes are affordable to extremely low-income renters. This results in a shortage of 3.4 million affordable rental homes across the country.²² The relative supply of affordable and available rental units increases as incomes increase.²³ For every 100 extremely low-income renter households, only 37 rental units are affordable and available.²⁴ Sixty affordable and available rental units exist for every 100 renter households at 50 percent AMI, and 94 exist for every 100 renter households at 80 percent AMI.²⁵ For

²⁰ "The Gap: A Shortage of Affordable Homes." National Low Income Housing Coalition. March 2021.

²¹ Schwartz, M. and Wilson, E. "Who Can Afford to Live in a Home?: A look at data from the 2006 American Community Survey". US Census Bureau. N.d.

²² "The Gap: A Shortage of Affordable Homes." National Low Income Housing Coalition. March 2021.

²³ Ibid.

²⁴ Ibid.

²⁵ Ibid.

every 100 renter households earning 100 percent of the AMI, there are 102 affordable and available rental units.²⁶ Figure 6 depicts these metrics.

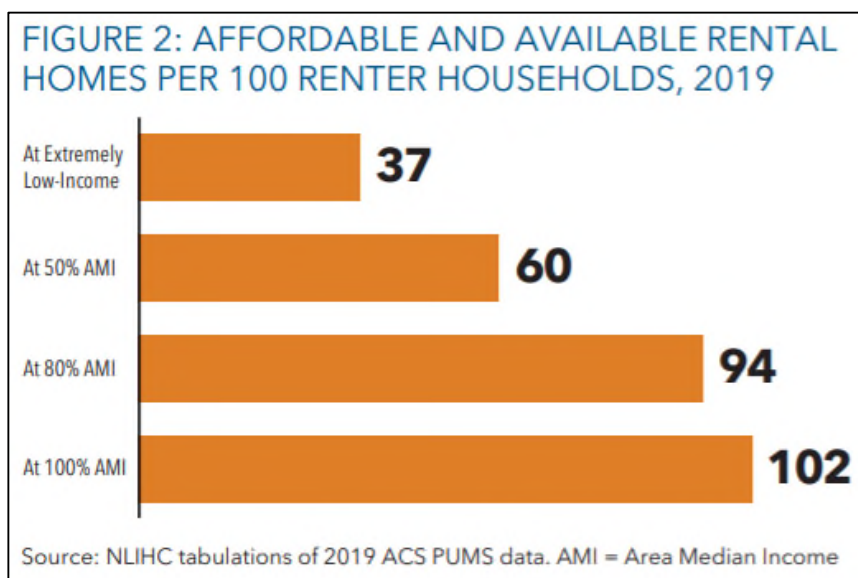


Figure 6

26. Not only is availability of affordable rental housing severely limited, the geographic distribution of rental housing is inequitable and perpetuates racial segregation.²⁷ Approximately 50 percent of all rental housing nationwide is in less than 25 percent of all census tracts.²⁸ Rental housing constitutes more than 80 percent of the housing stock in only 4 percent of census tracts, which are generally located in urban areas.²⁹ This is compared to one-third of census tracts having at least 80 percent owner-occupied housing, which is generally located in suburban areas.³⁰ On average, the median household income in neighborhoods with high concentrations of rental housing is less than half of the median household income in neighborhoods with high concentrations of owner-occupied housing.³¹ Furthermore, approximately 55 percent of households in neighborhoods with high concentrations of rental housing are Black or Hispanic compared to 14 percent of households in neighborhoods with high concentrations of owner-occupied housing.³²
27. Low- and subsidized-rental units are even more geographically concentrated than the overall rental housing stock.³³ Approximately half of rental units with rents less than \$600

²⁶ Ibid.

²⁷ “The State of the Nation’s Housing.” Joint Center for Housing Studies of Harvard University. 2020.

²⁸ Ibid.

²⁹ Ibid.

³⁰ Ibid.

³¹ Ibid.

³² Ibid.

³³ Ibid.

are in only 12 percent of census tracts, and approximately half of federally subsidized rental units are in only 5 percent of census tracts.³⁴ On average, neighborhoods with concentrations of subsidized housing have higher rentership rates, lower median incomes, and more Black and Hispanic households than neighborhoods without subsidized housing, reinforcing historical patterns of socioeconomic and racial segregation.³⁵

28. The gap between the demand for and supply of rental units, increasing rents, stagnated minimum wage-based incomes, and insufficient government assistance – only 25 percent of eligible households receive federal rental assistance³⁶ – has created not only an affordable housing crisis throughout the country but also an eviction crisis. The eviction crisis is compounded by a lack of representation for tenants, low filing fees (i.e., it is inexpensive to file an eviction case), insufficient inspection laws and processes, and unenforced fines.
29. According to the 2017 American Housing Survey, approximately 2.7 million renter households were unable to pay all or part of their rent within the three months preceding the survey.³⁷ The same survey indicated that approximately 800,000 renter households were threatened with an eviction filing³⁸, and approximately 160,000 renter households received a court ordered eviction notice³⁹.⁴⁰ More than 7 percent of all renters indicated that it was either “very likely” or “somewhat likely” that they would need to leave their apartment due to an eviction within the two months following the survey.⁴¹ When asked where they would live in the event of an eviction, approximately 32 percent (14.2 million) of all renters responded that they would move in with family or friends, and approximately 3 percent (1.3 million) responded that they would enter shelter.⁴² While there are limitations to these metrics (e.g., illegal or “out-of-court” evictions, no national evictions database, underreporting of threatened evictions for fear of retaliation), they can serve as a starting point for understanding the national eviction landscape.

³⁴ Ibid.

³⁵ Ibid.

³⁶ Fischer, Will, Rice, Douglas, and Mazzara, Alicia. “Research Shows Rental Assistance Reduces Hardship and Provides Platform to Expand Opportunity for Low-Income Families.” Center on Budget and Policy Priorities. December 5, 2019.

³⁷ American Housing Survey. U.S. Census Bureau. 2017.

³⁸ The American Housing Survey question used to collect this data point was, “Have you been threatened with eviction in the last 3 months?” Source: The AHS Codebook located at [census.gov/data-tools/demo/codebook/ahs](https://www.census.gov/data-tools/demo/codebook/ahs).

³⁹ The American Housing Survey question used to collect this data point was, “Have you received an eviction notice from a court?” Source: The AHS Codebook located at [census.gov/data-tools/demo/codebook/ahs](https://www.census.gov/data-tools/demo/codebook/ahs).

⁴⁰ American Housing Survey. U.S. Census Bureau. 2017.

⁴¹ Ibid.

⁴² Ibid.

Delaware Housing and Eviction Trends

30. Like much of the country, Delaware renters struggle with stagnant incomes and increasing rents.⁴³ Figure 7 shows the percentage change in renter income as it relates to the percentage change in median rent in Delaware.⁴⁴

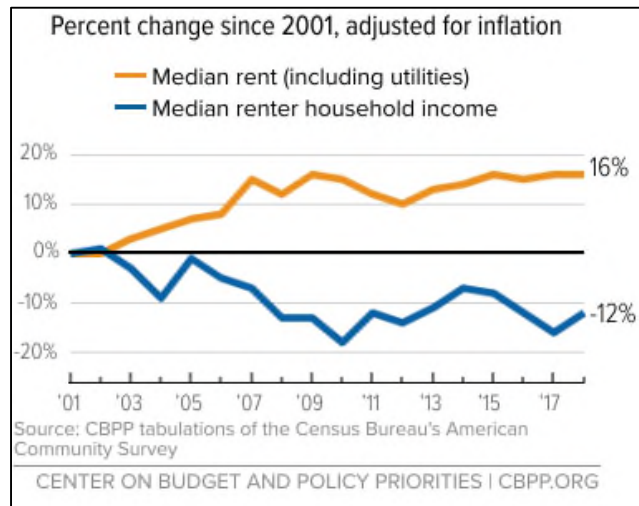


Figure 7

31. In Delaware, approximately 46 percent of renter households are housing cost burdened, paying more than 30 percent of their income on housing.⁴⁵ Furthermore, approximately 23 percent of all renters in Delaware spend 50 percent of their income on housing, making these households severely housing cost burdened.⁴⁶ Contributing to the issue of cost burden is the lack of affordable housing in Delaware with 36 affordable housing units available for every 100 renter households.⁴⁷ The availability of affordable housing units differs significantly based on household income. Figure 8 shows the number of affordable and available rental units per 100 renter households in Delaware for households with

⁴³ Mazzara, Alicia. "Rents Have Risen More Than Incomes in Nearly Every State Since 2001." Center on Budget and Policy Priorities. December 2019.

⁴⁴ Ibid.

⁴⁵ Data compiled by the Delaware State Housing Authority.

⁴⁶ Ibid.

⁴⁷ "Housing and Homelessness in Delaware A Crisis Laid Bare." Housing Alliance Delaware. 2020. Referencing National Low Income Housing Coalition, Housing Needs For Delaware.

extremely low incomes, at 50 percent of the area median income (AMI), at 80 percent of AMI, and at 100 percent of AMI.

32. Four-person low-income households in Delaware have annual incomes of approximately \$65,500 while very low-income and extremely low-income households have annual incomes of approximately \$40,950 and \$24,550, respectively.⁴⁸ In 2019, the “housing wage” (i.e., the hourly wage a full-time worker must earn to afford a rental unit that costs no more than 30 percent of their income) for a two-bedroom unit was \$21.97 and \$18.08 for a one-bedroom unit.⁴⁹ To earn these housing wages, a minimum wage worker in Delaware would need to work at least two minimum wage jobs to afford rental housing without spending more than 30 percent of their income on housing costs.⁵⁰

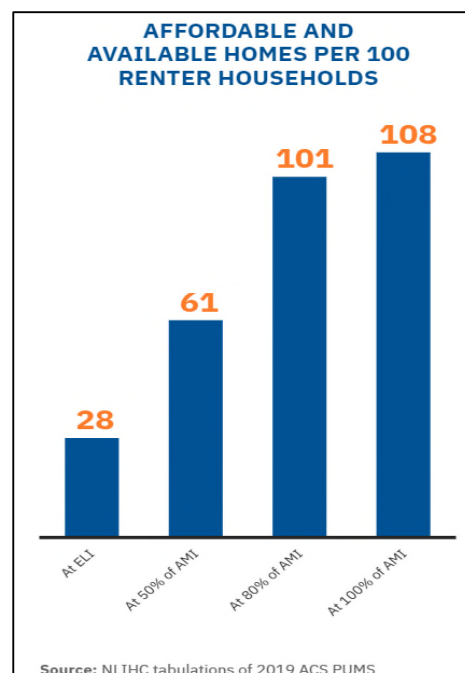


Figure 8

33. Based on data from the 2016 American Community Survey, Delaware has the eighth highest percentage of housing cost burdened households behind only Florida, California, New York, Colorado, Hawaii, Louisiana, and New Jersey.⁵¹ Extremely low-income renter households also tend to have higher percentages of disabled and senior members with 17 percent of households having a disabled member and 21 percent having a senior member.⁵² Racial disparity in housing cost burden for Delaware renters is also stark: approximately 51 percent of Black renters and approximately 59 percent of Hispanic renters are housing cost burdened compared to 44 percent of White and 35 percent of Asian renters.⁵³

Housing Conditions in Delaware

34. According to data compiled by the Delaware State Housing Authority, as of September 2014, approximately 47 percent of renter households were living with at least one of the

⁴⁸ “Housing and Homelessness in Delaware A Crisis Laid Bare.” Housing Alliance Delaware. 2020. Referencing income data from HUD.

⁴⁹ “Housing and Homelessness in Delaware A Crisis Laid Bare.” Housing Alliance Delaware. 2020.

⁵⁰ “Housing and Homelessness in Delaware A Crisis Laid Bare.” Housing Alliance Delaware. 2020. Referencing Aurand, Andrew et al. “Out of Reach.” National Low Income Housing Coalition. 2020.

⁵¹ Data from American Community Survey compiled by Joint Center for Housing Studies at Harvard University.

⁵² National Low Income Housing Coalition, Housing Needs for Delaware.

⁵³ Prosperity Now Scorecard/ State Outcome & Policy Report: Delaware. Published January 2019.

following: incomplete kitchen facilities; incomplete plumbing facilities; more than one person per room; or a cost burden greater than 30 percent.⁵⁴

35. The Delaware State Housing Authority (DSHA) also published the Delaware Housing Needs Assessment in 2014, in which DSHA further analyzed substandard housing conditions and categorized households according to the severity of conditions issues. The Delaware Housing Needs Assessment categorized households into three main categories regarding their livability. “Unlivable” housing was defined as “homes that lack adequate kitchen facilities (sink, stove, and refrigerator) and / or bathroom facilities (sink, toilet, and tub or shower).”⁵⁵ This category did not include occupied homes that are unlivable in other ways, such as lacking a complete roof, having improper ventilation, lacking insulation, or posing health issues like asbestos, lead, or fire risk.⁵⁶ Because data on homes meeting these criteria was unavailable, it is likely that the number of homes classified as “unlivable” in Delaware is underestimated. Based on data from U.S. Department of Housing and Urban Development from 2006-2010, DSHA estimated 1,157 renter households were living in “unlivable” housing.⁵⁷ North New Castle County had the most rental units without a kitchen and / or bathroom.⁵⁸

⁵⁴ Delaware State Housing Authority, Delaware Housing Fact Sheet, February 2018. Referencing HUD data compiled by DSHA.

⁵⁵ “Delaware Housing Needs Assessment.” Delaware State Housing Authority. September 2014.

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ Ibid.

36. “Livable but poor condition” was defined as “homes that do not lack kitchen or plumbing facilities but show obvious signs of repair needs.”⁵⁹ Based on data from the U.S. Census Housing Survey, DSHA estimated 3,853 renter households were living in “livable but poor condition.”⁶⁰ While housing conditions issues are prevalent across Delaware, there are geographic concentrations of substandard housing in the City of Wilmington and in southern Kent County and western Sussex County.⁶¹ In the City of Wilmington, the concentration of substandard housing is primarily located east of Route 13 and west of Washington Street – an area with high poverty rates and large populations of Black and Latinx people.⁶² Figure 9 shows the estimated concentrations of substandard housing units by census tract.

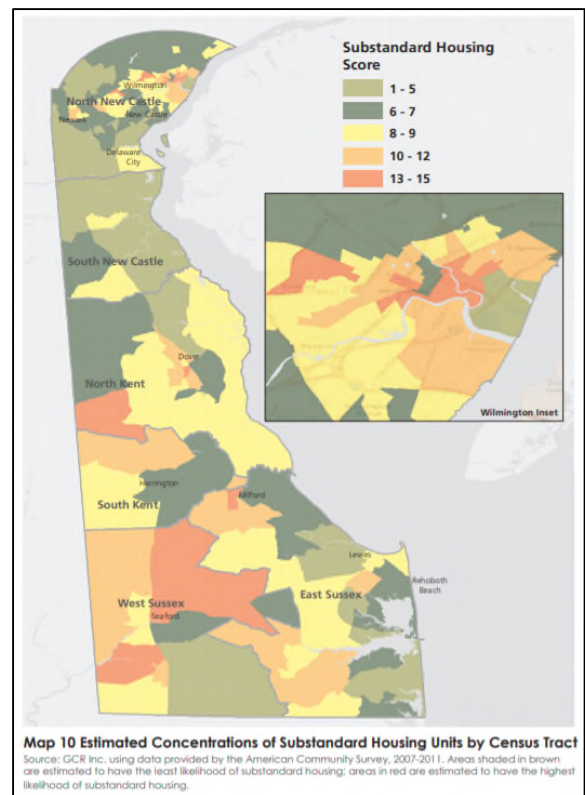


Figure 9

37. According to the Residential Landlord-Tenant Code in Delaware, there are no statewide requirements regarding inspections of rental properties, only a general rule that a landlord must “provide a rental unit which shall not endanger the health, welfare or safety of the tenants or occupants and which is fit for the purpose for which it is expressly rented.”⁶³ Cities and towns in Delaware may have their own, more specific standards for rental inspections and housing condition. For example, the City of Wilmington requires all residential rental units to pass an inspection of a random unit or units every two or five years depending on the size of the rental property in order to maintain their rental license.⁶⁴ There is, however, a newly introduced bill in the City of Wilmington that would require an inspection for each new lease, with the intent of ensuring that each new tenant is moving into “good housing.”⁶⁵ In Newark, Delaware, rental inspections are conducted annually on the exterior of rental properties, and if

⁵⁹ Ibid.

⁶⁰ Ibid.

⁶¹ Ibid.

⁶² Ibid.

⁶³ 70. Del. Laws, c. 513, § 2.; § 5305 (a) (2).

⁶⁴ The City of Wilmington, Delaware, “Residential Rental Property Licenses and Inspection Program.”

⁶⁵ Kuang, Jeanne. “Could pre-rental inspections decrease blight in Wilmington? The latest on council’s new effort.” Delaware Online. December 4, 2020.

granted the approval to inspect the interior, the interior of the rental property is also inspected annually.⁶⁶

Eviction Filings as a Rent Collection Mechanism

38. Low eviction filing fees in certain jurisdictions around the country – Delaware being one of them – can encourage landlords to file evictions. Delaware has the eleventh lowest filing fee in the country (\$45), creating a low barrier and low opportunity cost for landlords to file evictions. Figure 10 shows Delaware’s filing fee relative to the lowest filing fee in the country (Wyoming - \$10), the median filing fee (Maine, North Dakota, Rhode Island - \$80), and the highest filing fee (Vermont - \$295).⁶⁷

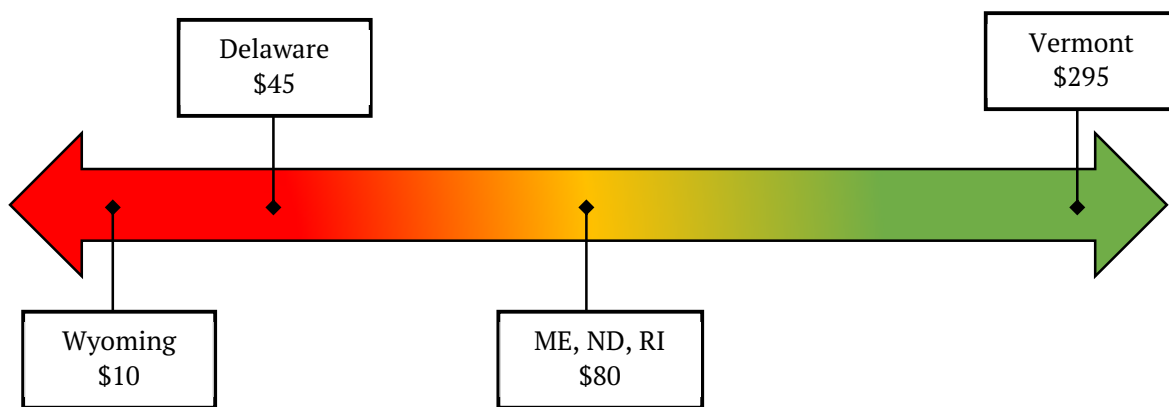


Figure 10

39. In Delaware, there are approximately 18,000 annual eviction filings and approximately 112,000 rental households – an eviction filing rate of 16 percent compared to the national eviction filing rate of 2 percent.⁶⁸ In jurisdictions demographically and economically like Delaware, eviction filing rates are significantly lower than Delaware. Connecticut and Rhode Island, which have population sizes, poverty rates, percentage of renters, median gross rents, rent burdens, and racial compositions comparable to Delaware, have eviction filing rates of approximately 4 percent.⁶⁹ That is, in Connecticut and Rhode Island, there

⁶⁶ “Rental License Inspections.” Newark, Delaware Planning and Development Department.

⁶⁷ Based on independent research by Stout. Some states have a range of filing fees depending on the type of eviction action and the amount of back rent / damages sought. Furthermore, cities may assess filing fees that are higher or lower than the ones presented. Where available, Stout used statewide filing fee information. Where statewide filing fee information was unavailable, Stout used filing fee information for courts located within state population centers. For example, a statewide filing fee was not available for South Dakota. Stout used the filing fee for Minnehaha County – the most populous county in the state.

⁶⁸ Data compiled by The Eviction Lab at evictionlab.org.

⁶⁹ Data compiled by The Eviction Lab at evictionlab.org.

are approximately four eviction filings for every 100 renter households. In Delaware, there are approximately 16 eviction filings for every 100 renter households.⁷⁰

40. The significant filing rate difference in Delaware may be attributable to the low filing fee in Delaware (\$45). In Connecticut and Rhode Island, the filing fees for eviction cases are \$175 and \$80, respectively – approximately two to four times higher than Delaware’s filing fee.^{71,72} Furthermore, Stout’s analysis of case dispositions (discussed in detail in paragraphs 47-48) showed that approximately 72 percent of cases where the tenant did not default were withdrawn by the landlord. Providers of eviction defense in Delaware indicated that a significant portion of cases withdrawn by landlords are likely situations where a landlord files an eviction case, a tenant pays the amount owed, and the landlord accepts the amount owed and subsequently withdraws the case. Because of the relatively high eviction filing rate and the relatively low eviction filing fee, it is reasonable to expect that a significant portion of these tenants are experiencing situations where landlords are using eviction filings to collect rent. That is, landlords may repeatedly file evictions against the same tenants with the intent of collecting rent, rather than to remove them from their homes.

Stout’s Analysis of Eviction Filings in Delaware

41. Stout consulted experts James Teufel, MPH, PhD and Benjamin Coleman, PhD. Dr. Coleman converted Delaware Justice of the Peace Court Connect landlord-tenant docket data into an analytic dataset. Dr. Teufel completed and reported on descriptive and inferential analyses based on Court Connect at the request of Stout and Community Legal Aid Society, Inc (CLASI). Drs. Coleman and Teufel acted as external evaluators to Stout and CLASI. Dr. Coleman is the Chair of the Computer Science Program and a Professor of Computer Science at Moravian College. Dr. Teufel directs the Public Health program of Moravian College and is a Health Justice Research & Evaluation consultant. Stout acknowledges the significant and impactful contributions of Drs. Coleman and Teufel related to data analytics linked to Delaware Court Connect (administrative court) data and this report.
42. According to data provided by the Delaware Justice of the Peace Courts, there were approximately 18,000 landlord-tenant cases filed in 2019. Figure 11 shows the annual number of landlord-tenant filings as reported by the Delaware Justice of the Peace Courts. The annual number of eviction filings is helpful, but more granular information about each eviction filing gives an in-depth view about specific eviction filings characteristics.

⁷⁰ Ibid.

⁷¹ <https://jud.ct.gov/external/super/courtfee.htm>

⁷² <https://www.courts.ri.gov/Courts/districtcourt/PDF/District-HomeFeesandCosts.pdf>

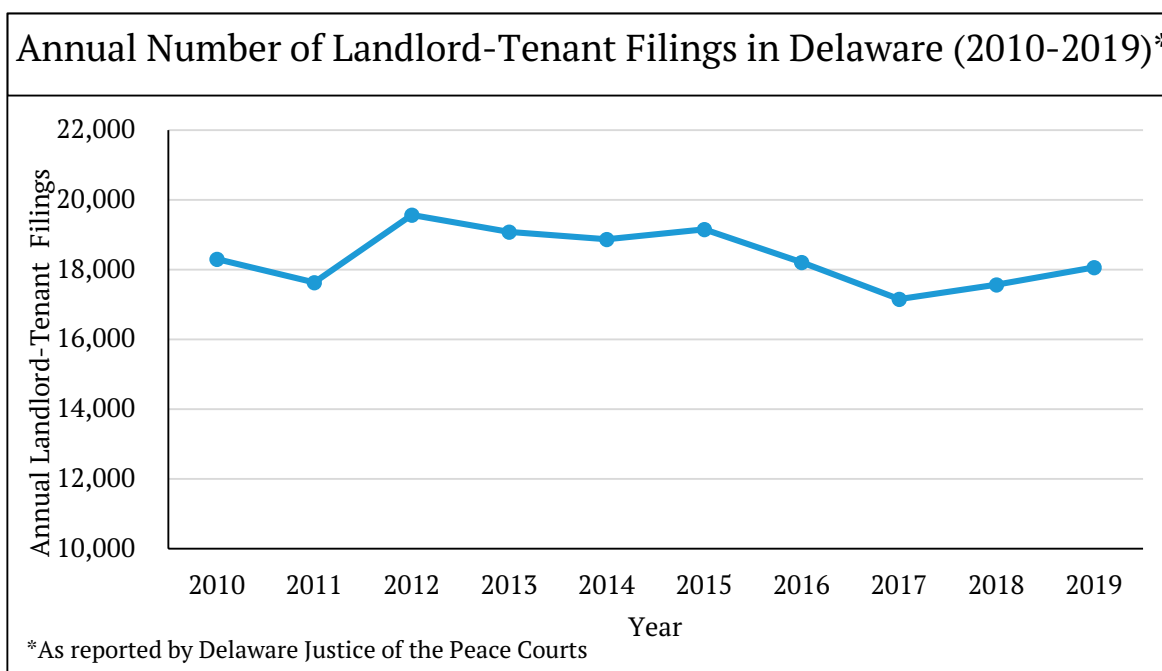


Figure 11

43. When landlords file an eviction, they include the property address from which they are seeking to evict the tenant. Using the property address zip code and publicly available demographic data, the geography of eviction filings and evictions and the extent to which eviction filings and evictions intersect with poverty and race can be understood better.
44. Zip codes in Delaware with higher proportions of Black residents have higher eviction rates. While poverty rate, number of rental units, and proportion of Black residents all influence the eviction rate in a given zip code, the proportion of Black residents is the greatest predictor of eviction rate. In zip codes with the highest eviction rates per capita from 2017 to 2019, the proportion of Black residents ranged from 21 percent to 75 percent. In zip codes with the lowest eviction rates per capita for the same time period, the proportion of Black residents ranged from 0 percent to 16 percent. Furthermore, the strongest zip code-level indicator of low eviction rates is a high proportion of Non-Hispanic white residents. That is, the proportion of Non-Hispanic white residents is a protective factor against eviction, and the proportion of Black residents is a risk factor for eviction. Figure 12 shows the annual percent of renter households with an eviction filing by zip code racial composition. Figure 13 shows the annual percent of renter households

evicted by zip code racial composition. See paragraphs 74-76 for research related to the intersection of race and housing.

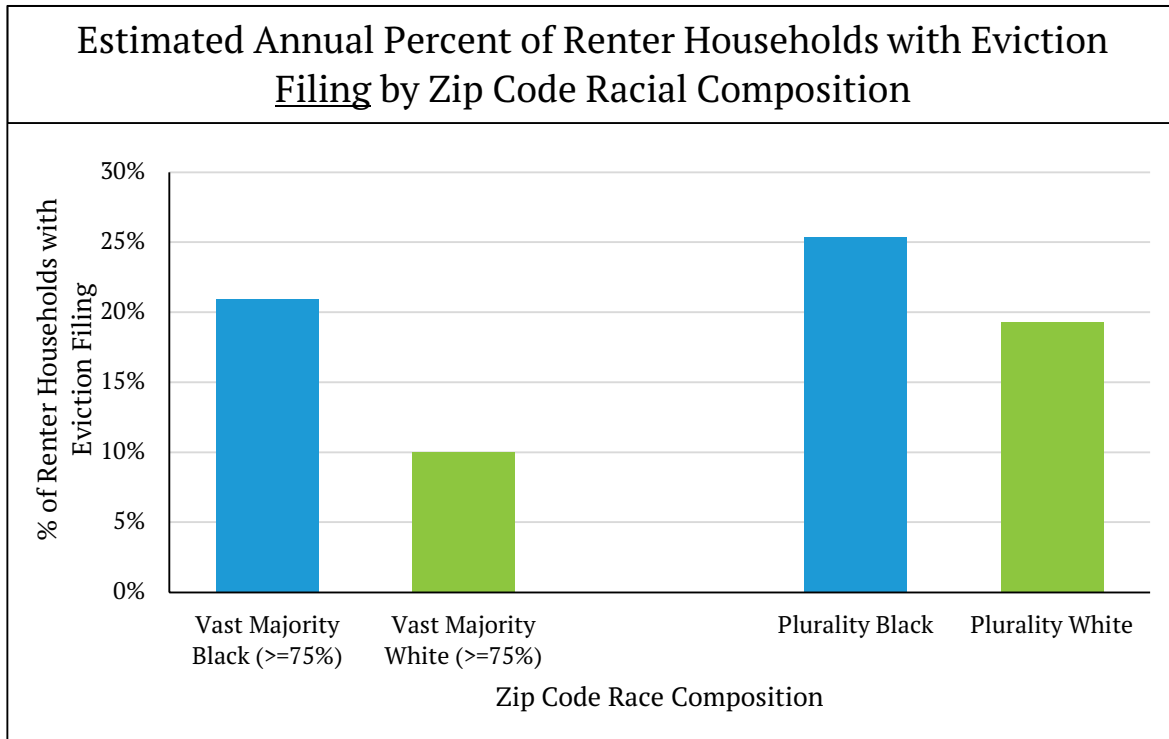


Figure 12

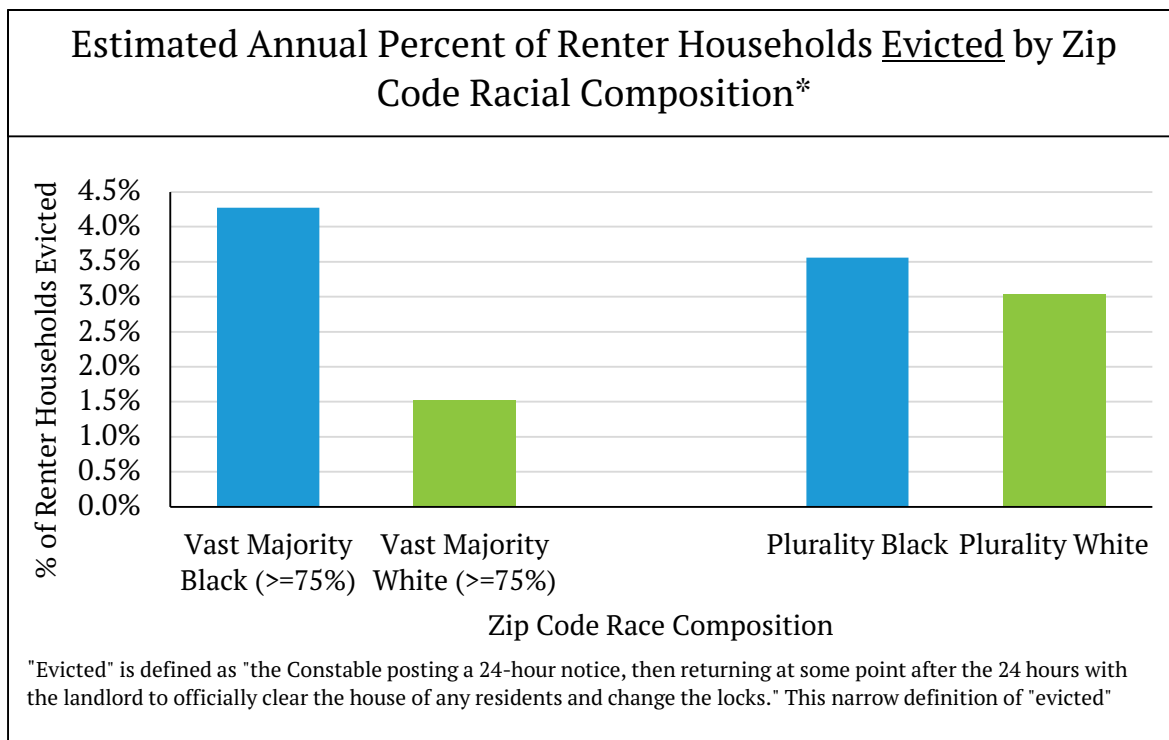


Figure 13

45. Data from the Delaware Justice of the Peace Courts indicates that, on average, tenants are represented in approximately 2 percent of cases, and landlords are represented (either by an attorney or an agent) in approximately 86 percent of cases. Figure 14 shows the portion of defendants⁷³ who were unrepresented and represented annually from 2017 to 2019.

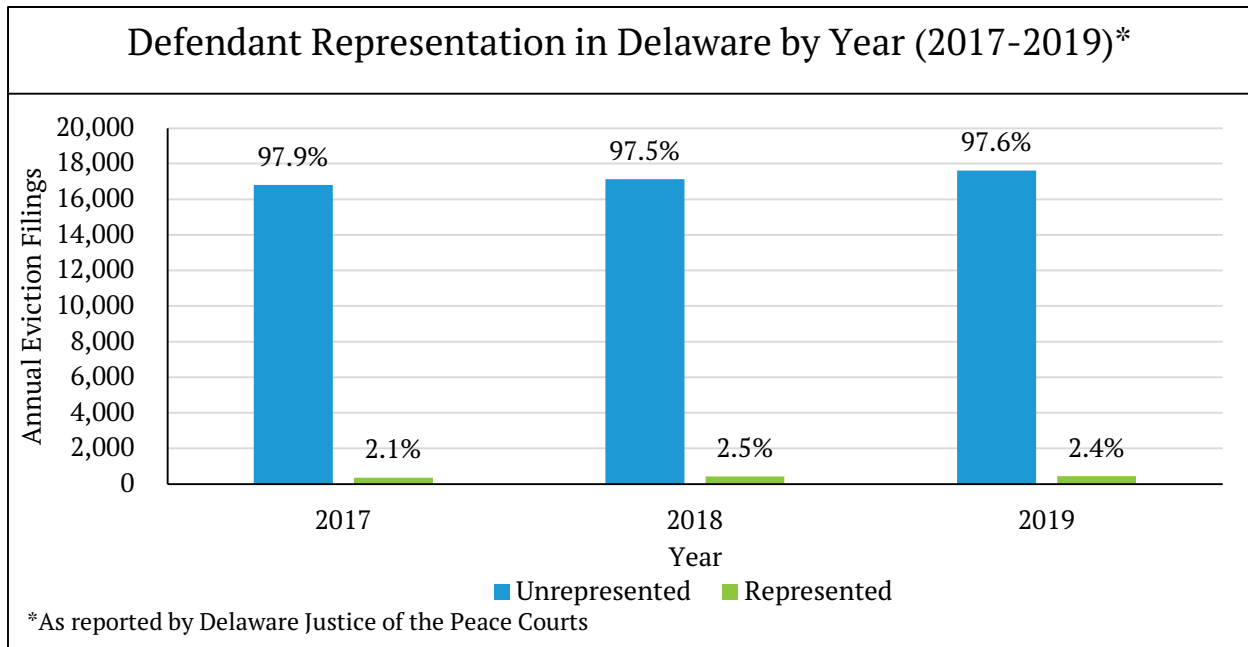


Figure 14

46. When filing an eviction in Delaware, landlords state a claim amount that they are seeking. In 2018, approximately 20 percent of eviction filings in Delaware were brought by landlords seeking \$550 or less, and 10 percent were seeking \$350 or less. The lowest non-zero claim amount where the docket data suggests that the tenant was evicted was \$19.46. That is, a tenant had an eviction filed against them where the landlord was seeking less than \$20, and the tenant was evicted. The average claim amount by landlords from 2017 to 2019 was approximately \$1,900.

47. According to the court assigned case dispositions, approximately 3.5 times as many unrepresented tenants are involved in cases where the landlord withdraws the case than is experienced by represented tenants. It is likely that a portion of these tenants have moved (i.e., are disruptively displaced) prior to the court hearing, and the landlord has regained possession and does not need to continue the eviction process. Approximately 3 times as many represented tenants than unrepresented tenants have their cases dismissed without prejudice. The impact of representation in these cases is that an attorney was likely able to raise administrative deficiencies (e.g., incorrect service, incorrect property address),

⁷³ It should be noted that nearly all defendants are tenants. However, there are de minimis instances of landlords as defendants.

resulting in the case needing to be dismissed. Overall, the comparison of case dispositions indicates that having representation reduces the likelihood of a case disposition that could result in disruptive displacement.

48. Stout’s analysis of court assigned case dispositions for unrepresented tenants indicated that 81 percent of unrepresented tenants had a high likelihood of experiencing disruptive displacement through the eviction process. This estimate was developed with input from eviction defense providers in Delaware as to the case dispositions that likely resulted in a tenant being disruptively displaced. For example, eviction defense providers in Delaware indicated that, for unrepresented tenants, case dispositions of case satisfied, judgment non-suit, order by judicial official, denovo judgment, vacate judgment, and jury trial requested were likely indicators of disruptive displacement. Stout uses the phrase “disruptive displacement” to capture outcomes of cases beyond “winning” and “losing.” For example, there may be circumstances where tenants did not have a formal eviction warrant executed against them and therefore were not displaced but have still experienced disruption in their lives because of the eviction filing, like entering a judgment by consent with unrealistic payment terms resulting in additional financial strain. Additionally, there may be circumstances where a tenant loses possession of the apartment but was granted an extra 14 days to vacate the apartment. In this situation, disruptive displacement may have been avoided because of the additional time to find alternative, suitable housing.
49. The impact of representation on the outcome of cases has been observed throughout the country. Recognizing this imbalance and seeking to create a fairer civil justice system, cities and states around the country are also taking action to pass right to counsel legislation

Section IV

Research Findings

Efforts to Pass Right to Counsel Legislation

“Establishing publicly funded legal services for low-income families in housing court would be a cost-effective measure that would prevent homelessness, decrease evictions, and give poor families a fair shake.” – Matthew Desmond, *Evicted: Poverty and Profit in the American City*

50. For tenants facing eviction in cities across the country, having legal representation is often the difference between retaining housing and homelessness.⁷⁴ There are civil legal services providers and pro bono attorneys who often assist low-income tenants in eviction cases, but they are limited and constrained by a lack of resources and funding which results in only a small fraction of tenants obtaining representation; this constraint often does not exist for landlords.
51. With needs as important as housing, employment, family stability, education, and health at stake, many legal and community-based advocates seek a civil right to legal counsel, including in housing court.⁷⁵ They advocate that a right to counsel, like the right that exists in criminal proceedings in the U.S., would ensure due process of law and fairness in an area of vital interest to tenants, their families, and society.⁷⁶ Both international and national organizations as well as state and local governments have made commitments to ensuring equal access to the law and legal aid when necessary.
52. In 2012, the United Nations General Assembly crafted *The Declaration of the High-level Meeting on the Rule of Law* which states:

“the right of equal access to justice for all, including members of vulnerable groups, and the importance of awareness-raising concerning legal rights, and in this regard, we commit to taking all necessary steps to provide fair, transparent, effective, non-discriminatory and accountable services that promote access to justice for all, including legal aid.”
53. The American Bar Association (ABA) formally called for a right to counsel in eviction cases more than 15 years ago. ABA Resolution 112A, which was approved unanimously in 2006, reads:

“RESOLVED, That the American Bar Association urges federal, state, and territorial governments to provide legal counsel as a matter of right at

⁷⁴ Brey, Jared. “How Cities Are Trying to Level the Playing Field for Tenants Facing Eviction.” Spotlight on Poverty and Opportunity. October 18, 2017.

⁷⁵ Frankel, Martin, et al. “The impact of legal counsel on outcomes for poor tenants in New York City’s housing court: results of a randomized experiment.” Law and Society Review. 2001.

⁷⁶ Ibid.

public expense to low income persons in those categories of adversarial proceedings where basic human needs are at stake, such as those involving shelter, sustenance, safety, health or child custody, as determined by each jurisdiction.”

54. At the 2015 annual Conference of Chief Judges and Conference of State Court Administrators, both groups unanimously passed Resolution 5, *Reaffirming the Commitment to Meaningful Access to Justice for All*, which:

“supports the aspirational goal of 100 percent access to effective assistance for essential civil legal needs and urges their members to provide leadership in achieving that goal and to work with their Access to Justice Commission or other such entities to develop a strategic plan with realistic and measurable outcomes... and urges the National Center for State Courts and other national organizations to develop tools and provide assistance to states in achieving the goal of 100 percent access through a continuum of meaningful and appropriate services.”

55. Federal legislation was introduced in the House of Representatives by Congresswoman Rosa DeLauro of Connecticut in December 2019.⁷⁷ The *Eviction Prevention Act* would allow the United States Attorney General to authorize grants to states, cities, and counties to provide representation to tenants with incomes lower than 125 percent of the Federal Poverty Level.⁷⁸ Jurisdictions establishing a right to counsel would receive preference for additional funding.⁷⁹ The bill also authorizes the Attorney General to collect eviction data and requires the Government Accountability Office to report to Congress the cost savings related to providing representation in eviction cases.⁸⁰ Also introduced in December 2019 was bipartisan federal legislation cosponsored by senators from Colorado and Ohio.⁸¹ The *Eviction Crisis Act of 2019* would create a standardized national database for evictions, establish an Emergency Assistance Fund to provide short-term financial assistance and housing stability services to tenants experiencing eviction, and require consumer reporting agencies to provide tenants with their screening reports when they are requested during a rental application process so that tenants can contest or correct inaccurate or incomplete information in the reports.⁸² Congresswoman Alexandria Ocasio-Cortez introduced a bill, the Place to Prosper Act, specifically calling for a right to counsel for tenants in eviction

⁷⁷ “DeLauro Introduces Eviction Prevention Act.” United States Representative Rosa DeLauro Representing the Third District of Connecticut. December 4, 2019.

⁷⁸ Ibid.

⁷⁹ Ibid.

⁸⁰ Ibid.

⁸¹ “Senators Introduce Eviction Crisis Act.” National Housing and Rehabilitation Association. December 18, 2019.

⁸² Ibid.

proceedings, among other changes to make housing more equitable.⁸³ Representative James Clyburn introduced the Legal Assistance to Prevent Evictions Act of 2020, which would provide federal grant money to jurisdictions expanding eviction representation, with priority given to jurisdictions that have implemented a right to counsel for tenants facing eviction.⁸⁴ Senator Jeff Merkley introduced the Making Affordable Housing Opportunities More Equitable Act, which also provides federal funding for jurisdictions enacting a right to counsel.⁸⁵

56. Jurisdictions throughout the country have taken steps to provide the right to counsel or access to legal information to tenants facing eviction. Figure 15 lists jurisdictions that have enacted a right to counsel and those that are pursuing a right to counsel.

State	Enacted Legislation	Pursuing Legislation
New York	Yes - New York City	Yes - Statewide
California	Yes - San Francisco	Yes - Statewide
Pennsylvania	Yes - Philadelphia	Yes - Statewide
Maryland	Yes - Baltimore	Yes - Statewide
Colorado	Yes - Boulder	Yes - Denver
Ohio	Yes - Cleveland	No
New Jersey	Yes - Newark	No
Kentucky	Yes - Louisville	No
Washington	Yes - Statewide	N/A
Massachusetts	No	Yes - Statewide
Connecticut	No	Yes - Statewide
South Carolina	No	Yes - Statewide
Nebraska	No	Yes - Statewide
Indiana	No	Yes - Statewide
Minnesota	No	Yes - Statewide

Figure 15

57. **New York.** July 2017: New York City became the first U.S. city to pass legislation guaranteeing a right to counsel for tenants in eviction proceedings.⁸⁶ The legislation was spurred by strong grassroots movements by tenant organizers and advocates. Stout’s cost-benefit analysis, which contributed to the legislation, concluded that the legislation would save New York City \$320 million annually.⁸⁷ April 2019: City council members introduced

⁸³ HR 5072

⁸⁴ HB 5884.

⁸⁵ S. 2452.

⁸⁶ Capps, Kriston. “New York City Guarantees a Lawyer to Every Resident Facing Eviction.” City Lab. August 14, 2017.

⁸⁷ “The Financial Cost and Benefits of Establishing a Right to Counsel in Eviction Proceedings Under Intro 214-A.” Stout Risius Ross. March 16, 2016.

bills to expand the income eligibility for the right to counsel and fund tenant organizing.⁸⁸ November 2019: The New York City Office of Civil Justice, the office responsible for overseeing the implementation of right to counsel, reported that since the right was enacted, 84 percent of represented tenants have remained in their homes.⁸⁹ Additionally, evictions have declined by more than 30 percent in the zip codes with a right to counsel since implementation of the right to counsel.⁹⁰ February 2020: Two committees of the New York City Council heard eight hours of testimony from tenants, organizers, community organizations, legal aid providers, government agencies, and housing court judges regarding the impact that right to counsel has had in New York City. Testimony also included support for the two pending bills – one for increasing the income eligibility and one for funding tenant organizing.⁹¹ April 2021: City Council passed a bill that accelerates implementation of right to counsel and requires the Office of Civil Justice to “work with community organizations to engage and educate tenants of their rights in housing court, including but not limited to hosting know your rights trainings and other workshops for tenants, distributing written information to tenants, assisting tenants to form and maintain tenant associations, referring tenants to designated community groups, and any other activity to engage, educate or inform tenants about their rights in housing court.”⁹²

58. **California.** June 2018: San Francisco became the second city to guarantee a right to counsel for tenants in evictions cases through a ballot referendum. San Francisco Mayor London Breed subsequently earmarked \$1.9 million for fiscal year 2018-2019 and \$3.9 million for fiscal year 2019-2020 to implement the new law.⁹³ July 2018: Advocates in Concord released a report discussing housing affordability challenges, hazardous conditions, and tenants’ persistent fear of eviction. The report recommended a citywide right to counsel law.⁹⁴ Another tenant advocacy group in the area released a report calling for a statewide right to counsel bill, noting the increasing number of tenants facing eviction and the rapid pace of eviction proceedings.⁹⁵ June 2019: Pro bono law firm, Public Counsel, and the University of California Los Angeles release a report advocating for reforms to landlord-tenant law,

⁸⁸ Mironova, Oksana. “NYC Right to Counsel: First year results and potential for expansion.” Community Service Society. March 25, 2019.

⁸⁹ Universal Access to Legal Services: A Report on Year Two of Implementation in New York City.” Office of Civil Justice, New York City Human Resources Administration. Fall 2019.

⁹⁰ Ibid.

⁹¹ Gonen, Yoav. “Eviction Drop Fuels Push to Expand Free Housing Help for Low-Income NYC Tenants.” The City. February 24, 2020.

⁹² Intro 1529.

⁹³ Waxmann, Laura. “Tenant advocacy groups set to received funding under ‘Right to Counsel’ program.” San Francisco Examiner. November 28, 2018.

⁹⁴ “The Housing Crisis Hits Home in Concord.” 2018.

⁹⁵ Inglis, Aimee and Preston, Dean. “California Evictions are Fast and Frequent.” Tenants Together. May 2018.

including establishing a right to counsel as a tenant protection.⁹⁶ September 2019: Los Angeles County Board of Supervisors passed motions to advance several tenant protection measures, including an eviction defense program for low-income households facing eviction.⁹⁷ Initial proposed funding included \$2 million for startup costs and \$12.5 million for implementation annually.⁹⁸ December 2019: Santa Monica took steps toward becoming the sixth city to establish a right to counsel for tenants facing eviction.⁹⁹ Los Angeles City Council voted to add \$9 million to its eviction defense fund, increasing the fund to \$23.5 million for eviction defense.¹⁰⁰ February 2020: Data was released showing that eviction filings in San Francisco declined by 10 percent, and that 67 percent of those receiving full-scope representation have been able to stay in their homes.¹⁰¹ April 2021: Assembly Bill 1487 passed California’s Assembly Judiciary Committee. The bill would establish a statewide eviction defense program for low-income renters.¹⁰² The author of the bill, Assemblyman Jesse Gabriel, estimated that the bill would have a return on investment of \$4 for every dollar invested (400 percent), which includes costs savings related to shelters and health care.¹⁰³

59. **New Jersey.** In December 2018, Newark City Council passed a bill guaranteeing a right to counsel in eviction cases.¹⁰⁴ In its first four months of existence, the newly-created Office of Tenant Legal Services “took on 140 cases, yielding results that have helped more than 350 residents avoid homelessness.”¹⁰⁵
60. **Ohio.** In September 2019, Cleveland’s city council passed legislation to provide a right to counsel for tenants who have incomes at or below 100 percent of the federal poverty guidelines and who have at least one child.¹⁰⁶ During the first six months following enactment: approximately 93 percent of represented tenants seeking to avoid an eviction

⁹⁶ Bonett, Gregory et al. “How Permanent Tenant Protections Can Help Communities Prevent Homelessness and Resist Displacement in Los Angeles County.” Public Counsel and UCLA School of Law. June 2019.

⁹⁷ Wenzke, Marissa and Burch, Wendy. “L.A. County Supervisors Vote 5-0 for Permanent Rent Control Measure Affecting 100,000 Tenants in Unincorporated Areas.” KTLA5. September 2019.

⁹⁸ Motion by Supervisors Sheila Kuehl and Mark Ridley-Thomas. “Implementing Eviction Defense and Prevention Services in Los Angeles County.” September 10, 2019.

⁹⁹ Pauker, Madeleine. “Universal legal representation for renters would cost up to \$1 million.” Santa Monica Daily Press. December 17, 2019.

¹⁰⁰ National Coalition for a Civil Right to Counsel. http://civilrighttocounsel.org/major_developments/1273

¹⁰¹ Press Release: Supervisor Dean Preston Holds Hearing on Implementation for Right to Counsel Law. February 24, 2020.

¹⁰² Symon, Evan. “California Eviction Defense Program for Vulnerable Renters Bill Passes in Committee.” California Globe. April 2021.

¹⁰³ Ibid.

¹⁰⁴ Brey, Jared. “Tenants’ Right to Counsel on the Move, Next Stop Newark.” Next City. January 10, 2019.

¹⁰⁵ “7 strategies for reducing the number of evictions in your community.” Bloomberg Cities. February 26, 2020.

¹⁰⁶ Hlavaty, Kaylyn. “Legislation passes to protect children in homes facing eviction by providing free legal help for low-income tenants.” News 5 Cleveland. October 1, 2019.

or involuntary move were able to do so; approximately 83 percent of represented tenants seeking more time to move (30 days or more) were able to achieve this outcome; and approximately 89 percent of represented tenants seeking to mitigate their damages were able to do so.¹⁰⁷

61. **Pennsylvania.** June 2017: Philadelphia City Council allocated \$500,000 to expand legal representation for tenants facing eviction.¹⁰⁸ November 2018: Stout released a cost-benefit analysis of right to counsel legislation in Philadelphia, finding that such a law would save the City of Philadelphia \$45.2 million annually.¹⁰⁹ May 2019: Philadelphia City Council members introduced a bill to establish an ordinance for a right to counsel in eviction proceedings.¹¹⁰ November 2019: Philadelphia City Council passed right to counsel legislation for tenants facing eviction, becoming the fifth U.S. city to do so.¹¹¹ April 2021: The Municipal Court of Philadelphia (where landlord-tenant and eviction cases are heard) ordered that for 45 days, landlords are required to apply to the city's rental assistance program and must enroll in the Eviction Diversion Program (i.e., pre-filing mediation) before filing an eviction with the court for non-payment of rent.¹¹²
62. **Colorado.** November 2020: Voters in Boulder approved a ballot initiative establishing a right to counsel for tenants facing eviction regardless of income.¹¹³ April 2021: A group of tenant advocates filed a ballot initiative to fund a right to counsel for Denver renters facing eviction, and two city councilmembers plan to introduce a similar proposal via the local legislative process.¹¹⁴
63. **Maryland.** December 2020: The City of Baltimore enacts an eviction right to counsel for low-income tenants. January 2021: A group of Maryland legislators introduced a legislative package that includes a right to counsel for tenants facing eviction and underscores the need for tenant outreach and tenants' rights education.¹¹⁵ April 2021: Statewide right to

¹⁰⁷ Annual Report to Cleveland City Council. Right to Counsel Free Eviction Help. January 2021.

¹⁰⁸ Blumgart, Jake. "Philadelphia sets aside \$500,000 to help renters fight eviction." WHYY. June 29, 2017.

¹⁰⁹ "Economic Return on Investment of Providing Counsel in Philadelphia Eviction Cases for Low-Income Tenants." Stout Risius Ross. November 13, 2018.

¹¹⁰ Blumgart, Jake. "Philly renters guaranteed lawyers in eviction court under new City Council bill." WHYY. May 9, 2019.

¹¹¹ D'Onofrio, Michael. "Philly City Council passes right to counsel bill for low-income tenants." Pennsylvania Capital-Star. November 18, 2019.

¹¹² "Philly may have just revolutionized evictions." The Philadelphia Inquirer. April 2021.

¹¹³ Ordinance 8412.

¹¹⁴ Karlik, Michael. "Group files ballot initiative for eviction defense, while council works on own proposal." Colorado Politics. March 28, 2021.

¹¹⁵ Maryland House Bill 18 and Maryland Senate Bill 154.

counsel legislation was passed in Maryland’s House and Senate and is awaiting the Governor’s signature at the time of publication of this report.¹¹⁶

64. **Washington.** January 2021: SB 5160 was introduced and would guarantee counsel for indigent tenants facing eviction statewide, if passed. The bill has a flexible definition of “indigent,” and the Office of Civil Legal Aid would receive the funds necessary to provide counsel.¹¹⁷ March 2021: Seattle enacts a right to counsel for low-income tenants facing eviction.¹¹⁸ April 2021: Washington became the first state to enact a right to counsel statewide. The legislation provides representation to tenants who receive public assistance or who have incomes of 200 percent or less of the federal poverty level.¹¹⁹
65. **Massachusetts.** January 2017: The mayor of Boston announces a five-bill package that will be submitted to the state legislature to assist with tenant displacement.¹²⁰ One of the bills would require a court-appointed attorney to represent low-income tenants in eviction proceedings.¹²¹ January 2019: Throughout 2019, various bills were introduced to the Massachusetts State Legislature proposing a statewide right to counsel in eviction proceedings, creating a public task force, and promoting homelessness prevention.¹²² July 2019: The Massachusetts Joint Judiciary Committee held a public hearing on the eviction right to counsel bills.¹²³ November 2019: The Massachusetts Right to Counsel Coalition drafted and refiled three right to counsel bills for consideration by the Judiciary Committee in the 2019-2020 session.
66. **South Carolina.** January 2021: HB 3072 was introduced and would guarantee counsel for indigent tenants facing eviction.¹²⁴
67. **Nebraska.** January 2021: LB 419 was introduced and would require the appointment of counsel in eviction proceedings.¹²⁵

¹¹⁶ Weill-Greenberg, Elizabeth. “Maryland Could Be the First State to Provide Lawyers for Tenants Facing Eviction.” *The Appeal*. April 16, 2021.

¹¹⁷ Washington Senate Bill 5160.

¹¹⁸ CB 120007.

¹¹⁹ SB 5160.

¹²⁰ Chakrabarti, Meghna and Bruzek, Alison. “Mayor Walsh Unveils Package of Anti-Displacement Bills.” *WBUR*. January 13, 2017.

¹²¹ *Ibid*.

¹²² McKim, Jenifer and Serrano, Alejandro. “As rents soar in Boston, low-income tenants try to stave off eviction.” *Boston Globe*. February 19, 2019.

¹²³ Schoenberg, Shira. “Tenants in eviction cases get powerful Beacon Hill ally in Boston Mayor Marty Walsh.” *MassLive*. July 17, 2019.

¹²⁴ South Carolina House Bill 3072.

¹²⁵ Nebraska Legislative Bill 419.

68. **Indiana.** January 2021: SB 350 was introduced and would establish a right to counsel for indigent tenants during possessory actions.¹²⁶
69. **Minnesota.** March 2019: Legislation establishing a right to counsel for public housing tenants facing eviction due to a breach of lease was introduced in the Minnesota Legislature.¹²⁷
70. **Connecticut.** January 2019: Senate Bill 652 would create a statewide right to counsel for tenants making less than \$50,000. This bill stemmed from the work of a task force created in 2016 to explore a right to counsel in civil cases.¹²⁸ February 2021: HB 6531 was filed to provide a right to counsel for households with incomes at or below 80 percent of the state median income.¹²⁹
71. **Kentucky.** March 2021: A group of Louisville City Council members filed a right to counsel ordinance for low-income families facing eviction.¹³⁰ April 2021: Louisville City Council voted to enact a right to counsel for low-income families with children who are facing eviction.¹³¹

Impacts and Related Costs of Evictions to States, Cities, Counties, and Municipalities

72. Stout reviewed numerous studies and the results of programs where representation was provided to tenants. Stout’s research focused on: (1) the costs of eviction as they related to states, cities, counties, and municipalities and (2) the benefits associated with providing representation to tenants in eviction proceedings.
73. The impacts and costs of eviction to states, cities, counties, and municipalities are significant and multi-dimensional. Substantial reporting has documented the negative impact that evictions have on individuals, families, businesses, and communities. While many of these impacts are unquantifiable but nevertheless important, clear costs of disruptive displacement do exist. This section details these costs to provide insight into how representation in eviction cases could mitigate these costs or assist in redirecting the funds to other efforts undertaken by the jurisdiction.
74. **Race.** Research from across the country has demonstrated how historically racist policies and practices have contributed to and continue to exacerbate inequities in health,

¹²⁶ Indiana Senate Bill 350

¹²⁷ 2019 Bill Text MN H.B. 2593.

¹²⁸ National Coalition for a Civil Right to Counsel. http://civilrighttocounsel.org/major_developments/1367

¹²⁹ HB 6531.

¹³⁰ Yarmuth, Aaron. “Right to Counsel Is The Right Move for Louisville.” LEO Weekly. March 31, 2021.

¹³¹ Loosemore, Bailey. “Louisville approves free legal services for low-income families facing eviction.” Louisville Courier Journal. April 22, 2021.

education, employment, wealth, and housing. Housing inequities, in particular, have been studied at length in a variety of jurisdictions. Home ownership rates among Black and Brown households are consistently lower than white homeownership rates, and eviction rates among Black and Brown renter households are consistently higher than eviction rates of white renter households. In many jurisdictions, Black female-headed renter households disproportionately experience eviction filings and eviction compared not only to Brown and white households but also Black male-headed renter households.

75. One of the primary measures of financial security and wealth building is homeownership. While the Black-white homeownership racial divide in Wilmington, Delaware is significant, it is smaller than the national divide.¹³² Approximately 58 percent of white residents in Wilmington own their homes compared to 71 percent of white residents nationally, while approximately 41 percent of Black residents in Wilmington own their homes compared to 42 percent of Black residents nationally.¹³³ Wilmington’s Latinx homeownership rate of approximately 30 percent is significantly lower than the national Latinx homeownership rate of approximately 46 percent.¹³⁴ Similar disparities are present in Wilmington’s renter population. Approximately 63 percent of Latinx renters and 60 percent of Black renters are housing cost-burdened compared to approximately 48 percent of white renters.¹³⁵ A recent analysis by the Delaware State Fair Housing Consortium also found that Hispanic and Black renter households are likely to experience higher rates of housing problems, including lack of complete kitchen facilities and adequate plumbing.¹³⁶
76. Research from jurisdictions around the country related to the intersection of race and eviction is detailed as follows:
 - In Virginia, approximately 60 percent of majority Black neighborhoods have an annual eviction rate above 10 percent, which is four times the national average, even when controlling for poverty and income.¹³⁷ In the city of Richmond, researchers found that for every 10 percent increase in the Black share of the population, the eviction rate increases by more than one percent. However, if the white population increases at the same rate, the eviction rate decreases by

¹³² “Racial Wealth Divide in Wilmington.” Prosperity Now. March 2019.

¹³³ Ibid.

¹³⁴ Ibid.

¹³⁵ Ibid.

¹³⁶ “2020 Delaware Statewide Analysis of Impediments to Fair Housing Choice.” Delaware State Fair Housing Consortium. November 2020.

¹³⁷ McCoy, Terrance. “Eviction isn’t just about poverty. It’s also about race – and Virginia proves it.” The Washington Post. November 10, 2018.

approximately one percent.¹³⁸ That is, as the share of the Black population increases, the eviction rate increases.

- In Massachusetts, Black tenants face eviction more than twice as often as white tenants, even though Black tenants are only 11 percent of the renting population.¹³⁹ Black women are at a particularly high risk of experiencing eviction – nearly 2.5 times as often as white women despite their much smaller share of the population.¹⁴⁰ The racial disparities are so drastic in Boston that, similar to Virginia, the share of Black renters in the community is a greater predictor of the eviction filing rate than poverty.¹⁴¹ Even though only 18 percent of Boston’s rental market is located within majority Black neighborhoods, approximately 37 percent of evictions filings against tenants in market-rate units are in these neighborhoods.¹⁴² The consequences of eviction are also worse for Black renters, who face discrimination in the rental market not only because they disproportionately appear in eviction case databases but also because of racial bias (conscious and unconscious) that result in them being told about and shown less than half of the apartments that equally qualified white renters are seeking.¹⁴³ Black market-rate renters were able to visit only 48 percent of the apartments they sought, compared to 80 percent of white market-rate renters.¹⁴⁴
- A statewide analysis in Michigan confirmed the findings of studies within cities and metropolitan areas: higher eviction filing rates are associated with Black neighborhoods, single-mother households, and the presence of children.¹⁴⁵
- In Washington, particularly King and Pierce counties, Black adults make up a disproportionate number of eviction filings relative to their share of the population.¹⁴⁶ Compared to eviction rates of white renters, Black adults are evicted 5.5 times more often than white adults in King County and 6.8 times more often

¹³⁸ Ibid.

¹³⁹ Brief of Amici Curiae Matthew Desmond, American Civil Liberties Union, William Berman, Justin Steil, and David Robinson Regarding The Disproportionate Adverse Effect of Eviction on Black Families.

¹⁴⁰ Ibid.

¹⁴¹ Ibid.

¹⁴² Ibid.

¹⁴³ Ibid.

¹⁴⁴ Ibid.

¹⁴⁵ Goodspeed, Robert et al. “Michigan Evictions: Trends, Data Sources, and Neighborhood Determinants.” University of Michigan Poverty Solutions. May 2020.

¹⁴⁶ Eckart, Kim. “Study reveals gender, racial disparities in evictions.” University of Washington. February 2020.

- in Pierce County.¹⁴⁷ Latinx adults are evicted approximately twice as often than white renters in King County and 1.4 times as often in Pierce County.¹⁴⁸
- In California, compared to non-Hispanic white renters, Black and Latinx renters are 2 to 2.5 times more likely to experience housing hardships.¹⁴⁹
 - Black-headed households in Baltimore experienced the highest eviction rate, which was nearly 3 times higher than the white eviction rate.¹⁵⁰ Approximately 7 percent of all Black male headed households and approximately 5 percent of all Black female headed households were evicted.¹⁵¹ These rates are 51 percent and 11 percent higher, respectively, than white male headed household eviction rates.¹⁵²
 - In Philadelphia, landlords are more than twice as likely to file an eviction against Black renters than white renters, a rate that is disproportionate to the share of Black renters.¹⁵³ According to an analysis of 2018-2019 residential eviction filings, the annual eviction filing rate against Black Philadelphia renters was approximately 9 percent while the eviction filing rate against white Philadelphia renters was approximately 3 percent.¹⁵⁴ Although Black Philadelphians make up approximately 45 percent of the city's renters, they make up 66 percent of eviction filings.¹⁵⁵
 - In Washington, DC, evictions are disproportionately filed and executed in Wards 7 and 8, which have the largest share of Black residents and the highest poverty rates in the District.¹⁵⁶ By contrast, Wards 2 and 3 have the lowest filing rates, lowest poverty rates, and smallest share of Black residents.¹⁵⁷
 - Court monitors reported on the race and gender of tenants in eviction court in Orleans Parish, Louisiana. While 59 percent of Orleans Parish is Black,

¹⁴⁷ Ibid.

¹⁴⁸ Ibid.

¹⁴⁹ Ong, Paul. "Systemic Racial Inequality and the COVID-19 Renter Crisis. August 2020.

¹⁵⁰ Thomas, Tim et al. "Baltimore Eviction Map." May 2020.

¹⁵¹ Ibid.

¹⁵² Ibid.

¹⁵³ Bond, Michaelle. "Black city renters' eviction rate higher." Reinvestment Fund.

¹⁵⁴ Ibid.

¹⁵⁵ Ibid.

¹⁵⁶ McCabe, Brian and Rosen, Eva. "Eviction in Washington DC: Racial and Geographic Disparities in Housing Instability." Georgetown University. 2020.

¹⁵⁷ Ibid.

approximately 82 percent of tenants facing eviction were Black, with 57 percent of eviction proceedings being brought against Black women.¹⁵⁸

- In Kansas City, Missouri, race was found to be the most important factor in predicting whether someone would be evicted.¹⁵⁹
- The majority Black neighborhoods in Hamilton County (Cincinnati, Ohio) are also the ones with the highest eviction filing rates, while neighborhoods with few Black residents experience few evictions.¹⁶⁰ Controlling for poverty rates and housing cost burden, for every 1 percent increase in Black residents, eviction filing rates increase by more than 8.¹⁶¹
- In Cleveland, all of the top ten census tracts with the highest eviction filings from 2000 to 2016 are majority Black communities.¹⁶²

77. **Homelessness – Shelter Entry and the Likelihood of Disruptive Displacement.** While homelessness may not always be experienced immediately following an eviction, eviction remains a leading cause of homelessness. From 2019 to 2020, Delaware experienced the largest percentage increase in homelessness in the country.¹⁶³ Figure 16 shows the 20 states with the largest increases in year-over-year homelessness from 2019 to 2020.

¹⁵⁸ “Unequal Burden, Unequal Risk: Households Headed by Black Women Experience Highest Rates of Eviction.” Neighborhood Sustainability Initiative. N.d.

¹⁵⁹ “Eviction in Kansas City: An Analysis of 2017 Eviction Filings in Jackson County, MO.” Kansas City Eviction Project. N.d.

¹⁶⁰ Johns-Wolfe, Elaina. “You are being asked to leave the premises: A Study of Eviction in Cincinnati and Hamilton County, Ohio 2014-2017.” University of Cincinnati. June 2018.

¹⁶¹ Ibid.

¹⁶² Walker, Fay. “Eviction in Cleveland.” RPubs. February 2019.

¹⁶³ “2020 AHAR: Part 1 – PIT Estimates of Homelessness in the U.S.” Department of Housing and Urban Development, Office of Policy Development and Research. March 2021.

Rank	State	% Change in Homelessness (2019-2020)
1	Delaware	26%
2	New Hampshire	20%
3	Iowa	14%
4	Montana	14%
5	Utah	12%
6	Wyoming	12%
7	Arizona	10%
8	New Jersey	9%
9	Louisiana	8%
10	California	7%
11	South Dakota	6%
12	Washington	6%
13	Missouri	6%
14	Texas	5%
15	Rhode Island	5%
16	Virginia	3%
17	Ohio	3%
18	Kansas	3%
19	New Mexico	3%
20	Indiana	3%

Figure 16

78. Delaware’s 2020 point-in-time homeless count revealed that there were 1,165 people experiencing homelessness, an increase of approximately 27 percent since 2019.¹⁶⁴ Of the 1,165 experiencing homelessness, 1,015 were sheltered while 150 were unsheltered, defined as living on the street, in vehicles, sheds, tents, and other places not fit for human habitation.¹⁶⁵ In Delaware’s 2019 point-in-time count, 24 percent of people experiencing homelessness indicated that they had been evicted in the last 12 months, and 32 percent of people experiencing homelessness indicated that they were formerly incarcerated, with 9 percent released from incarceration within the past year.¹⁶⁶
79. A 2018 study of homelessness in Los Angeles County, citing surveys conducted as part of recent homeless counts, stated that 40 percent of unsheltered adults cited unemployment

¹⁶⁴ “Housing and Homelessness in Delaware A Crisis Laid Bare.” Housing Alliance Delaware. 2020.

¹⁶⁵ Ibid.

¹⁶⁶ Delaware Point-in-Time Homeless Count 2019.

and lack of money, which encompassed inability to pay for shelter, as the reason for experiencing homelessness.¹⁶⁷ This factor was identified more than twice as often any other factor, and eviction or foreclosure was specifically identified as the primary reason for homelessness by 11 percent of unsheltered adults.¹⁶⁸ A 2018 study of shelter use in New York City indicates that evictions: (1) increase the probability of applying for shelter by 14 percentage points compared to a baseline probability of approximately 3 percent for households not experiencing an eviction; and (2) increase the number of days spent in shelter during the two years after an eviction filing by 5 percentage points, or about 36 days.¹⁶⁹ The researchers concluded that because the estimated effects of eviction persist long-term, avoiding eviction does not simply delay a period of homelessness, it leads to lasting differences in the probability of experiencing homelessness.¹⁷⁰ A 2014 San Francisco study of an eviction defense pilot program, citing a recent survey of families experiencing homelessness, revealed that 11 percent of families in San Francisco homeless shelters identified evictions (legal and illegal) as a cause of their homelessness.¹⁷¹ The Housing and Homeless Division Family and Prevention Services Program Manager in San Francisco has stated that the number of families experiencing homelessness as a result of an eviction is potentially over 50 percent – much higher than 11 percent – when considering the intermediate living arrangements made with friends and family before the families who have been evicted access the shelter system.¹⁷² The 50 percent estimate is supported by the survey of families experiencing homelessness, in which 45 percent of respondents indicated that the cause of their homelessness was being asked to move out.¹⁷³ Furthermore, a 2013 demographics report of adult shelters in San Francisco found that 36 percent of its population was living with friends or relatives before experiencing homelessness.¹⁷⁴ A 2011 study of people experiencing homelessness in Harris and Fort Bend counties (Houston area), Texas found that approximately 30 percent of people experiencing homelessness identified eviction (either by a family member or a landlord) as a cause for their homelessness.¹⁷⁵ The Massachusetts Interagency Council on Housing and Homelessness analyzed a variety of reports generated by the state’s shelter system to

¹⁶⁷ Flaming, Daniel et al. “Escape Routes: Meta-Analysis of Homelessness in L.A.” Economic Roundtable. April 2018.

¹⁶⁸ Ibid.

¹⁶⁹ Collinson, Robert and Reed, Davin. “The Effects of Evictions on Low-Income Households.” New York University Law. December 2018.

¹⁷⁰ Ibid.

¹⁷¹ San Francisco Right to Civil Counsel Pilot Program Documentation Report. John and Terry Levin Center for Public Service and Public Interest, Stanford Law School. May 2014.

¹⁷² Ibid.

¹⁷³ Ibid.

¹⁷⁴ Ibid, citing 2013 Demographics Report – San Francisco Single Adult Shelters.

¹⁷⁵ “Capacity and Gaps in the Homeless Residential and Service System, Harris and Fort Bend Counties.” Coalition for the Homeless Houston/Harris County. 2011.

determine that 45 percent of people experiencing homelessness or who are at risk of experiencing homelessness cite eviction as the reason for their housing instability.¹⁷⁶ Similar statistics were observed in Hawaii where 56 percent of families experiencing homelessness cite inability to afford rent as the reason for their experiencing homelessness.¹⁷⁷ An additional 18 percent of families cited eviction specifically, as the reason for their experiencing homelessness.¹⁷⁸ In Seattle, a survey of tenants who were evicted revealed that nearly 38 percent were living unsheltered and half were living in a shelter, transitional housing, or with family and friends.¹⁷⁹ Only 12.5 percent of evicted respondents secured another apartment to move into.¹⁸⁰ The New York City Department of Homeless Services found that eviction was the most common reason for families entering city shelters between 2002 and 2012.¹⁸¹ In addition to the reason for shelter entry, studies have also explored the length of shelter stay.

80. Researchers studying the typology of family homelessness found that approximately 80 percent of families experiencing homelessness stay in emergency shelter for brief periods, exit shelter, and do not return.¹⁸² The remaining 20 percent of families experiencing homelessness stay for long periods, and a small but noteworthy portion of families experiencing homelessness cycle in and out of shelter repeatedly.¹⁸³ Families cycling in and out of shelter have the highest rates of intensive behavioral health treatment, placement of children in foster care, disability, and unemployment.¹⁸⁴ The differences between families that have short shelter stays compared to families with longer shelter stays were identified as: family composition (e.g., larger, older, Black); predicament (e.g., experiencing domestic violence, pregnancy / newborn status); and resources at exit (e.g., housing subsidy).¹⁸⁵ A study of administrative data from the homeless shelter systems in New York City and Philadelphia found demographic differences among people experiencing homelessness, which contribute to differences in length of stay in shelters

¹⁷⁶ “Regional Networks to End Homelessness Pilot Final Evaluation Report.” Massachusetts Interagency Council on Housing and Homelessness. February 15, 2011.

¹⁷⁷ “Homeless Service Utilization Report.” Center on Family at the University of Hawaii and the Homeless Programs Office of the Hawaii State Department of Human Services. 2010.

¹⁷⁸ Ibid.

¹⁷⁹ “Losing Home: The Human Cost of Eviction in Seattle.” The Seattle Women’s Commission and the Housing Justice Project of the King County Bar Association. September 2018.

¹⁸⁰ Ibid.

¹⁸¹ “The Rising Number of Homeless Families in NYC, 2002-2012: A Look at Why Families Were Granted Shelter, the Housing They Had Lived in and Where They Came From.” New York City Independent Budget Office. 2014.

¹⁸² Culhane, Dennis et al. “Testing a Typology of Family Homelessness Based on Patterns of Public Shelter Utilization in Four U.S. Jurisdictions: Implications for Policy and Program Planning.” Housing Policy Debate. May 2007.

¹⁸³ Ibid.

¹⁸⁴ Ibid.

¹⁸⁵ Ibid.

and could inform program planning.¹⁸⁶ The significant concentration of non-white people and those experiencing mental health challenges within the shelter system is consistent with the characteristics of people experiencing the eviction process. The researchers’ recommendation that targeted preventive and resettlement assistance, transitional housing and residential treatment, and supported housing and long-term care programs further indicates the incredibly costly housing responses needed to support people experiencing homelessness as a result of disruptive displacement.

81. Figure 17 shows the percentage of people reporting that they are experiencing homelessness and entering shelter because of eviction/inability to pay for shelter by jurisdiction. These shelter entry metrics (i.e., the proportion of people at shelter connecting their entry to eviction/inability to pay for shelter) are not the same as the proportion of people experiencing eviction who enter shelter, but are informative about the role eviction has as a pathway to homelessness and shelter entry.

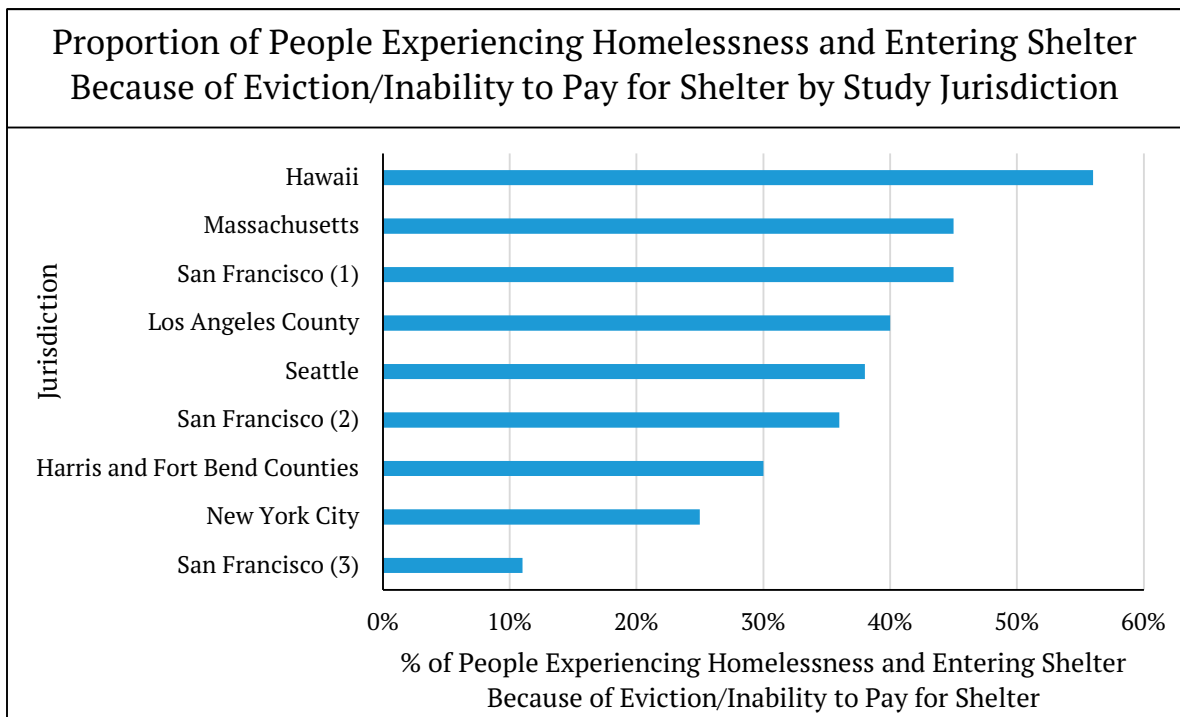


Figure 17

82. Based on a control group analysis, a 2013 evaluation of the Homebase Community Prevention Program (the Abt Study) in New York City found that 18.2 percent of families with children who were at risk of homelessness applied for shelter, and 14.5 percent

¹⁸⁶ Kuhn, Randall and Culhane, Dennis. “Applying Cluster Analysis to Test a Typology of Homelessness by Pattern of Shelter Utilization: Results from the Analysis of Administrative Data.” *American Journal of Community Psychology*. April 1998.

entered family shelter.¹⁸⁷ These metrics compare to Homebase case managers' expectations at program enrollment, which were that 25 percent of families with children who were at risk of homelessness would "definitely" enter shelter and for an additional 25 percent shelter entry was "very likely."¹⁸⁸ The Abt Study was an evaluation of the Homebase Community Prevention Program which included an analysis of households' use of homeless shelters and services. The Homebase program is a network of neighborhood-based homelessness prevention centers located in New York City. Homebase was designed to prevent homelessness and to prevent repeated stays in shelter. One of the research questions to be answered by the evaluation was: does Homebase affect the rate of shelter use (nights in shelter)? The evaluation population, as agreed upon with the New York City Department of Homeless Services, was 295 families with at least one child – 150 in the treatment group, and 145 in the control group. The evaluation indicated that over the evaluation period of 27 months (September 2010 to December 2012) a statistically significant difference the likelihood of spending at least one night in shelter between the treatment and control groups – 14.5 percent compared to 8 percent. Evaluators had access to individual-level administrative data from certain systems operated by three New York City social services agencies (the Department of Homeless Services, the Administration for Children's Services, and the Human Resources Administration) and the New York State Department of Labor. This individual-level data was matched with Homebase data based on social security number, name, date of birth, and gender. The evaluators did not have access to data about single adults, adult families, and shelters outside of New York City. Evaluators used the individual-level data and a linear probability model to assess the likelihood of shelter entry. The evaluators indicated that limitations of the Study included only analyzing data from shelters operated by the Department of Homeless Services, the impact of "one shot" assistance among the studied population, and limiting the study population to families with at least one child and pregnant women.

83. Robin Hood, a New York City-based non-profit organization that provides funding to, and evaluation metrics for more than 200 programs in New York City, estimates without any intervention, approximately 25 percent of those at risk of experiencing homelessness would enter shelter.¹⁸⁹ Robin Hood's estimate, like the Abt Study case managers', is based on the experiences and expectations of staff working with low-income families experiencing housing instability.
84. It is also worth noting that not everyone who experiences disruptive displacement will also experience homelessness. However, not experiencing homelessness does not mitigate the social costs of disruptive displacement as these households will likely experience other

¹⁸⁷ Rolston, Howard et al. "Evaluation of the Homebase Community Prevention Program." Abt Associates. June 2013.

¹⁸⁸ Ibid.

¹⁸⁹ https://www.robinhood.org/uploads/2017/04/Metrics-Equations-for-Website_Sept-2014.pdf

trauma(s) related to disruptive displacement. These social costs and traumas may include, but are not related to, needing to staying with family/friends until alternative affordable housing can be secured, experiencing challenges with securing alternative housing because of an eviction record, commuting longer distances to work because of where alternative affordable housing is available, disruptions to child school attendance and education, difficulty securing new child care providers, mental health trauma, and needing to make difficult financial decisions about basic needs (e.g., paying back rent owed or purchasing a medically necessary prescription).

85. **Homelessness – Shelter and Other Support Costs.** While per night per person costs are important to consider, there are often additional costs incurred in support of people experiencing homelessness. In 2013, an emergency shelter bed in Delaware cost approximately \$36 per night per person.¹⁹⁰ According to a report by the National Alliance to End Homelessness, the cost to exit someone from emergency shelter to permanent housing is \$6,065 per person.¹⁹¹
86. The Massachusetts Housing and Shelter Alliance estimates that a homeless individual residing in Massachusetts creates an additional cost burden for state-supported services (shelter, emergency room visits, incarceration, etc.) that is \$9,372 greater per year than an individual who has stable housing.¹⁹² Each time a family experiencing homelessness enters a state-run emergency shelter, the cost to the state is estimated at \$26,620.¹⁹³ Data from the HomeStart Program in Massachusetts indicates that the cost to prevent an eviction, negotiate back-rent owed, and provide a family with stabilization services is approximately \$2,000 (compared to the emergency shelter cost of \$26,620 per year).¹⁹⁴ The Central Florida Commission on Homelessness has reported that the region spends \$31,000 per year per person experiencing homelessness on law enforcement, jail, emergency room, and hospitalization for medical and psychiatric issues.¹⁹⁵ The City of Boise, Idaho reported that costs associated with chronic homelessness are \$53,000 per person experiencing homelessness annually including day shelters, overnight shelters, policing / legal, jail, transportation, emergency medical services and drug and alcohol treatment.¹⁹⁶ In contrast, providing people experiencing homelessness with permanent housing and case managers

¹⁹⁰ The Delaware Interagency Council on Homelessness, “Delaware’s Plan to Prevent and End Homelessness”, 2013.

¹⁹¹ “Rapid Re-Housing: Successfully Ending Family Homelessness.” National Alliance to End Homelessness. N.d.

¹⁹² Wood-Boyle, Linda. “Facing Eviction: Homelessness Prevention for Low-Income Tenant Households.” Federal Reserve Bank of Boston. December 1, 2014.

¹⁹³ Ibid.

¹⁹⁴ Eviction Prevention. HomeStart.org.

¹⁹⁵ Santich, Kate. “Cost of homelessness in Central Florida? \$31k per person.” Orlando Sentinel. May 21, 2014.

¹⁹⁶ Crossgrove Fry, Vanessa. “Reducing Chronic Homeless via Pay for Success, A Feasibility Report for Ada County, Idaho.” City of Boise. N.d.

would cost approximately \$10,000 per person annually.¹⁹⁷ By way of comparison, MaineHousing, the state agency providing public and private housing to low- and moderate-income tenants in Maine, found that the average annual cost of services per person experiencing homelessness to be \$26,986 in the greater Portland area and \$18,949 statewide.¹⁹⁸ The services contemplated in the average annual cost were associated with: physical and mental health, emergency room use, ambulance use, incarceration, and law enforcement.¹⁹⁹ Investing in eviction prevention helps a community save valuable resources by preventing homelessness before it starts.²⁰⁰ A three-year study by RAND Corporation found that providing housing for very sick individuals experiencing homelessness saved taxpayers thousands of dollars by reducing hospitalization and emergency room visits.²⁰¹ For every dollar invested in the program, the Los Angeles County government saved \$1.20 in health care and social service costs.²⁰²

87. **Employment and Housing Instability.** Eviction can lead to job loss making it more difficult to find housing, further burdening an already struggling family. Matthew Desmond, author of *Evicted: Poverty and Profit in the American City*, describes how job loss and eviction can be interconnected. When an evicted tenant does not know where their family will sleep the next night, maintaining steady employment is unlikely. If the evicted tenant is unemployed, securing housing after being evicted may take precedence over securing a job. If the evicted tenant is employed, the instability created by eviction often affects work performance and may lead to absenteeism, causing job loss.²⁰³ The period before an eviction may be characterized by disputes with a landlord or stressful encounters with the court system.²⁰⁴ These stressors can cause workers to make mistakes as they are preoccupied with non-work matters.²⁰⁵ After an eviction, workers may need to miss work to search for new housing, and because they now have an eviction record, finding a landlord willing to rent to them may increase the time it takes to secure new housing.²⁰⁶ Workers may need to live farther from their jobs, increasing the likelihood of tardiness and

¹⁹⁷ Santich, Kate. "Cost of homelessness in Central Florida? \$31k per person." Orlando Sentinel. May 21, 2014.

¹⁹⁸ Acquisto, Alex and Rhoda, Erin. "The \$132k idea that could reduce Bangor's eviction problem." Bangor Daily News. September 24, 2018.

¹⁹⁹ Ibid.

²⁰⁰ Ibid.

²⁰¹ Holland, Gale. "Study find L.A. County saves money by housing sick homeless people." Los Angeles Times. December 4, 2017.

²⁰² Ibid.

²⁰³ Desmond, Matthew and Tolbert Kimbro, Rachel. "Eviction's Fallout: Housing, Hardship, and Health." Social Forces. February 24, 2015.

²⁰⁴ Desmond, Matthew and Gerhenson, Carl. "Housing and Employment Insecurity among the Working Poor." Harvard University. January 11, 2016.

²⁰⁵ Ibid.

²⁰⁶ Ibid.

absenteeism.²⁰⁷ A recent Harvard University study suggests the likelihood of being laid off to be 11 to 22 percentage points higher for workers who experienced an eviction or other involuntary move compared to workers who did not.²⁰⁸ A similar analysis in Wisconsin, the Milwaukee Area Renters Study, found that workers who involuntarily lost their housing were approximately 20 percent more likely to subsequently lose their jobs compared to similar workers who did not.²⁰⁹ Approximately 42 percent of respondents in the Milwaukee Area Renters Study who lost their job in the two years prior to the study also experienced an involuntary move.²¹⁰ The impact of job loss and eviction disproportionately affects Black people who face significant discrimination in both the housing and labor markets.²¹¹

88. Eviction not only adversely affects unemployed and employed tenants' job prospects but also their earnings and the potential future earnings of children. A study of eviction filings from 2007 to 2016 in New York City sought to assess whether evictions contributed substantially to poverty by analyzing the effect of evictions on earnings and employment.²¹² Eviction filing data was linked to Medicaid, Temporary Assistance for Needy Families, Supplemental Nutrition Assistance Program, and other New York City-specific benefits data.²¹³ The researchers found that eviction was associated with between \$1,000 and \$3,000 reduction in total earnings in the one to two years post-filing.²¹⁴ Robin Hood estimates a child's average future earnings could decrease by 22 percent if the child experienced juvenile delinquency, which can be associated with the disruption to families from eviction.²¹⁵ When families and children earn less (now or in future periods) the associated financial strains can result in various costs to the cities and communities in which they live. Research has shown that forced moves can perpetuate generational poverty and further evictions.²¹⁶ In addition, the reduction in earning capacity for these families can increase the demand on various social services provided by these cities and communities. Further, cities lose the economic benefit of these wages, including the

²⁰⁷ Ibid.

²⁰⁸ Ibid.

²⁰⁹ Desmond, Matthew. "Unaffordable America: Poverty, housing, and eviction." Institute for Research on Poverty. March 2015.

²¹⁰ Desmond, Matthew and Gerhenson, Carl. "Housing and Employment Insecurity among the Working Poor." Harvard University. January 11, 2016.

²¹¹ Ibid.

²¹² Collinson, Robert and Reed, Davin. "The Effects of Evictions on Low-Income Households." New York University Law. December 2018.

²¹³ Ibid.

²¹⁴ Ibid.

²¹⁵ Robin Hood is a New York City based non-profit organization that provides funding to more than 200 programs across New York City. <https://www.robinhood.org/what-we-do/metrics/>

²¹⁶ Lundberg, Ian and Donnelly, Louis. "A Research Note on the Prevalence of Housing Eviction among Children Born in U.S. Cities." Princeton University, Woodrow Wilson School of Public and International Affairs, Center for Research on Child Wellbeing. 2019.

economic stimulus of community spending and potential tax revenue. These impacts – potential earning capacity, generational poverty, and other economic consequences – are long-term and incredibly challenging to reverse.

89. **Ability to Re-Rent and Credit Score.** Tenants with an eviction case brought against them may have the case on their record whether they are ultimately evicted or not. This information is easily accessible, free, and used by landlords and tenant screening companies to create tenant blacklists, making it difficult for tenants with eviction records to re-rent and exacerbating housing discrimination.²¹⁷ Data aggregation companies are now creating “screening packages” that landlords can use to select their tenants.²¹⁸ These packages often include a full credit report, background check, and an eviction history report. Using data and technology to streamline and automate the screening process will only exacerbate the impact of eviction on tenants. One data aggregation company stated the “it is the policy of 99 percent of our [landlord] customers in New York to flat out reject anybody with a landlord-tenant record, no matter what the reason is and no matter what the outcome is.”²¹⁹ In cities where there is a right to counsel, the number of eviction filings has declined, indicating that a right to counsel can also reduce the harmful effects of being exposed to the eviction process regardless of case outcomes. Many landlords and public housing authorities will not rent to tenants who have been recently evicted. Therefore, renters with an eviction on their record will often be forced to find housing in less desirable neighborhoods that lack adequate access to public transportation, are farther from their jobs, have limited or no options for child care, and lack grocery stores.²²⁰ A University of North Carolina Greensboro study found that 45 percent of tenants who were evicted had difficulty obtaining decent, affordable housing after their evictions.²²¹ Additionally,

²¹⁷ Desmond, Matthew. “Unaffordable America: Poverty, housing, and eviction.” Institute for Research on Poverty. March 2015.

²¹⁸ Greene, Kimberly. “Online screening process gives landlords peace of mind.” Mortgage Professional America. November 12, 2019.

²¹⁹ Kleysteuber, Rudy. “Tenant Screening Thirty Years Later: A Statutory Proposal To Protect Public Records.” The Yale Law Journal. 2007. Referencing Rogers, Teri Karush. “Only the Strongest Survive.” The New York Times. November 26, 2006 (quoting Jake Harrington, founder of On-Site.com). While the inclination to reject tenant applicants regardless of the outcome of their prior eviction case might appear to nullify the impact of providing representation, system representation may cause a deterrent effect in terms of landlords’ decisions of whether to file an eviction in the first place. New York City and San Francisco, which are the only cities where a right to counsel has existed long enough to have data, have both experienced significant declines in their respective eviction filing rates. See: “Press Release: Supervisor Dean Preston Holds Hearing on Implementation for Right to Counsel Law.” February 24, 2020. & “New York City Residential Eviction Filings Decline.” NYU Furman Center. November 18, 2019.

²²⁰ Desmond, Matthew and Tolbert Kimbro, Rachel. “Eviction’s Fallout: Housing, Hardship, and Health.” Social Forces. February 24, 2015.

²²¹ Sills, Stephen J. et al. “Greensboro’s Eviction Crisis.” The University of North Carolina Greensboro Center for Housing and Community Studies. N.d.

evictions can have a detrimental impact on tenants receiving federal housing assistance, such as Section 8 vouchers. In some cases, court-ordered evictions may cause revocation of Section 8 vouchers or render the tenant ineligible for future federal housing assistance.²²² Landlords often view a potential tenant's credit score as a key factor in determining whether they want to rent to the potential tenant. A low credit score caused by a past eviction can make it exceedingly difficult for renters to obtain suitable housing.²²³ A tenant who was interviewed in the University of North Carolina Greensboro study stated, "it [eviction] affected my credit and it is hard to get an apartment...three landlords have turned me away."²²⁴ Damage to a renter's credit score from an eviction can also make other necessities more expensive since credit scores are often considered to determine the size of initial deposit to purchase a cell phone, cable and internet, and other basic utilities.²²⁵ Another tenant from the University of North Carolina Greensboro study stated, "I have applied for at least three different places and was turned down because of the recent eviction. The only people I can rent from now are slumlords who neglect their properties. The ones that don't even care to do any kind of record check."²²⁶ In Milwaukee, tenants who experienced an involuntary move were 25 percent more likely to have long-term housing instability compared to other low-income tenants.²²⁷ A 2018 survey of tenants who had been evicted in Seattle found that 80 percent of survey respondents were denied access to new housing because of a previous eviction, and one-third of respondents were not able to re-rent because of a monetary judgment from a previous eviction.²²⁸

90. **Unpaid Utility Bills and Property Taxes.** A recent study of the costs of eviction in Seattle connected income instability and having unpaid utility or property tax bills to possible eviction.²²⁹ After an income disruption (i.e., job loss, health emergency, unexpected expenses), financially insecure households are three times more likely to miss a utility

²²² Desmond, Matthew and Tolbert Kimbro, Rachel. "Eviction's Fallout: Housing, Hardship, and Health." Social Forces. February 24, 2015.

²²³ An eviction itself is not reported to credit bureaus even if the landlord is successful in court, although money judgments are reported. The effects of the eviction may appear on a credit report if the tenant failed to pay rent and the landlord sent the delinquency to a collection agency. While there is not a set timeframe for when this information appears on a credit report, the item is treated like any other delinquent debt. It will remain there for seven years from the date of delinquency, even if it is paid off. There are also screening reports that landlords use that report eviction data, criminal records, etc. See <https://aaacreditguide.com/eviction-credit-report/>.

²²⁴ Sills, Stephen J. et al. "Greensboro's Eviction Crisis." The University of North Carolina Greensboro Center for Housing and Community Studies. N.d.

²²⁵ https://www.investopedia.com/terms/c/credit_score.asp.

²²⁶ Sills, Stephen J. et al. "Greensboro's Eviction Crisis." The University of North Carolina Greensboro Center for Housing and Community Studies. N.d.

²²⁷ Desmond, Matthew. "Evicted: Poverty and Profit in the American City." 2016.

²²⁸ "Losing Home: The Human Cost of Eviction in Seattle." The Seattle Women's Commission and the Housing Justice Project of the King County Bar Association. September 2018.

²²⁹ Elliot, Diana and Kalish, Emma. "The Cost of Eviction and Unpaid Bills of Financially Insecure Families for City Budget." Urban Institute. January 2017.

payment and 14 times more likely to be evicted than financially secure households.²³⁰ In 2011, the average electric bill in Houston, Texas was found to be more than \$200 per month during the summer, making utility payments a barrier to maintaining housing for low-income renters.²³¹ Furthermore, some rental assistance programs in Houston calculate a “utility allowance,” which often do not fully cover true utility costs, leaving tenants at risk of eviction if utility bills are unpaid.²³² Missed rent payments (including utilities) can also result in landlords missing property tax payments, which are a primary source of revenue for local governments.²³³

91. **Health Impacts – Physical.** Research also demonstrates the impact of housing instability on health. In 2012, researchers in Delaware conducted a survey of 108 people experiencing unsheltered homelessness. Of the 108 people surveyed, there were 215 inpatient hospitalizations and 302 emergency room visits reported in one year, totaling more than \$5.5 million in health care costs.²³⁴ Research has shown that health care costs reduce, on average, by 60 percent after one year of permanent housing.²³⁵
92. Researchers at Boston Medical Center found that housing instability can affect the mental and physical health of family members of all ages.²³⁶ Their study revealed that caregivers of young children in unstable low-income housing are two times more likely than those in stable housing to be in fair or poor health, and almost three times more likely to report symptoms of depression. Children aged four and under in these families had almost a 20 percent higher risk of hospitalization, and more 25 percent higher risk of developmental delays.²³⁷ Another study of caregivers to children found that, of more than 22,000 families served by medical centers over a six-year study period, approximately 34 percent had at least one of the following adverse housing circumstances: 27 percent had been behind on rent; 12 percent had experienced homelessness; and 8 percent had moved at least twice in the previous 12 months.²³⁸ A recent study published by the American Academy of Pediatrics examining the effects of homelessness on pediatric health found that the stress of both prenatal and postnatal homelessness was associated with increased negative health

²³⁰ Ibid.

²³¹ “Capacity and Gaps in the Homeless Residential and Service System, Harris and Fort Bend Counties.” Coalition for the Homeless Houston/Harris County. 2011.

²³² Ibid.

²³³ Elliot, Diana and Kalish, Emma. “The Cost of Eviction and Unpaid Bills of Financially Insecure Families for City Budget.” Urban Institute. January 2017.

²³⁴ “Delaware’s Plan to Prevent and End Homelessness.” The Delaware Interagency Council on Homelessness. 2013.

²³⁵ Ibid.

²³⁶ Butera, Candace. “The Burden of a Late Rent Check Can Harm the Health of Both Parents and Kids.” Pacific Standard. January 23, 2018.

²³⁷ Ibid.

²³⁸ Sandel, Megan, et al. “Unstable Housing and Caregiver and Child Health in Renter Families.”

outcomes compared to children who never experienced homelessness.²³⁹ A study of nearly 10,000 mothers in five U.S. cities found that prenatal homelessness was associated with a higher likelihood of low birth weight and preterm delivery.²⁴⁰ Researchers from Harvard and Princeton (in conjunction with the Public Health Institute of Basel, Switzerland) had similar findings in their study of eviction filings: experiencing an eviction filing during pregnancy was associated with an increased risk of low birth weight and premature birth.^{241,242} Furthermore, Black mothers who are experiencing homelessness have worse birth outcomes than other mothers who are experiencing homelessness – a reflection of the disparate health outcomes generally experienced by the Black population.²⁴³ A 2016 Canadian study found that eviction specifically is associated with increased odds of having detectable viral loads among people living with HIV and increased rates of illicit drug use and relapse.²⁴⁴

93. Families who are evicted often relocate to neighborhoods with higher levels of poverty and violent crime.²⁴⁵ Researchers at Boston Medical Center and Children’s Hospital found that homes with vermin infestation, mold, inadequate heating, lead, and in violent areas were connected to increased prevalence of respiratory disease, injuries, and lead poisoning in children.²⁴⁶ Living in a distressed neighborhood can negatively influence a family’s well-being.²⁴⁷ Moreover, families experiencing eviction who are desperate to find housing often accept substandard living conditions that can bring about significant health problems.²⁴⁸ The primary health outcome found to be related to housing is respiratory health, which is measured by the presence of respiratory disease or by lung function.²⁴⁹ Housing conditions

²³⁹ Sandel, Megan, et al. “Timing and Duration of Pre- and Postnatal Homelessness and the Health of Young Children.” *The American Academy of Pediatrics*. September 2018.

²⁴⁰ Cutts, Diana B. et al. “Homelessness During Pregnancy: A Unique, Time-Dependent Risk Factor of Birth Outcomes.” *Maternal and Child Health Journal*. November 2014.

²⁴¹ Khadka, Aayush, et al. “In utero exposure to threat of evictions and preterm birth: Evidence from the United States.” *Health Services Research*. 2020.

²⁴² Himmelstein, Gracie and Desmond, Matthew. “Association of Eviction With Adverse Birth Outcomes Among Women in Georgia, 2000 to 2016.” *JAMA Pediatrics*. March 2021.

²⁴³ Gay Dawes, Elizabeth. “Housing Instability Is an Important (Yet Overlooked) Factor in the Maternal Health Crisis.” *Rewire.News*. April 12, 2018.

²⁴⁴ “Eviction and Health: A Vicious Cycle Exacerbated by a Pandemic.” Robert Wood Johnson Foundation. April 2021. Referencing Kennedy, Mary Clare et al. “Residential Eviction and Risk of Detectable Plasma HIV-1 RNA Viral Load Among HIV-Positive People Who Use Drugs.” *AIDS Behavior*. February 2016.

²⁴⁵ Desmond, Matthew and Tolbert Kimbro, Rachel. “Eviction’s Fallout: Housing, Hardship, and Health.” *Social Forces*. February 24, 2015.

²⁴⁶ “Not Safe at Home: How America’s Housing Crisis Threatens the Health of Its Children.” The Doc4Kids Project, Boston Medical Center and Children’s Hospital. 1998.

²⁴⁷ Desmond, Matthew and Tolbert Kimbro, Rachel. “Eviction’s Fallout: Housing, Hardship, and Health.” *Social Forces*. February 24, 2015.

²⁴⁸ *Ibid.*

²⁴⁹ Shaw, Mary. “Housing and Public Health.” Department of Social Medicine, University of Bristol. October 2003.

that are respiratory health factors include cold temperatures, humidity, and ventilation – all of which contribute to the growth of mold, fungi, and other microorganisms.²⁵⁰ Living in these conditions can result in wheezing, aches and pains, gastrointestinal issues, headaches, and fever.²⁵¹ Data from the Third National Health and Nutrition Examination Survey estimated that housing environments exacerbate the effects of asthma in 40 percent of children.²⁵² While mold is often a cause of asthma, it is also a food source for dust mites, which are a known allergen.²⁵³ In addition to causing respiratory health issues, exposure to lead can have irreversible health impacts. Because lead is more prevalent in older and substandard housing, lead poisoning must also be viewed as a manifestation of the affordable housing crisis.²⁵⁴ According to the Centers for Disease Control and Prevention, children who live in households at or below the federal poverty level and those living in housing built before 1978 are at the greatest risk of exposure.²⁵⁵ Children of color are also at a higher risk of lead exposure attributable in significant part to the longstanding effects racist housing policies including redlining, which have exacerbated other historical inequities in accessing safe and healthy housing.²⁵⁶ Even at low levels of exposure, lead causes brain and nervous system damage including: impaired growth, hyperactivity, reduced attention span, intellectual and developmental disabilities, hearing loss, insomnia, and behavioral issues.²⁵⁷

94. Although already well-documented, the COVID-19 pandemic has created further evidence of the connection between housing and health. Housing instability undermines crucial infection prevention strategies deployed throughout the pandemic, exacerbating the health consequences of eviction.²⁵⁸ Research has shown that eviction and displacement are associated with increased COVID-19 infection and mortality rates.²⁵⁹ Eviction and displacement lead to overcrowding, doubling up, and homelessness, which all increase contact with other people and make social distancing challenging.²⁶⁰ While most people who experience eviction do not immediately enter shelter and instead double up with

²⁵⁰ Ibid.

²⁵¹ Ibid.

²⁵² Sandel, Megan and Desmond, Matthew. “Investing in Housing for Health Improves Both Mission and Margin.” *The Journal of the American Medical Association*. 2017.

²⁵³ Shaw, Mary. “Housing and Public Health.” Department of Social Medicine, University of Bristol. October 2003.

²⁵⁴ “Lead.” National Center for Healthy Housing. N.d.

²⁵⁵ “Childhood Lead Poisoning Prevention.” Centers for Disease Control and Prevention. November 2020.

²⁵⁶ Ibid.

²⁵⁷ “Lead.” National Center for Healthy Housing. N.d.

²⁵⁸ “Eviction and Health: A Vicious Cycle Exacerbated by a Pandemic.” Robert Wood Johnson Foundation. April 2021.

²⁵⁹ Nande, Anjalika et al. “The effect of eviction moratoria on the transmission of SARS-CoV-2.” medRxiv. November 2020.

²⁶⁰ Benfer, Emily et al. “Eviction, Health Inequity, and the Spread of COVID-19: Housing Policy as a Primary Pandemic Mitigation Strategy.” *Journal of Urban Health*. January 2021.

friends and family, these living arrangements increase the likelihood of exposure to COVID-19 and are compounded by members of these households who are often working essential jobs with a higher risk of exposure.²⁶¹ Research has demonstrated that eviction and housing instability are associated with a variety of comorbidities – increased incidence of high blood pressure, heart disease, respiratory illnesses, sexually transmitted infections, and drug use.²⁶² These comorbidities, in combination with the inability to socially distance, puts people who have been evicted or who are experiencing housing instability at increased risk of contracting, spreading, and dying from COVID-19.²⁶³ Figure 18 shows the link between eviction and housing instability and COVID-19 transmission and mortality.

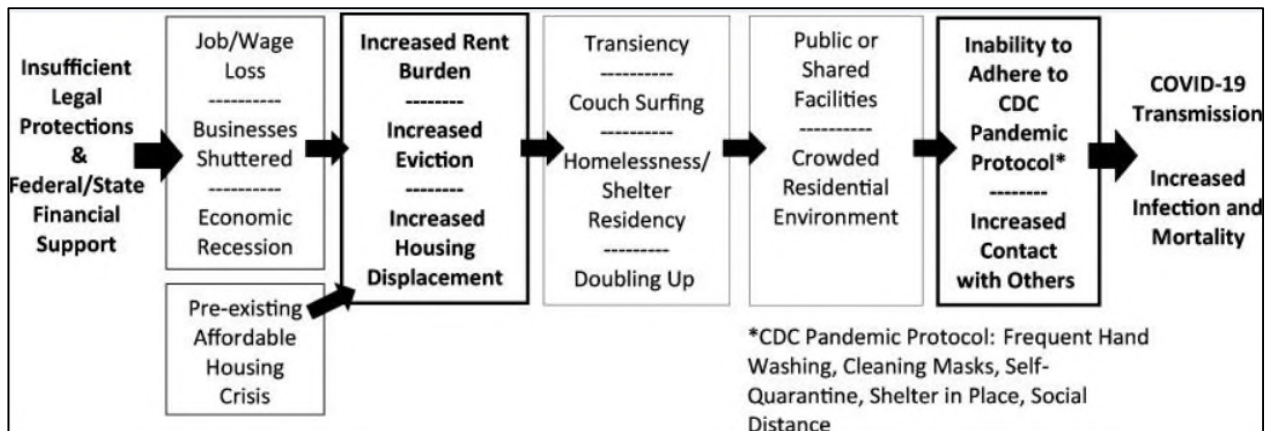


Figure 18

95. **Health Impacts – Mental.** An Associate Professor of Pediatrics at Drexel University College of Medicine testified at a Philadelphia City Council hearing that, “science has shown that children who live in stressful environments, such as substandard housing, the threat of eviction, homelessness and poverty, have changes in their neurological system that affects their ability to learn, to focus, and to resolve conflicts.”²⁶⁴ Professor Daniel Taylor also stated that this “toxic stress” affects many of the body’s critical organ systems resulting in an increased prevalence of behavioral issues, diabetes, weight issues, and cardiovascular disease.²⁶⁵ Furthermore, major life stressors have been found to increase rates of domestic violence.²⁶⁶ According to a nationwide survey of domestic violence shelters and programs, approximately 41 percent of respondents indicated evictions and

²⁶¹ Ibid.

²⁶² Ibid.

²⁶³ Ibid.

²⁶⁴ Taylor, Daniel R. Testimony Presented to City Council Committee on Licenses and Inspections and the Committee on Public Health and Human Services Regarding Resolution 160988. March 20, 2017.

²⁶⁵ Ibid.

²⁶⁶ Makepeace, J. “Life Events Stress and Courtship Violence.” *Family Relations*. January 1983.

home foreclosures as a driver of increased demand for domestic violence services.²⁶⁷ In Seattle, approximately 38 percent of survey respondents who had experienced eviction reported feeling stressed, 8 percent experienced increased or new depression, anxiety, or insomnia, and 5 percent developed a heart condition they believed to be connected to their housing instability.²⁶⁸ Among respondents who had school-age children, approximately 56 percent indicated that their children’s health suffered “very much” as a result of eviction, and approximately 33 percent indicated that their children’s health suffered “somewhat” for a total of 89 percent of respondents’ children experiencing a negative health impact because of eviction.²⁶⁹ A recent study in Cleveland by Case Western University found that approximately 21 percent of interviewed tenants facing eviction self-reported that they were experiencing poor health.²⁷⁰ Forty-five percent of interviewed tenants reported that they had been mentally or emotionally impacted by the eviction process and that their children were also mentally or emotionally impacted.²⁷¹

96. A survey of approximately 2,700 low-income mothers from 20 cities across the country who experienced an eviction consistently reported worse health for themselves and their children, including increased depression and parental stress.²⁷² These effects were persistent. Two years after experiencing eviction, mothers still had higher rates of material hardship and depression than mothers who had not experienced eviction.²⁷³ In a study of the effects of forced dislocation in Boston’s West End, approximately 46 percent of women and 38 percent of men expressed feelings of grief or other depressive reactions when asked how they felt about their displacement.²⁷⁴ A study on the effects of eviction in Middlesex County, Connecticut included interviews with individuals who had experienced an eviction. In almost every case, interviewees expressed that their eviction negatively impacted their physical and mental health.²⁷⁵ Approximately two-thirds of interviewees

²⁶⁷ “Homeless Service Utilization Report.” Center on Family at the University of Hawaii and the Homeless Programs Office of the Hawaii State Department of Human Services. 2010. Referencing “Domestic Violence Counts 2009: A 24-Hour Census of Domestic Violence Shelters and Services.” National Network to End Domestic Violence. 2009.

²⁶⁸ “Losing Home: The Human Cost of Eviction in Seattle.” The Seattle Women’s Commission and the Housing Justice Project of the King County Bar Association. September 2018.

²⁶⁹ *Ibid.*

²⁷⁰ “The Cleveland Eviction Study: Observations in Eviction Court and the Stories of People Facing Eviction.” Center on Urban Poverty and Community Development, Case Western University. October 2019.

²⁷¹ *Ibid.*

²⁷² Desmond, Matthew and Tolbert Kimbro, Rachel. “Eviction’s Fallout: Housing, Hardship, and Health.” *Social Forces*. February 24, 2015.

²⁷³ *Ibid.*

²⁷⁴ Fried, Marc. “Grieving for a Lost Home: Psychological Costs of Relocation.” The MIT Press. 1966.

²⁷⁵ Babajide, Rilwan, et. al. “Effects of Eviction on Individuals and Communities in Middlesex County.” The Middlesex County Coalition on Housing and Homelessness. May 12, 2016.

reported feeling more anxious, depressed, or hopeless during the eviction process.²⁷⁶ Individuals who had previously struggled with mental health issues reported that the stress from the eviction exacerbated their conditions with three interviewees reporting hospitalization for mental health issues following their evictions.²⁷⁷ Inadequate sleep, malnourishment, physical pain, and increased use of drugs and alcohol were also cited by the interviewees.²⁷⁸

97. As with many of the negative impacts of eviction, both physical and mental health issues can be long-term, difficult to reverse, and extremely costly to treat. A study of Medicaid recipients in New Jersey found that health care spending for Medicaid recipients who were experiencing homelessness were between 10 and 27 percent higher than Medicaid recipients who were stably housed, all else equal.²⁷⁹ The 10 to 27 percent increase in Medicaid spending for individuals experiencing homelessness equates to an additional \$1,362 to \$5,727, of which at least 75 percent is attributed to inpatient hospital and emergency department services.²⁸⁰ A study in Michigan found that Medicaid spending for adults experiencing homelessness was 78 percent higher than the statewide average and 26 percent higher for children experiencing homelessness than the statewide average.²⁸¹
98. The connection between housing stability and a household's mental and physical health is evident. Safe, habitable homes are important, especially in times of crisis when mental and physical health issues may become exacerbated. During the COVID-19 pandemic, numerous cities and states throughout the country instituted eviction moratoriums, recognizing the crucial role housing plays in public health and safety.²⁸²
99. **Suicide.** In 2015, the American Journal of Public Health published the first comprehensive study of housing instability as a risk factor for suicide.²⁸³ Researchers identified 929 eviction- or foreclosure-related suicides, which accounted for 1 to 2 percent of all suicides and 10 percent to 16 percent of all financial-related suicides from 2005 to 2010.²⁸⁴ In 2005,

²⁷⁶ Ibid.

²⁷⁷ Ibid.

²⁷⁸ Ibid.

²⁷⁹ Cantor, Joel C. et al. "Medicaid Utilization and Spending among Homeless Adults in New Jersey: Implications for Medicaid-Funded Tenancy Support Services." *The Milbank Quarterly*. January 22, 2020.

²⁸⁰ Ibid.

²⁸¹ Spellman, Brooke, et. al. "Costs Associated With First-Time Homelessness for Families and Individuals." U.S. Department of Housing and Urban Development, Office of Policy Development and Research. March 2010.

²⁸² Parker, Will. "Coronavirus Outbreak Pushed Local Governments to Freeze Home Evictions." *The Wall Street Journal*. March 22, 2020.

²⁸³ Fowler, Katherine A. et al. "Increase in Suicides Associated With Home Eviction and Foreclosure During the US Housing Crisis: Findings From 16 National Violent Death Reporting System States, 2005-2010." *American Journal of Public Health*. February 2015.

²⁸⁴ Ibid.

prior to the 2009 housing crisis, there were 58 eviction-related suicides.²⁸⁵ At the peak of the housing crisis in 2009, there were 94 eviction-related suicides, an increase of 62 percent from 2005.²⁸⁶ These statistically significant increases were observed by researchers relative to the frequency of all other suicides during the same period and relative to suicides associated with general financial hardships, suggesting that the increase in eviction- or foreclosure-related suicides was not only a part of a general increase in the number of suicides.²⁸⁷ After the housing crisis, eviction-related suicides began to return to pre-crisis levels. Approximately 79 percent of suicides occurred before the actual loss of housing, and 39 percent of people taking their lives had experienced an eviction- or foreclosure-related crisis (e.g., eviction notice, court hearing, vacate date) within two weeks of the suicide.²⁸⁸ A 2012 analysis of online court record archives that linked court records to suicide deaths found that in an urban county, nearly a third of suicide victims had recent court involvement – twice the proportion of the control group.²⁸⁹ Foreclosure was associated with a threefold increase in the risk of suicide.²⁹⁰

100. Researchers in Seattle seeking to examine the most extreme consequences of eviction conducted a detailed review of 1,218 eviction cases in Seattle, finding four individuals with eviction cases who died by suicide.²⁹¹ In a Middlesex County, Connecticut report, a tenant experiencing eviction had shared with the interviewer that she “ended up having a breakdown, and I ended up in the hospital and I had a suicide attempt.”²⁹²
101. **Impacts on Children – Educational and Behavioral.** During the 2013-2014 school year, the Delaware Department of Education reported that approximately one in six students – approximately 23,000 in total – were chronically absent from school.²⁹³ Approximately 58 percent of Delaware schools reported at least 10 percent of their students being chronically absent, and 10 percent of schools reported extreme chronic absenteeism (i.e., having more than 30 percent of students chronically absent).²⁹⁴

²⁸⁵ Ibid.

²⁸⁶ Ibid.

²⁸⁷ Ibid.

²⁸⁸ Ibid.

²⁸⁹ Cook, Thomas Bradley and Davis, Mark. “Assessing Legal Strains and Risk of Suicide Using Archived Court Data.” Center for Health Disparities Research & Education. August 2012.

²⁹⁰ Ibid.

²⁹¹ “Losing Home: The Human Cost of Eviction in Seattle.” The Seattle Women’s Commission and the Housing Justice Project of the King County Bar Association. September 2018.

²⁹² Babajide, Rilwan et al. “Effects of Eviction on Individuals and Communities in Middlesex County.” The Middlesex County Coalition on Housing and Homelessness. May 12, 2016.

²⁹³ “Chronic Absenteeism and Its Impact on Achievement.” University of Delaware Center for Research in Education & Social Policy.” June 2018.

²⁹⁴ Ibid.

102. According to a 2020 study of housing instability experienced by middle and high school students in Delaware, Black students are 1.86 times more likely to experience housing instability, Hispanic and Latinx students are 1.89 times more likely, and students of other races (Asian, American Indian, Hawaiian/Pacific Islander, and multi-racial) are 2.15 times more likely than white students to experience housing instability.²⁹⁵ Compared to New Castle County, students in Sussex County and Kent County were more likely to experience housing instability.²⁹⁶ Overall, the study found that approximately 3.6 percent of middle and high school students experienced housing instability.²⁹⁷ This metric approximates one out of every 30 students – suggesting that middle and high school classrooms likely include at least one student experiencing housing instability.²⁹⁸
103. When families are evicted, children experience a variety of disruptions that can negatively impact their education and behavior. Data from The National Assessment of Education Progress, known as “the Nation’s Report Card,” suggests that children who frequently change schools (i.e., more than twice in the preceding 18 months) are half as likely to be proficient in reading as their stable peers.²⁹⁹ A study of third grade students who frequently changed schools found that students without stable housing were approximately twice as likely to perform below grade level in math compared to stably housed students.³⁰⁰ Not only do unstably housed students perform worse in reading and math than their stable peers, they are also nearly three times more likely to repeat a grade, and the likelihood that they will graduate is reduced by more than 50 percent.³⁰¹ In Seattle, approximately 88 percent of survey respondents with school-aged children reported their children’s school performance suffered “very much” because of the eviction the family experienced, and approximately 86 percent of respondents reported their children had to move schools after the eviction.³⁰²

²⁹⁵ Aviles, Ann et al. “Using Youth Risk Behavior Survey data to analyze housing instability among Delaware public school students.” *Journal of Children and Poverty*. August 2020.

²⁹⁶ Ibid.

²⁹⁷ Ibid.

²⁹⁸ Ibid.

²⁹⁹ Isaacs, Julia and Lovell, Phillip. “The Impact of the Mortgage Crisis on Children and Their Education.” *First Focus*. May 1, 2008., citing Rumberger, Russell. “The Causes and Consequences of Student Mobility.” *Journal of Negro Education*. 2003.

³⁰⁰ Isaacs, Julia and Lovell, Phillip. “The Impact of the Mortgage Crisis on Children and Their Education.” *First Focus*. May 1, 2008., citing “Elementary School Children: Many Change Schools Frequently, Harming Their Education.” *United States General Accounting Office Report*. 1994.

³⁰¹ Ibid. And Isaacs, Julia and Lovell, Phillip. “The Impact of the Mortgage Crisis on Children and Their Education.” *First Focus*. May 1, 2008., citing Rumberger, 1993.

³⁰² *Losing Home: The Human Cost of Eviction in Seattle*. The Seattle Women’s Commission and the Housing Justice Project of the King County Bar Association. September 2018.

104. A University of Michigan study of the role of housing instability in school attendance found that 40 percent of students experiencing homelessness were chronically absent (i.e., missing 10 percent or more of school days) in the 2016-2017 school year.³⁰³ Students experiencing homelessness were chronically absent more than two-and-a-half times more frequently than students who were housed and more than four times as often as higher income students.³⁰⁴
105. In Atlanta, an ongoing program embeds housing attorneys and community advocates in high schools in neighborhoods where many residents are experiencing housing instability.³⁰⁵ As a result of this program, the enrollment turnover rate decreased by 25 to 51 percent in certain schools, and attorneys stopped 20 evictions and assisted with 81 other housing-related cases.³⁰⁶
106. Children who frequently move are also more likely to experience behavioral issues. Researchers analyzed survey data from the Mothers and Newborns Study, a longitudinal birth cohort maintained by the Columbia Center for Children’s Environmental Health, to ascertain certain characteristics of children born to approximately 500 mothers.³⁰⁷ Researchers found that children who experienced housing instability were approximately twice as likely to have thought-related behavioral issues and were approximately one-and-a-half times more likely to have attention-related behavioral health issues than children who were stably housed.³⁰⁸
107. **Family Instability – Child Welfare and Foster Care Systems.** During fiscal year 2019, approximately 10 percent of children in foster care entered foster care due to inadequate housing.³⁰⁹ Poverty, housing instability, and child welfare/foster care system involvement are connected. Low-income children of parents who are experiencing homelessness are four times more likely to become involved with the child welfare system than low-income, stably housed children.³¹⁰ Homelessness not only increases the likelihood that a child will be placed in foster care, but also creates barriers to family reunification once a child is

³⁰³ Erb-Downward, Jennifer and Watt, Payton. “Missing School, Missing A Home: The Link Between Chronic Absenteeism, Economic Instability and Homelessness in Michigan.” University of Michigan Poverty Solutions. November 2018.

³⁰⁴ Ibid.

³⁰⁵ Starnes, Ashleigh and King, Katie. “Standing with Our Neighbors Featured on CBS This Morning.” Atlanta Volunteer Lawyers Foundation. March 23, 2018.

³⁰⁶ Ibid.

³⁰⁷ “Housing Instability Is Linked to Adverse Childhood Behavior.” Urban Institute. May 8, 2019. Referencing Gaylord, Abigail et al. “Impact of Housing Instability on Child Behavior at Age 7 Years.” International Public Health Journal. July 1, 2018.

³⁰⁸ Ibid.

³⁰⁹ Child Trends Delaware.

³¹⁰ Ibid.

placed in foster care or with other family members.³¹¹ According to U.S. Department of Health and Human Services, approximately 10 percent of children are removed from their homes because of housing issues.³¹² With an average annual cost for out-of-home care of \$18,000 per child, the federal government is expected to spend \$972 million on foster care.³¹³ In contrast, providing housing and in-home services through the Family First Prevention Services Act to keep families together would cost an estimated \$276 million, an annual cost savings of \$696 million.³¹⁴ California spends approximately \$167 million annually in federal funds on foster care and services for children separated because of housing instability, but the state could save approximately \$72 million if it could use those funds to ensure housing was readily available when parents are eligible for reunification.³¹⁵ This family separation is a lesser-known consequence of the affordable housing crisis throughout the country and in Delaware.

108. In a survey of 77 families living in Worcester, Massachusetts shelters, approximately 19 percent of their children were placed in foster care compared to 8 percent of low-income, housed children in Worcester.³¹⁶ Findings from a similar survey of families experiencing homelessness in New York City indicated that 35 percent of families had an open child welfare case and 20 percent had one or more children in foster care.³¹⁷ A study of approximately 23,000 mothers living in Philadelphia found that approximately 37 percent of mothers experiencing homelessness became involved with child welfare services within the first five years of a child's birth compared to approximately 9 percent of mothers living in low-income neighborhoods and 4 percent of other mothers.³¹⁸ The risk of child welfare services involvement at birth is nearly seven times higher for mothers who have ever experienced homelessness than for mothers who have neither experienced homelessness nor are in the lowest 20 percent bracket of income.³¹⁹ Children born into families that have

³¹¹ "Keeping Families Together." New Mexico Appleseed. 2013.

³¹² "The AFCARS Report." U.S. Department of Health and Human Services, Administration for Children and Families. October 20, 2017.

³¹³ Letter from Ruth White of the National Center for Housing & Child Welfare to Assistant Secretary Chang of the U.S. Department of Health & Human Services. March 2021. Referencing NCHCW Cost Analysis 2021.

³¹⁴ Ibid.

³¹⁵ "The AFCARS Report." U.S. Department of Health and Human Services, Administration for Children and Families. October 20, 2017.

³¹⁶ Bassuk, E.L., et al. "Homelessness in Female Headed Families: Childhood and Adult Risk and Protective Factors." American Journal of Public Health. 1997.

³¹⁷ Nunez, R.D. "Hopes, Dreams, and Promise: The Future of Homeless Children in America." Institute for Children and Poverty, Homes for the Homeless Inc. 1994.

³¹⁸ Culhane, Jennifer, et. al. "Prevalence of Child Welfare Services Involvement among Homeless and Low-Income Mothers: A Five-year Birth Cohort Study." Journal of Sociology and Social Welfare. 2003.

³¹⁹ Ibid.

experienced homelessness were placed into foster care in approximately 62 percent of cases compared to approximately 40 percent of cases involving low-income families.³²⁰

109. Researchers at Case Western Reserve University in Cleveland, Ohio examined the effects of entry into foster care on children’s well-being and future opportunity. The researchers found that of the students in foster care systems, more than 57 percent were chronically absent at school (i.e., having missed more than 10 percent of the days enrolled).³²¹ Additionally, nearly 80 percent of students involved in both foster care and the juvenile system were cited as being chronically absent.³²² Nine percent of students that had been in foster care had used homelessness services, and 14 percent of students that were involved in foster care and the juvenile system had used homelessness services.³²³ Lastly, the researchers found that, of students involved with the foster care and juvenile systems who began ninth grade, only 23 percent were still enrolled during twelfth grade compared to 58 percent of non-system involved students.³²⁴ These factors indicate that students removed from their families are more often absent in school, drop out of school prior to completion, or use homelessness services.
110. A first of its kind study in Sweden recently examined to what extent children from evicted households were separated from their families and placed in foster care. The study found that approximately 4 percent of evicted children were removed from their families compared to 0.3 percent of non-evicted children.³²⁵ An American study, using a nationally representative longitudinal data set, explored the prevalence of housing inadequate housing among families under investigation by child welfare services agencies.³²⁶ Findings indicated that inadequate housing contributed to 16 percent of child removals among families under investigation by child protective services.³²⁷
111. The Administration for Children and Families, a division of the U.S. Department of Health and Human Services, issued in January 2021 an Information Memorandum (IM) highlighting the importance of civil legal aid services in advancing child and family well-being, addressing social determinants of health, and enhancing community resiliency.³²⁸

³²⁰ Ibid.

³²¹ Coulton, Claudia et al. “Policy Research Brief: Effects of Foster Care and Juvenile Justice Involvement on Early Adult Outcomes: A Study of Cleveland’s Youth.” Case Western Reserve University. N.d.

³²² Ibid.

³²³ Ibid.

³²⁴ Ibid.

³²⁵ Berg, Lisa. “Evicted children and subsequent placement in out-of-home care: A cohort study.” Centre for Health Equity Studies, Department of Public Health Sciences, Stockholm University. April 18, 2018.

³²⁶ Fowler, PJ, et. al. “Inadequate housing among families under investigation for child abuse and neglect: prevalence from a national probability sample.” American Journal of Community Psychology. 2013.

³²⁷ Ibid.

³²⁸ ACYF-CB-IM-21-02.

The IM cites housing, access to adequate housing, habitability, and eviction as civil legal issues that, if left unresolved, can become a major impediment to keeping families together.³²⁹

112. **Community Instability.** Researchers have investigated how high eviction rates unravel the social fabric of communities. When evictions take place on a large scale, the effects are felt beyond the family being evicted; a social problem that destabilizes communities occurs.³³⁰ More than middle- and upper-income households, low-income households rely heavily on their neighbors. For example, individuals in low-income communities depend on each other for childcare, elder care, transportation, and security because they cannot afford to pay for these services independently. These informal support networks develop over time, particularly in communities with no or minimal social safety nets.³³¹ However, these informal support networks are fragile, and when people are displaced from their communities, the networks are more likely to become strained.³³² The lack of formal social safety net supports is then further exacerbated because the informal support networks that were once there are gone because people providing those supports have been displaced.³³³ Thus, people living in these communities can become more susceptible to crises.³³⁴ Matthew Desmond has indicated through his work that eviction can account for high residential instability rates in neighborhoods with high levels of poverty, holding all other factors equal.³³⁵
113. **Burden on Court System.** Unrepresented tenants increase the administrative burden on courts that would not exist if the tenant were represented. Unrepresented tenants likely to be uninformed about the applicable law and court procedures, which poses significant demands on court staff and court resources.³³⁶ For example, when asked what types of resources they used, unrepresented tenants responded with “consultation of court staff” as one of their top three resources.³³⁷ The researcher who administered the survey stated that incomplete or illegible court filings from unrepresented tenants make it difficult for judges to determine what relief is being sought or if the claim has a legally cognizable

³²⁹ Ibid.

³³⁰ Blumgart, Jake. “To reduce unfair evictions tenants need lawyers.” Plan Philly. March 16, 2017

³³¹ Mah, Julie. “Gentrification-Induced Displacement in Detroit, Michigan: An Analysis of Evictions.” Housing Policy Debate. 2020.

³³² Ibid.

³³³ Ibid.

³³⁴ Ibid.

³³⁵ Johns-Wolfe, Elaina. “You are being asked to leave the premises: A Study of Eviction in Cincinnati and Hamilton County, Ohio, 2014-2017.” The Cincinnati Project. June 2018. Referencing Desmond, Matthew. “Community in Crisis: Understanding Housing Insecurity.” Northern Kentucky University. 2018.

³³⁶ Hannaford-Agor, Paula and Mott, Nicole. “Research on Self-Represented Litigation: Preliminary Results and Methodological Considerations.” The Justice System Journal. 2003.

³³⁷ Ibid.

basis.³³⁸ Additionally, the pervasive challenge of tenants failing to appear for scheduled hearings causes uncertainty for the court staff about the number of cases to schedule on any given docket, leading to unnecessary delays for other cases in the court’s caseload.³³⁹ Unmeritorious cases filed by landlords or landlord counsel, who expect the tenant to be unrepresented, also administratively burden the court system. Over a three-month period in Tulsa, Oklahoma, more than 500 companies with invalid limited liability company status filed evictions, despite lacking capacity to bring suit in Oklahoma, thus filling docket space with baseless cases and using court resources to process them.³⁴⁰

Benefits of Providing Representation Through a Right to Counsel

“Even where tenants may not be able to stay in their units, there are many things attorneys do to help tenants avoid disruptive displacement. Attorneys may be able to keep the eviction off the tenants’ records such that the tenants can apply for new housing more successfully, increase the amount of time tenants have to relocate, reduce or eliminate any rent arrearages, or help tenants apply for subsidized housing. In other words, lawyers can arrange a soft landing in so many ways.” – John Pollock, coordinator of the National Coalition for a Civil Right to Counsel

114. **More Favorable Outcomes for Tenants.** The United States Supreme Court decision in *Gideon v. Wainwright* established that the Fourteenth Amendment to the Constitution creates a right for indigent criminal defendants to be represented by counsel. Although this decision explicitly applies in criminal cases, the consequences of an eviction to the tenant can be similarly severe, debilitating, and harmful. Studies from around the country have assessed the significant impact of tenant representation in eviction cases.

- Los Angeles, California – The Sargent Shriver Civil Counsel Act established pilot projects to provide representation to low-income litigants in certain civil case types, including evictions.³⁴¹ For tenants who received full representation, “95 percent faced an opposing party with legal representation and 1 percent did not (this information was missing or unclear for 4 percent of clients).”³⁴² Lawyers representing tenants achieved favorable outcomes for their clients in 89 percent of cases, including 22 percent remaining in their homes; 71 percent having their move-out date adjusted; 79 percent having back rent reduced or waived; 45

³³⁸ Ibid.

³³⁹ Ibid.

³⁴⁰ “Leveling the Playing Field: Legal, Economic and Policy Considerations in Establishing an Access to Counsel Program for Tulsa’s Eviction Docket.” The University of Tulsa College of Law. January 13, 2021.

³⁴¹ Jarvis, Kelly L. et al. “Evaluation of the Sargent Shriver Civil Counsel Act (AB590) Housing Pilot Projects.” NPC Research. July 2017.

³⁴² Ibid.

percent retaining their housing subsidy; 86 percent having their case sealed from public view; and 54 percent having their credit protected.³⁴³

- New York City – Researchers conducted a randomized trial in New York City Housing Court where tenants were randomly selected to receive attorney advice or representation or be told that no attorney was available to assist them at that time.³⁴⁴ Both groups of tenants were followed through to the conclusion of their cases. Tenants who were represented by attorneys were more than four times more likely to retain possession of their apartments than similar tenants who were not represented.³⁴⁵ A 2011 study of an eviction defense program in the South Bronx found that attorneys prevented an eviction judgment for approximately 86 percent of their clients.³⁴⁶ The program also addressed other long-term client challenges and was able to prevent shelter entry for approximately 94 percent of clients.³⁴⁷ In August 2017, New York City Mayor Bill de Blasio signed into law landmark legislation that guarantees low-income tenants access to counsel in eviction proceedings. A 2018 report on the first year of implementation in New York City stated that 84 percent of tenants represented through New York City’s Universal Access Law remained in their homes.³⁴⁸ From 2018 to 2019 residential evictions decreased 15 percent in New York City, and since the City’s increased investment in eviction defense in 2013, residential evictions have decreased 40 percent.³⁴⁹
- San Francisco, California – Represented tenants were able to remain in their homes in 67 percent of cases.³⁵⁰
- Philadelphia, Pennsylvania – Stout found that 78 percent of unrepresented tenants experience case outcomes that have a high likelihood of disruptive

³⁴³ Ibid.

³⁴⁴ Sandefur, Rebecca L. "The Impact of Counsel: An Analysis of Empirical Evidence," *Seattle Journal for Social Justice*: Vol. 9: Issue 1, Article 3, p. 78. 2010.

³⁴⁵ Ibid.

³⁴⁶ "Housing Help Program Homelessness Prevention Pilot Final Report." Seedco. June 2010

³⁴⁷ Ibid.

³⁴⁸ *Universal Access to Legal Services: A Report on Year One of Implementation in New York City.* Office of Civil Justice, New York City Human Resources Administration. Fall 2018.

³⁴⁹ "Amid Nationwide Increases, Mayor de Blasio Announces Record-Breaking 41 Percent Decrease in Evictions Citywide." Office of the Mayor. February 24, 2020.

³⁵⁰ Press Release: Supervisor Dean Preston Holds Hearing on Implementation for Right to Counsel Law. February 24, 2020.

displacement.³⁵¹ When tenants are represented, they avoid disruptive displacement 95 percent of the time.³⁵²

- Hennepin County, Minnesota – Represented tenants win or settle their cases 96 percent of the time, and settlements made by represented tenants are significantly better than settlements made by unrepresented tenants.³⁵³ Represented tenants are nearly twice as likely to remain in their homes.³⁵⁴ If represented tenants agree to move, they are given twice as much time to do so, and nearly 80 percent of represented tenants do not have an eviction record as a result of the case compared to only 6 percent of unrepresented tenants.³⁵⁵
- Boston, Massachusetts – Represented tenants fared twice as well in terms of remaining in their homes and almost five times as well in terms of rent waived and monetary awards compared to unrepresented tenants.³⁵⁶ Represented tenants also created a lesser strain on the court system than those who were unrepresented.³⁵⁷ Data from the HomeStart Program in the Greater Boston Area indicates that 95 percent of clients assisted by the program with their eviction case had not been evicted in the following four years.³⁵⁸
- Seattle, Washington – Represented tenants were approximately twice as likely to remain in their homes as unrepresented tenants.³⁵⁹
- Chicago, Illinois – Represented tenants had their cases resolved in their favor approximately 58 percent of the time compared to 33 percent of the time for unrepresented tenants.³⁶⁰ Represented tenants were also more than twice as likely to have their cases dismissed, and when tenants were represented, the rate of

³⁵¹ “Economic Return on Investment of Providing Counsel in Philadelphia Eviction Cases for Low-Income Tenants.” Stout Risius Ross. November 13, 2018.

³⁵² Ibid.

³⁵³ Grundman, Luke and Kruger, Muria. “Legal Representation in Evictions – Comparative Study.” N.d.

³⁵⁴ Ibid.

³⁵⁵ Ibid.

³⁵⁶ “The Importance of Representation in Eviction Cases and Homelessness Prevention.” Boston Bar Association Task Force of the Civil Right to Counsel. March 2012.

³⁵⁷ Ibid.

³⁵⁸ Eviction Prevention. HomeStart.org.

³⁵⁹ Losing Home: The Human Cost of Eviction in Seattle.” The Seattle Women’s Commission and the Housing Justice Project of the King County Bar Association. September 2018.

³⁶⁰ Dukmasova, Maya. “New data reveals impact of being lawyerless in Chicago eviction court.” Reader. September 14, 2017.

landlord summary possession awards decreased from approximately 84 percent to approximately 39 percent.³⁶¹

- Denver, Colorado – Approximately 79 percent of unrepresented tenants are displaced due to an eviction.³⁶² In sharp contrast, represented tenants experience displacement in only 10 to 20 percent of cases, depending on whether the housing is public or private.³⁶³
- Jackson County (Kansas City), Missouri – Approximately 72 percent of unrepresented tenants had eviction judgments or monetary damages entered against them compared to 56 percent of represented tenants.³⁶⁴
- Columbus, Ohio – The Legal Aid Society of Columbus provided representation to tenants through its Tenant Advocacy Project (TAP).³⁶⁵ One percent of TAP-represented tenants received a judgment against them compared to approximately 54 percent of non-TAP cases.³⁶⁶ Approximately 40 percent of TAP-represented tenants negotiated an agreed upon judgment compared to approximately 15 percent of non-TAP cases.³⁶⁷ TAP-represented tenants who negotiated agreements to remain in their homes more than twice as often as non-TAP cases, and TAP-represented tenants successfully negotiated an agreement to move and avoided an eviction judgment more than seven times as often as non-TAP cases.³⁶⁸ An organization in Franklin County (Columbus, Ohio) providing eviction mediation services reported that during 2019, approximately 84 percent of tenants at risk of being evicted were able to avoid disruptive displacement as a result of their services.³⁶⁹ Furthermore, the organization followed up with clients served one year later and found that 94 percent of them had maintained stable housing, and 87 percent had no subsequent eviction filed against them.³⁷⁰

³⁶¹ Grundman, Luke and Kruger, Muria. “Legal Representation in Evictions – Comparative Study.” N.d. Referencing Birnbaum, Julian. “Chicago’s Eviction Court: A Tenants’ Court of No Resort.” Urban Law Annual. 1979.

³⁶² Hasvold, Aubrey and Regenbogen, Jack. “Facing Eviction Alone: A Study of Evictions, Denver, Colorado 2014-2016.” Colorado Coalition for the Homeless and Colorado Center on Law and Policy. N.d.

³⁶³ Ibid.

³⁶⁴ “Evictions in the Courts: An Analysis of 106,000 Cases from 2006-2016 in Jackson County.” Kansas City Eviction Project. January 24, 2018.

³⁶⁵ “The Legal Aid Society of Columbus: Tenant Advocacy Project Evaluation.” Thoughtwell. 2018.

³⁶⁶ Ibid.

³⁶⁷ Ibid.

³⁶⁸ Ibid.

³⁶⁹ Community Mediation Services of Central Ohio. Housing Stability/Homeless Prevention Mediation Program Activity Report. 2019.

³⁷⁰ Ibid.

- Tulsa, Oklahoma – A 2021 study by the University of Tulsa found that 79 percent of unrepresented tenants had judgments against them compared to 43 percent of represented tenants.³⁷¹ Representation also impacted whether landlords received money judgments and the amount of the money judgments. Unrepresented tenants were nearly twice as likely to receive a money judgment than represented tenants, and money judgments against represented tenants were on average \$800 lower than those against represented tenants.³⁷²

115. Disparities in outcomes, while perhaps the most concrete difference between represented and unrepresented tenants, are not the only challenge tenants face in court. A San Francisco Housing Court study observed how landlords’ attorneys can gain the upper hand even when the law does not support their case.³⁷³ Repeat players gain advantages from their developed expertise and knowledge including specialized knowledge of substantive areas of the law, experience with court procedures, and familiarity with opposing counsel and decision-makers.³⁷⁴ However, when tenants are represented, these power dynamics are more balanced. There are also ways that representation can create positive outcomes beyond “winning” a contested case. An attorney can help limit the collateral damage of being evicted.³⁷⁵ The tenant, with attorney assistance, could attempt to settle the case with the landlord without proceeding to trial and negotiating extra time before moving.³⁷⁶ The appearance of an attorney for either party has been shown to increase settlement rates from 7 percent if neither party was represented to 26 percent if the defendant was represented and 38 percent if the plaintiff was represented.³⁷⁷ Additionally, an attorney might also help the tenant reach a settlement that involves vacating the apartment without an adverse judgment that would affect the tenant’s ability to re-rent.³⁷⁸

116. **Fewer Tenants Lose by Default.** When tenants do not file an answer or attend court for their scheduled hearing, a default judgment is often entered in favor of the landlord if the landlord or landlord counsel is present.³⁷⁹ That is, tenants automatically lose if they do not attend their hearing and the landlord or the landlord’s attorney/agent does attend the hearing. In many jurisdictions, even where it is possible, it is difficult at best to reopen

³⁷¹ “Leveling the Playing Field: Legal, Economic and Policy Considerations in Establishing an Access to Counsel Program for Tulsa’s Eviction Docket.” The University of Tulsa College of Law. January 13, 2021.

³⁷² Ibid.

³⁷³ San Francisco Right to Civil Counsel Pilot Program Documentation Report. John and Terry Levin Center for Public Service and Public Interest, Stanford Law School. May 2014.

³⁷⁴ Ibid.

³⁷⁵ Ibid.

³⁷⁶ Ibid.

³⁷⁷ Hannaford-Agor, Paula and Mott, Nicole. “Research on Self-Represented Litigation: Preliminary Results and Methodological Considerations.” The Justice System Journal. 2003.

³⁷⁸ Ibid.

³⁷⁹ See footnote 64 for more information on Stout’s consideration of default judgments.

cases that tenants have lost by default, and the specialized knowledge of an attorney is usually required. There are numerous reasons a tenant may lose by default, such as: (1) confusion and intimidation about the legal process; (2) the tenant has already vacated the apartment; (3) the tenant acknowledges that rent is owed and does not believe going to court will change the situation; (4) the tenant does not realize there may be valid defenses to raise; and (5) the tenant cannot miss work to attend court without jeopardizing employment. Additionally, if tenants default because they do not know their rights, they could lose the opportunity to reopen their cases even if they have meritorious defenses.

117. In its analysis of evictions in Philadelphia, Stout found that tenants who were represented were 90 percent less likely to lose by default than unrepresented tenants.³⁸⁰ Unrepresented tenants lost by default in approximately 58 percent of cases in Philadelphia.³⁸¹ Similar default rates have been observed throughout the country. In Jackson County (Kansas City), Missouri approximately 70 percent of tenants lost by default.³⁸² In Hawaii, half of all eviction cases result in a default judgment in favor of the landlord.³⁸³ In Seattle, tenants lose by default in approximately 48 percent of cases.³⁸⁴ In a study of evictions in Greensboro, North Carolina, more than 75 percent of tenants did not attend their hearing, losing by default.³⁸⁵ As observed in Philadelphia, having representation significantly reduces the likelihood that a tenant loses by default. Even if the tenant is unable to attend the hearing, counsel can attend on the tenant's behalf, often mitigating the consequences of losing the case by default. Evidence from New York City indicates that when tenants are represented, the number of default judgments decreases.³⁸⁶ Since the introduction of the right to counsel program, default judgments have decreased approximately 34 percent in New York City from 35,130 in 2016 to 23,146 in 2019.³⁸⁷

118. **Connection to Other Services and Improved Housing Transitions.** Representation in an eviction case can be important not only for navigating the legal system, but also for providing tenants access to emotional, psychological, and economic assistance from other

³⁸⁰ "Economic Return on Investment of Providing Counsel in Philadelphia Eviction Cases for Low-Income Tenants." Stout Risius Ross. November 13, 2018.

³⁸¹ Ibid.

³⁸² "Evictions in the Courts: An Analysis of 106,000 Cases from 2006-2016 in Jackson County." Kansas City Eviction Project. January 24, 2018.

³⁸³ Geminiani, Victor et al. "Evicted in Hawaii: Lives Hanging in the Balance." Lawyers for Equal Justice. N.d.

³⁸⁴ "Losing Home: The Human Cost of Eviction in Seattle." The Seattle Women's Commission and the Housing Justice Project of the King County Bar Association. September 2018.

³⁸⁵ Sills, Stephen J. et al. "Greensboro's Eviction Crisis." The University of North Carolina Greensboro Center for Housing and Community Studies. N.d.

³⁸⁶ New York City Council Hearing Testimony provided by Chief Administrative Judge of New York City Civil Court, Hon. Anthony Cannataro. February 24, 2020.

³⁸⁷ Ibid.

service providers.³⁸⁸ Civil legal services attorneys and pro bono attorneys are often aware of additional resources within a community and can help tenants navigate these systems, which can be challenging for someone who is inexperienced with them. These tenant attorneys can connect tenants to emergency rent assistance programs and refer them to mental health providers or other social services they may need.³⁸⁹ Representation can also achieve an outcome that maximizes the tenant’s chances of either staying in his or her home or finding another suitable place to live without disrupting, or working toward minimized disruption of, their well-being or family stability.³⁹⁰ According to a Chicago-Kent College of Law study, represented tenants experienced a clear advantage as their cases progressed through the court system even if the landlord prevailed.³⁹¹ Even where the ultimate disposition was the same – eviction – legal representation allowed tenants more time to secure alternative housing and avoid losing their personal belongings.³⁹² Additionally, if tenants do require additional time to find alternative, suitable living arrangements, lawyers can often negotiate that additional time for the tenant to do so. In its analysis of evictions in Philadelphia, Stout found that, on average, represented tenants had approximately 50 days to vacate their apartments when they agreed to do so compared to 35 days for unrepresented tenants.³⁹³ A study of evictions filed in San Mateo County, California found that represented tenants were granted approximately twice as long to find alternative housing than unrepresented tenants.³⁹⁴ Approximately 71 percent of a sample of tenants represented through California’s Sargent Shriver Civil Counsel Act who were surveyed one year after their cases closed reported living in a new rental unit compared to approximately 43 percent of tenants who were not represented through the Sargent Shriver Civil Counsel Act.³⁹⁵ This suggests represented tenants had higher rates of reasonable settlement agreements that supported housing stability.³⁹⁶

119. Connections to other housing services are particularly relevant now as rental assistance is available for qualifying tenants. The application process to apply for and receive rental

³⁸⁸ San Francisco Right to Civil Counsel Pilot Program Documentation Report. John and Terry Levin Center for Public Service and Public Interest, Stanford Law School. May 2014.

³⁸⁹ Savitch-Lew, Abigail. “City Tackles Toll-Out of Right to Counsel in Housing Court.” *City Limits*. January 17, 2018.

³⁹⁰ *Ibid.*

³⁹¹ “No Time for Justice: A Study of Chicago’s Eviction Court.” Chicago-Kent College of Law Class of 2004 Honors Scholar. December 2003.

³⁹² *Ibid.*

³⁹³ “Economic Return on Investment of Providing Counsel in Philadelphia Eviction Cases for Low-Income Tenants.” Stout Risius Ross. November 13, 2018.

³⁹⁴ Steinberg, Jessica K. “In Pursuit of Justice? Case Outcomes and the Delivery of Unbundled Legal Services.” *Georgetown Journal on Poverty Law and Policy*. 2011.

³⁹⁵ “Findings and Recommendations from the Sargent Shriver Civil Counsel Pilot Projects.” The Shriver Civil Counsel Act Implementation Committee. July 2017.

³⁹⁶ *Ibid.*

assistance can be complex and burdensome. Being connected to and having assistance throughout the rental assistance application process can benefit both tenants and landlords, as tenants are able to remain in their homes and landlords are able to receive rental assistance dollars.

120. **Court Efficiency Gains.** Results from the San Francisco Right to Civil Counsel Pilot Program indicated that when tenants are represented cases move through the legal processes more efficiently than when tenants are unrepresented. The average number of days from filing the complaint to a judgment entered by the clerk decreased from 37 to 31.³⁹⁷ The average number of days from filing the complaint to a negotiated settlement decreased from 72 to 62.³⁹⁸ The average number of days from the filing of the complaint to the entry of a court judgment decreased from 128 to 105, and the average number of days from filing the complaint to dismissal of the action decreased from 90 to 58.³⁹⁹ Cases closing times are independent of the time a tenant has to move. When tenants are represented, the courts can close cases faster and tenants can secure more time to move.
121. When tenants are represented, landlords are less likely to bring unmeritorious claims, thus leading to a more efficient court process, a better use of court resources, and the expectation that the number of eviction cases will decrease over time. Since New York City's increased investment in legal services for tenants in 2013, the New York City Office of Civil Justice has reported a 40 percent decrease in residential evictions.⁴⁰⁰ From 2018 to 2019 alone, residential evictions in New York City decreased 15 percent.⁴⁰¹ Over the four-year period of 2014 to 2017, an estimated 70,000 New York City tenants have retained possession of their homes.⁴⁰² Early indicators from New York City's implementation of Universal Access suggest that when eviction proceedings are filed and both sides are represented, resource intensive motion practice related to non-dispositive issues is reduced. Additionally, fewer orders to show cause to stay evictions and for post-eviction relief are being filed, indicating that better outcomes are being achieved under Universal Access. Judge Jean Schneider, the citywide supervising judge of the New York City Housing Court, has stated that there have not been any major problems with backlog or efficiency issues in the first year.⁴⁰³ In fact, she testified in 2018 at a hearing on New York State civil legal services that as a result of Universal Access implementation "our court is improving

³⁹⁷ Sandefur, Rebecca L. "The Impact of Counsel: An Analysis of Empirical Evidence," *Seattle Journal for Social Justice*: Vol. 9: Issue 1, Article 3, p. 78. 2010.

³⁹⁸ *Ibid.*

³⁹⁹ *Ibid.*

⁴⁰⁰ "Amid Nationwide Increases, Mayor de Blasio Announces Record-Breaking 41 Percent Decrease in Evictions Citywide." Office of the Mayor. February 24, 2020

⁴⁰¹ *Ibid.*

⁴⁰² "NYC Office of Civil Justice Annual Report and Strategic Plan." New York City Office of Civil Justice. 2017.

⁴⁰³ Clark, Dan M. "Increasing Tenants' Access to Counsel Has Raised Court Efficiency, Fairness, Judges Say." *New York Law Journal*. September 24, 2018.

by leaps and bounds.”⁴⁰⁴ At the same hearing, Judge Anthony Cannataro, the administrative judge of the civil courts in New York City, explained that judges have spent less time explaining housing rights and court processes to represented tenants who, without Universal Access, will likely have previously been unrepresented.⁴⁰⁵ Lastly, as to efficiency, there is an increased likelihood that cases can be resolved out of court and before the first hearing when counsel is involved. While there were initial concerns that increased representation would slow court procedures, early observations from the implementation and expansion of Universal Access in New York City have indicated that significant benefits are being observed by the judiciary through improved motion practice, judicial experience, pre-trial resolution, and rulings providing increased clarity for landlord and tenant advocates.

122. **Trusting the Justice System and Exercising of Rights.** Evaluations of providing counsel are often focused on the outcome for the litigant. However, tenants are also more apt to accept adverse court decisions if they perceive that the law and court procedures were followed.⁴⁰⁶ Whether court personnel treated the litigant fairly, whether the litigant was able to state his or her side of the story, and whether the decisions were based on facts are additional factors that increase whether tenants trust that the justice system can provide justice for them.⁴⁰⁷ The importance of providing legal representation is not limited to advocating in the best interest of the litigant, but also encompasses providing him or her with the assurance that someone is on their side and providing greater confidence in the justice system.⁴⁰⁸

⁴⁰⁴ Ibid.

⁴⁰⁵ Ibid.

⁴⁰⁶ Hannaford-Agor, Paula and Mott, Nicole. “Research on Self-Represented Litigation: Preliminary Results and Methodological Considerations.” *The Justice System Journal*. 2003.

⁴⁰⁷ Ibid.

⁴⁰⁸ San Francisco Right to Civil Counsel Pilot Program Documentation Report. John and Terry Levin Center for Public Service and Public Interest, Stanford Law School. May 2014.

Section V

Estimated Cost and Impact of Right to Counsel and the Cost of Disruptive Displacement to Delaware

123. Using data from the Delaware Justice of the Peace Courts, the experience and expertise of eviction defense providers and tenant advocates and organizers in Delaware, publicly available research, studies, and data, Stout estimated: (1) the cost of providing a right to counsel in Delaware; (2) the impact of a right to counsel in Delaware; and (3) the potential cost savings to Delaware if a right to counsel were implemented. Stout used Delaware specific data when it was available. When it was not available, Stout used data from other reasonably comparable jurisdictions.

The Estimated Cost of a Right to Counsel in Delaware

124. To estimate the cost of providing a right to counsel to tenants in Delaware, a variety of factors must be considered – the annual number of filings, the eviction filing rate, tenant eligibility for free legal representation, the rate of tenant eviction due to default (i.e., not appearing at the scheduled court date), the rate at which eligible tenants accept the offer of free legal representation, the number of hours required to effectively represent a tenant, and the cost of an attorney (e.g., salary, benefits, office supplies, technology, and other overhead) and supporting staff. Stout collaborated with the providers of eviction defense in Delaware and other stakeholders to develop a deeper understanding of the possible costs of a right to counsel and to incorporate their expertise and experience in the calculations. Stout conducted an analysis of landlord-tenant cases filed in Delaware Justice of the Peace Courts to estimate the total cost of a right to counsel for tenants facing eviction.

125. **Landlord-Tenant Filings.** Based on data from the Delaware Justice of the Peace Courts, Stout and the Delaware eviction defense providers estimated that there were approximately 17,600 filings in Delaware in 2019. If a right to counsel were fully implemented in Delaware, the annual number of filings would be expected to decrease, as has been observed in New York City and San Francisco – two jurisdictions that have implemented a right to counsel for tenants facing eviction.⁴⁰⁹ Stout estimated that Delaware could experience an annual decrease in filings of approximately 5 percent per year. Accounting for this annual expected decrease in filings, Stout estimated that at full implementation, which would be phased in over three years, a reasonable expectation would be that approximately 16,300 landlord-tenant cases would be filed in Delaware.

126. As with other civil legal services in Delaware, it is Stout’s understanding that eligibility for free legal representation under a right to counsel would be determined by a tenant’s

⁴⁰⁹ “Press Release: Supervisor Dean Preston Holds Hearing on Implementation for Right to Counsel Law.” February 24, 2020. & “New York City Residential Eviction Filings Decline.” NYU Furman Center. November 18, 2019.

income. Stout estimated the cost of a right to counsel for tenants facing eviction with household incomes at or below 200 percent of the Federal Poverty Level (FPL) adjusted for family size. At this income eligibility level, Stout estimated that approximately 69 percent of tenants facing an eviction filing in Delaware would be income eligible.⁴¹⁰ Studies supporting this estimate are detailed in the following paragraph.

127. A study by the New York City City-wide Task Force on Housing Court found that 50 to 60 percent of tenants who are in housing court have household incomes that would qualify them for free civil legal services.⁴¹¹ However, an estimated 69 percent of tenants who are in housing court are unlikely able to afford representation and would benefit from free legal representation.⁴¹² A 2007 study by researchers at the Graduate Center of the City University of New York found that 44 percent of tenants in housing court had annual household incomes of less than \$15,000, and 24 percent had annual household incomes between \$15,000 and \$24,000, indicating that approximately 68 percent of tenants would likely be eligible for free legal representation.⁴¹³ The Milwaukee Area Renters Study (MARS) was a survey administered via in-person interviews to approximately 1,100 renter households about their experiences as renters related to eviction, housing instability, and poverty. MARS respondents had an average household income of approximately \$30,000, which was equivalent to approximately 175 percent of the FPL at the time of the study.⁴¹⁴ The United Way, through its ALICE (Asset Limited, Income Constrained, Employed) metrics, seeks to develop an alternative measure of poverty rather than using the FPL. One measure is the ALICE household survival budget which is the bare minimum costs a household needs to afford housing, child care, food, transportation, health care, and technology.⁴¹⁵ A family of four would need to have a household income of approximately \$67,000 for a survival budget – approximately one-third more than 200 percent of the FPL.⁴¹⁶

128. Using the previously mentioned studies as a basis for Stout’s estimate of 69 percent of tenants facing an eviction filing in Delaware being income eligible for free representation,

⁴¹⁰ Stout’s estimate is based on studies of household incomes of people facing eviction.

⁴¹¹ “Housing Court, Evictions and Homelessness: The Costs and Benefits of Establishing a Right to Counsel.” Community Training and Resource Center and City-wide Task Force on Housing Court, Inc. 1993.

⁴¹² Ibid.

⁴¹³ Krenichyn, Kira and Shaefer-McDaniel, Nicole. “Results From Three Surveys in New York City Housing Courts.” Center for Human Environments, Graduate Center of the City University of New York. 2007.

⁴¹⁴ Desmond, Matthew. “Who gets evicted? Assessing individual, neighborhood, and network factors.” Social Science Research. 2016.

⁴¹⁵ “ALICE Research Methodology.” United for ALICE. 2020.

⁴¹⁶ Ibid.

Stout estimated that, of the 16,300 tenants with eviction filings against them, approximately 11,200 would be income eligible for free legal representation under a right to counsel.

129. In recent years, approximately one-third of tenants with eviction filings against them in Delaware do not appear for their court hearing and lose their cases by default. With effective community outreach, default rates can be reduced significantly. Stout included in its right to counsel cost estimate a line item expense for community outreach, and Stout modeled an expected annual 5 percentage point decline in the default rate. As discussed in paragraph 117, New York City has experienced a 34 percent decline in its default rate since increased funding for eviction defense. At full implementation, Stout estimates the default rate in Delaware could decline to 20 percent, and approximately 9,000 landlord-tenant cases in Delaware would be income eligible for free legal representation.
130. As discussed in paragraphs 38-40, landlord-tenant cases in Delaware are uncommon in that they are often used as a rent collection mechanism. That is, landlords in Delaware appear to file cases as soon as rent is late to enforce collection. Many tenants will pay the rent and other amounts that are due and retain possession of the apartment, and the case is withdrawn or no longer pursued by the landlord. This practice results in an eviction filing rate in Delaware that reflects both the efforts of landlords using eviction filings to collect rent and those that are pursuing eviction to actually evict the tenant. Compared to other jurisdictions, this can create an artificially high eviction filing rate as it relates to the cases for which one could reasonably expect to provide representation for the tenant.
131. To accurately estimate the cost of providing a right to counsel for tenants facing eviction in Delaware, an adjusted eviction filing rate must be developed. In Delaware, Stout estimated that 47 percent of cases are likely situations where landlords are filing to collect rent (sometimes for the same unit multiple times each year, including monthly), and tenants pay the rent owed, meaning that 53 percent of non-default cases are likely situations where landlords are not using filings as a rent collection mechanism and the tenant subsequently pays the rent owed (i.e., the estimated eviction filing rate). It is important to note that the 53 percent of non-default cases where landlords are not using filings to simply collect rent and will be resolved by the tenant includes a significant volume of cases with expected conditions or habitability issues related to the building conditions and / or the inability of the tenant to advocate for such repairs to be completed. As discussed in paragraph 35, many Delaware renters are living in “unlivable” housing stock. The expectation is that representation in these cases can assist in correcting “unlivable” conditions by using the courts to compel landlords to make necessary repairs.

The importance of representation here is to ensure safe, livable housing for tenants. One of the benefits of representation is keeping tenants in their homes. However, keeping tenants in homes that have inadequate plumbing, mold and mildew, rodent infestation, or inoperable furnaces may not provide safety and stability to tenants living in these environments. Rather, lawyers can assist (through representation) with getting these conditions remediated. Stout estimates that after making this adjustment, the eviction filing rate in Delaware may be 4 to 5 percent (i.e., the total number of filings each year as a proportion of total renter households).

132. Stout developed this estimate with input from eviction defense providers in Delaware and used publicly available eviction data for jurisdictions comparable to Delaware to assess the reasonableness of these estimations. For example, Connecticut and Rhode Island have similar demographics and housing characteristics as Delaware.⁴¹⁷ The eviction filing rates (i.e., the total number of filings each year as a proportion of total renter households) in Connecticut and Rhode Island are 4 percent and 5 percent, respectively.⁴¹⁸ As discussed in paragraph 38, the filing fees in Connecticut and Rhode Island are relatively high compared to Delaware's and may be a contributing factor to their lower filing rates. Because of the comparability of Connecticut and Rhode Island to Delaware, the methodology Stout and the Delaware eviction defense providers developed to estimate the filing rate in Delaware is reasonable. This adjusted eviction filing rate of between 4 percent and 5 percent (of total renter households) is likely a more accurate measure of eviction filings needing representation rather than the current eviction filing rate of 16 percent.
133. The estimated 4 to 5 percent eviction filing rate can be used to estimate the number of filings where the tenant did not default that are not simply rent collection by the landlord without substantive efforts to resolve the issue with the tenant first. That is, the adjusted eviction filing rate is used to estimate the number of non-default, landlord-tenant filings excluding those likely being used as a rent collection mechanism. The filings that are likely being used as a rent collection mechanism are excluded because these are situations where Stout understands that tenants pay the rent owed in response to the filing and retain possession of their apartments, according to Delaware eviction defense providers, and therefore would likely not seek representation.

⁴¹⁷ According to U.S. Census Bureau data, Connecticut and Rhode Island have the following demographics and housing characteristics that are similar to Delaware: total population, poverty rates, racial compositions, portion of renter occupied units, median gross rents, and rent burden rates.

⁴¹⁸ Data compiled by The Eviction Lab at evictionlab.org.

134. Although Stout did not estimate the costs and benefits associated with the filings in Delaware that are simply rent collection, it should be noted that there may be benefits associated with fewer filings as a result of a right to counsel and individuals and families facing regular rent collection by Delaware landlords – including a reduced impact on tenants’ rental histories and credit reports, making it easier for tenants to lease housing in the future.
135. Of the approximately 9,000 non-default, landlord-tenant cases in Delaware that would be income eligible for free legal representation, approximately 4,800 are cases with legal issues to resolve where representation would be beneficial. Eviction defense providers in Delaware expect that approximately 85 percent of tenants would accept the offer of free representation at full implementation of a right to counsel.⁴¹⁹
136. Tenants may have reasons for declining the offer of representation. They may not think there is a benefit to having representation, they may not trust the legal profession, or they may simply feel they can represent themselves. Therefore, Stout’s cost calculation for a right to counsel includes only non-default cases where the tenant is income eligible and accepts the offer of representation – approximately 4,000 cases.
137. **Total Cases and Total Cost of a Right to Counsel.** If a right to counsel were fully implemented, Stout estimated that there would be approximately 4,000 tenants receiving free representation. Stout estimates that providing representation to these 4,000 tenants would cost approximately \$3.4 million annually.
138. Of the estimated \$3.4 million cost to fully implement a right to counsel in Delaware, approximately \$3.1 million would be for direct personnel costs to hire approximately 23 staff attorneys, three supervising attorneys, six paralegals, three social workers⁴²⁰, one intake specialist, and one case processing paralegal. The remaining estimated costs would be for non-personnel costs necessary for service delivery including, but not limited to, facilities costs, utilities, technology and equipment, training, community organizing and communications, and program evaluation. Delaware eviction defense providers reviewed and confirmed Stout’s estimates for each of these costs based on their experience and expertise delivering eviction defense and prevention services. For direct personnel costs, Stout and Delaware eviction defense providers estimated the average salary of a civil legal

⁴¹⁹ The expected representation acceptance rate was developed based on the experience and expertise of Delaware eviction defense providers and housing advocates as well as discussions Stout has had with housing advocates in other jurisdictions.

⁴²⁰ This could include a variety of necessary support positions for lawyers and tenants, including social workers, housing navigators, or others who can assist residents with their housing or other needs.

aid housing staff attorney, supervising attorney, paralegal and social worker as well as fringe benefits as a percentage of their salaries. For non-personnel costs, Stout and Delaware eviction defense providers used the costs of their current operations as benchmarks. At a total cost of approximately \$3.4 million, providing a right to counsel to approximately 4,000 eligible tenants in Delaware equates to approximately \$850 per case for which representation is provided. Figure 19 shows the estimated cost of a right to counsel by cost category.

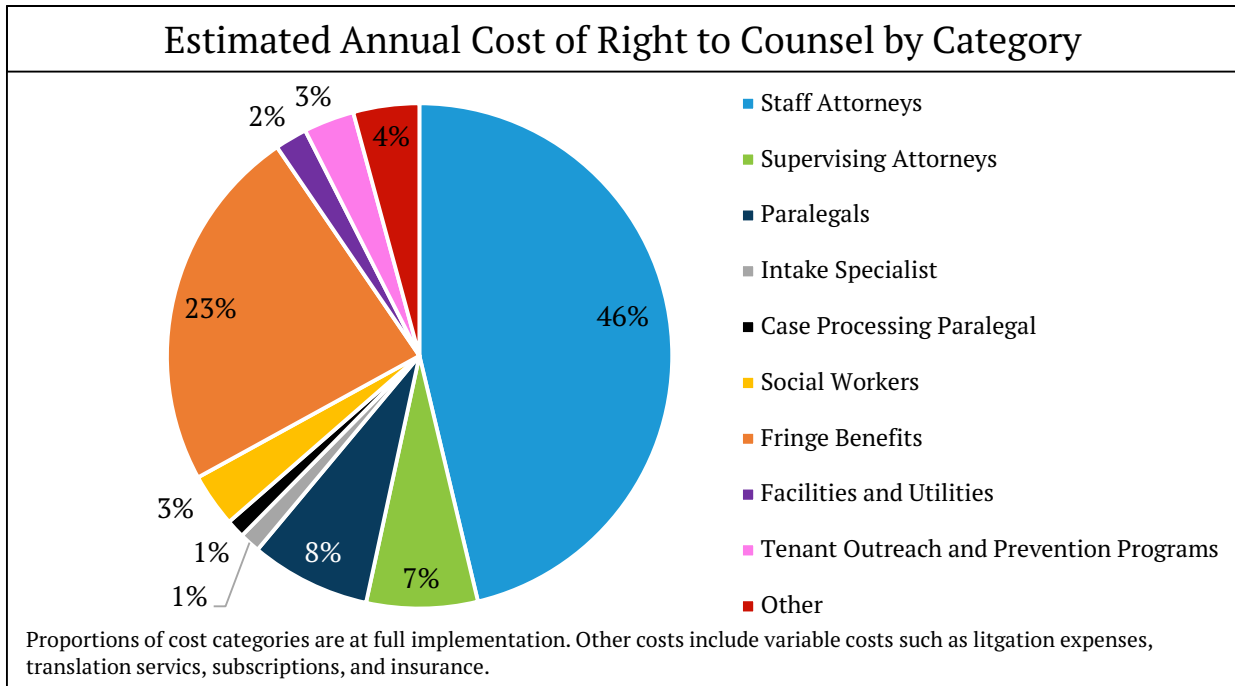


Figure 19

The Estimated Impact of a Right to Counsel in Delaware

139. Stout analyzed the 2019 landlord-tenant filings in Delaware Justice of the Peace Courts to estimate how many income eligible tenants would have a high likelihood of avoiding disruptive displacement if right to counsel were not implemented (i.e., an estimate of the current number of income eligible tenants with a high likelihood of avoiding disruptive displacement). This is the first step in determining the impact of a right to counsel.

140. If a right to counsel were fully implemented in Delaware, an estimated 4,000 tenants would be eligible for representation and would likely accept the offer of representation each year. Based on Stout’s analysis court-assigned case outcome data and the experience and expertise of Delaware eviction defense providers, represented tenants avoid the high likelihood of disruptive displacement in 80 percent of cases (approximately 3,200 tenants). Figure 20 shows the difference in likelihood of disruptive displacement based on whether a tenant is represented or unrepresented.

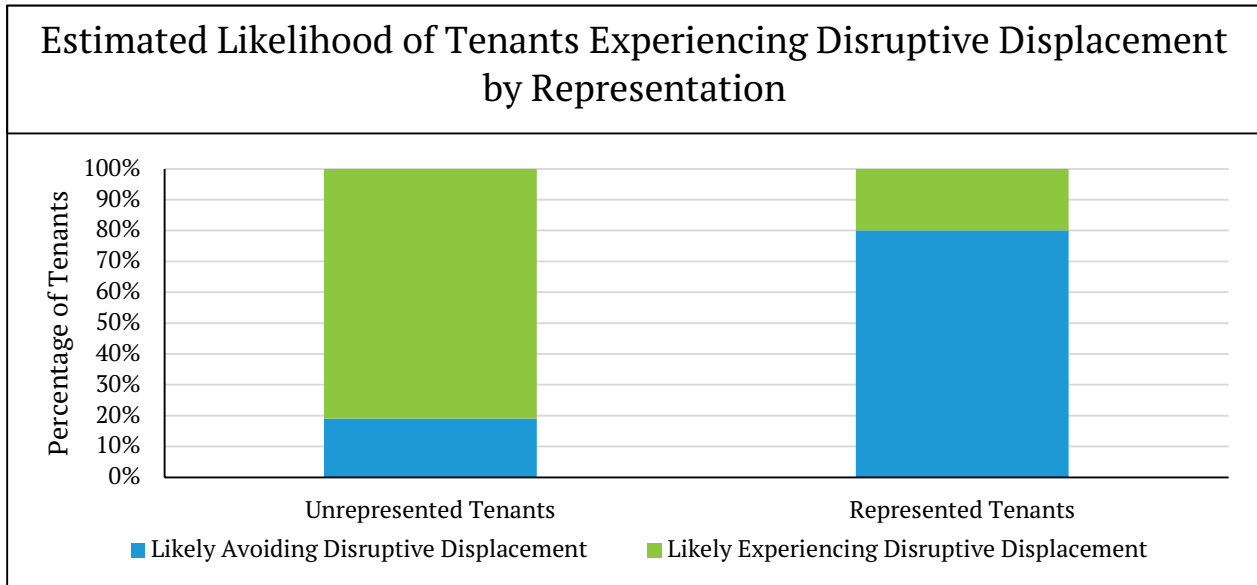


Figure 20

141. Comparing the approximately 3,200 represented tenants avoiding the high likelihood of disruptive displacement to the approximately 900 unrepresented tenants avoiding the high likelihood of disruptive displacement results in an estimated 2,300 additional tenants that would avoid the high likelihood of disruptive displacement and the potential for the negative impacts of disruptive displacement if a right to counsel were implemented in Delaware.⁴²¹ Based on the average household size of three people for Delaware, Stout estimates that annually 7,000 people in Delaware are likely to avoid the high likelihood of disruptive displacement through a right to counsel.⁴²²

142. The impact of a right to counsel and the number of income eligible households and people avoiding the likelihood of disruptive displacement could be higher or lower based on the

⁴²¹ The exact number of incremental tenants avoiding the high likelihood of disruptive displacement is 2,331. The calculation in this paragraph is rounded to the nearest hundred for presentation purposes. Stout uses the exact 2,331 for its cost of eviction calculations for accuracy purposes.

⁴²² U.S. Census Bureau. American Community Survey 5-Year Estimates. 2018.

facts of any individual case. How a right to counsel is implemented and communicated to tenants as well as how supportive policymakers and the judiciary are of a right to counsel can also affect the impact. In some cases, tenants may experience disruptive displacement with or without a right to counsel. However, a right to counsel can ensure tenants' rights are exercised, favorable judgment terms are negotiated, and enough time is given to tenants if they need to find new living arrangements. The benefit of a right to counsel in these circumstances is less disruption to tenants' lives and therefore fewer social safety net costs to Delaware.

Estimated Cost Savings to Delaware and the Return per Dollar Invested in a Right to Counsel

143. See **Exhibit A** for a summary of the estimated annual cost savings to Delaware and the return per dollar invested in a right to counsel.

Estimated Annual Emergency Shelter and Transitional Housing Costs Related to Disruptive Displacement

144. Two social safety net responses to homelessness, housing instability, and/or disruptive displacement are Delaware's emergency shelter system and Delaware's transitional housing program. Avoiding disruptive displacement through a right to counsel will likely reduce costs associated with these social safety net responses. When people experience homelessness, research has shown that a portion of them will experience homelessness again even after exiting emergency shelter or transitional housing, as is true in Delaware. Stout estimated annual emergency shelter and transitional housing cost savings to Delaware for initial emergency shelter and transitional housing entry related to disruptive displacement and the first subsequent reentry to these systems.

145. **Emergency Shelter Costs Related to Disruptive Displacement.** Stout estimated that 2,331 households in the Delaware have a high likelihood of avoiding disruptive displacement if a right to counsel were implemented. Without a right to counsel, approximately 14.5 percent of these households will likely enter emergency shelter.⁴²³ The

⁴²³ Rolston, Howard et al. "Evaluation of the Homebase Community Prevention Program." Abt Associates. June 2013. See paragraphs 79-83. The Abt Study was an evaluation of the Homebase Community Prevention Program on households' use of homeless shelters and services. The Homebase program was a network of neighborhood-based homelessness prevention centers located in high-need neighborhoods of New York City. Homebase was designed to prevent homelessness and to prevent repeated stays in shelter. One of the research questions to be answered by the evaluation was: does Homebase affect the rate of shelter use (nights in shelter)? The evaluation population, as agreed upon with the New York City Department of Homeless Services, was 295 families with at

eviction process (for some people but not all) creates a degree of housing instability that requires costly intervention to return people to stable housing. Cities and states have demonstrated their dedication to returning people to stable housing through the variety of housing programs/interventions that are funded and for which the cities and states incur the costs. Stout's estimate of shelter entry as a result of disruptive displacement is a directional estimate based on the quantitative data available and qualitative feedback from legal aid providers and other stakeholders. Applying the findings of the Abt study, and giving consideration to the experience and feedback of legal aid providers and housing case managers, for purposes of this analysis, Stout conservatively estimates that while 18.2 percent of households experiencing the eviction process may apply for shelter, 14.5 percent of households experiencing the eviction process are likely to enter emergency shelter. The expectation of case managers in the Abt Study and Robin Hood staff working directly with low-income populations at risk homelessness was that 25 percent would experience homelessness absent an intervention to assist with housing stability. Actual shelter entry as a result of disruptive displacement is contingent on a variety of different factors and is challenging to precisely estimate with the data currently available. Using this metric, Stout estimated that 338 households in Delaware will likely experience homelessness and enter emergency shelter but-for a right to counsel. According to the National Alliance to End Homelessness, the cost of an exit from emergency shelter is \$6,065 in Delaware. Exiting the 338 households experiencing homelessness and living in Delaware emergency shelter will cost an estimated \$2 million annually.

146. The cost of an exit is used in this instance as a proxy for what it would cost to resolve homelessness in Delaware. Because there are many ways that individuals experience homelessness, particularly after an eviction when re-renting can be challenging, there are a variety of possible outcomes. For a portion of individuals and households, there may be short shelter days, attempts to move in with family or friends, and re-entry into shelter. Others may experience longer shelter stays, rapid re-housing, or permanent supportive housing. Each of these scenarios has different (but significant) cost implications. Stout

least one child – 150 in the treatment group, and 145 in the control group. The evaluation indicated that over the evaluation period of 27 months (September 2010 to December 2012) a statistically significant difference the likelihood of spending at least one night in shelter between the treatment and control groups – 14.5 percent compared to 8 percent. Evaluators had access to individual-level administrative data from systems operated by three New York City social services agencies (the Department of Homeless Services, the Administration for Children's Services, and the Human Resources Administration) and the New York State Department of Labor. This individual-level data was matched with Homebase data based on social security number, name, date of birth, and gender. Evaluators then used this data and a linear probability model to assess the likelihood of shelter entry.

focused on the cost of an exit because it is likely to be a necessary cost for all people living in emergency shelter and likely incurred by Delaware over time.

147. As previously discussed, a portion of the 338 households that exited emergency shelter will experience homelessness again. According to a 2018 Housing Alliance Delaware report, an estimated 29 percent of households that exit emergency shelter will return to emergency shelter. Applying the 29 percent metric to the 338 households that exited emergency shelter results in 98 households that return to emergency shelter. At a cost of \$6,065 per exit from emergency shelter, the cost to exit the 98 households returning to emergency shelter will be approximately \$600,000.

148. The total estimated annual cost to Delaware related to people experiencing homelessness because of disruptive displacement who will be living in emergency shelter, and who will exit emergency shelter but subsequently return to emergency shelter is \$2.6 million – an estimated \$2 million related to the first exit from emergency shelter and an estimated \$600,000 related to the second exit from emergency shelter.

- Lack of Right to Shelter. Like nearly every other U.S. jurisdiction, residents of Delaware do not have a formal, legislated right to shelter. Very few jurisdictions in the U.S. guarantee their most vulnerable a place to sleep. For example, New York City and Milwaukee County⁴²⁴ have an unconditional right to shelter while Massachusetts and Washington, D.C. have a right to shelter based on cold weather temperatures. There are numerous studies in jurisdictions without a right to shelter that demonstrate a similar significant need for a social safety net response to housing instability. Emergency shelter costs are one form of a social safety net response to the desperate need for shelter, even in jurisdictions without a right to shelter and jurisdictions with people experiencing homelessness who are living unsheltered. Emergency shelter costs provide a proxy for costs jurisdictions bear (or are willing to bear) in response to severe housing instability. Furthermore, the incremental nature of shelter beds (i.e., the number of shelter beds increasing as the number of people experiencing homelessness increases) does not restrict the application of these costs to the households that are experiencing disruptive displacement because the costs may manifest in other ways, particularly if households are unable to enter emergency shelter and must use other Delaware services to achieve housing stability. Regardless of actual emergency shelter entry by households experiencing disruptive displacement, emergency shelter costs can

⁴²⁴ Milwaukee County Board of Supervisors passed a right to shelter for all Milwaukee residents, however, three budget amendments aimed at implementing the resolutions were not passed as of March 2021.

be a proxy for the other costs necessary to achieve housing stability for these households.

- **Purchase of Sheraton South Hotel.** In late 2020, New Castle County purchased at auction the Sheraton South. The 192-room hotel was purchased for \$19.5 million to expand shelter capacity.⁴²⁵ Amid the COVID-19 pandemic, New Castle County had housed more than 600 families at dozens of motels and nearly 200 individuals in emergency shelters.⁴²⁶ A county councilperson stated that acquiring the hotel achieves the county’s goals of protecting public health, protecting the most vulnerable residents, and protecting the economy by bringing back jobs.⁴²⁷ Although paid for with federal CARES Act funding, Delaware’s choice to use the money to expand shelter capacity and to use county budget dollars for the ongoing operation of the shelter indicates its commitment spending money to achieve housing stability for Delaware residents. At a cost of more than \$100,000 per room, this significant investment is similar to investments other jurisdictions have made in building a single unit of new affordable housing. Furthermore, while the hotel was purchased with federal funding, the county will likely need to spend general funds to operate the shelter going forward. In December 2020, New Castle City Council approved a \$2.5 million contract to have Hersha Hospitality Management continue to oversee day-to-day operations of the shelter.⁴²⁸ This translates to an annual operating cost per room of more than \$13,000 if the shelter is at fully capacity (excluding additional costs associated with owning the property). This again demonstrates the significant cost often incurred in support of individuals and families experiencing homelessness – a cost that can often be avoided by keeping families in their homes or assisting them in finding new safe and stable housing.

149. **Transitional Housing Costs Related to Disruptive Displacement.** Stout followed the same methodology for estimating annual potential cost savings to Delaware related to transitional housing. Stout estimated that 2,331 households in Delaware have a high likelihood of avoiding disruptive displacement if a right to counsel were implemented. Without a right to counsel, approximately 14.5 percent of these households will likely enter emergency shelter. Using this metric, Stout estimated that 338 households in Delaware will

⁴²⁵ Cherry, Amy. “New Castle County wins auction for Sheraton South hotel.” WDEL. October 2020.

⁴²⁶ Ibid.

⁴²⁷ Ibid.

⁴²⁸ Green, Sean. “Count Council approves contract for former Sheraton owners to run homeless shelter.” WDEL. December 2020.

likely enter emergency shelter but for a right to counsel. Of these 338 households, an estimated 24 percent will enter transitional housing, resulting in an estimated 81 households that will experience homelessness and enter transitional housing in Delaware. According to the National Alliance to End Homelessness, the cost of an exit from transitional housing is \$15,460 in Delaware. Exiting the 81 households experiencing homelessness and living in Delaware transitional housing will cost an estimated \$1.3 million annually.

150. Of the 81 households that exited transitional housing, a portion will experience homelessness again. According to a 2018 Housing Alliance Delaware report, an estimated 19 percent of households that exit transitional housing will return to homelessness. Applying the 19 percent metric to the 81 households that will exit transitional housing results in 15 households that will return to homelessness. When these households return to homelessness, Stout's expectation is that they will re-enter emergency shelter. At a cost of \$6,065 per exit from emergency shelter, the cost to exit the 15 households returning to emergency shelter will be approximately \$100,000.
151. The total estimated annual cost to Delaware related to people experiencing homelessness because of disruptive displacement who will live in transitional housing, who exit transitional housing but subsequently return to emergency shelter will be \$1.4 million – an estimated \$1.3 million related to the first exit from transitional housing and an estimated \$100,000 related to the second exit from emergency shelter.
152. **Total Emergency Shelter and Transitional Housing Costs Related to Disruptive Displacement.** Stout estimated that Delaware may be able to save \$4 million annually in emergency shelter and transitional housing costs if a right to counsel were implemented. For emergency shelter costs, an estimated \$2 million in annual cost savings will be related to emergency shelter entry for households experiencing homelessness because of disruptive displacement, and an estimated \$600,000 in annual cost savings will be related to a second return to emergency shelter after a first exit. For transitional housing costs, an estimated \$1.3 million in annual cost savings will be related to transitional housing for households experiencing homelessness because of disruptive displacement, and an estimated \$100,000 in annual cost savings will be related to a second return to emergency shelter after an exit from transitional housing. See **Exhibit B**. Figure 21 depicts the

estimated annual emergency shelter and transitional housing cost savings related to households that will experience homelessness as a result of disruptive displacement.

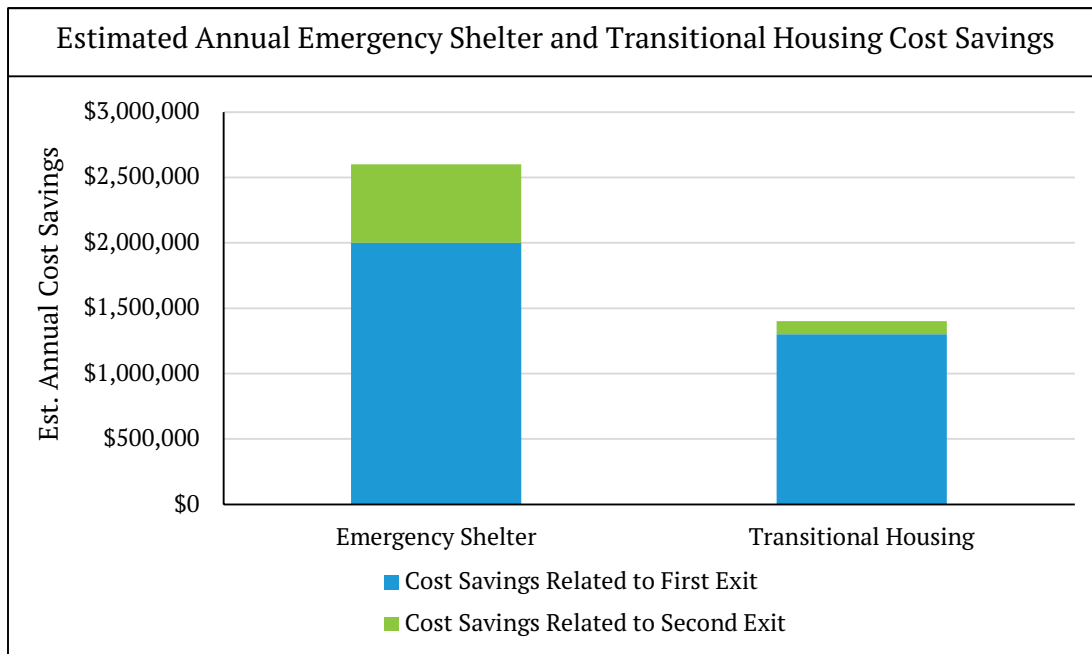


Figure 21

153. While there are likely additional costs of disruptive displacement beyond exits from emergency shelter and transitional housing, Stout could not reasonably quantify them based on currently available information. Stout’s estimation of approximately \$4 million in total emergency shelter and transitional housing costs is likely understated because of this. While the \$4 million in cost savings would accrue to the state, there may be additional local cost savings to Delaware cities/counties that have expenses related to administering, maintaining, and managing emergency shelter and transitional housing programs.

Estimated Annual Transportation Costs Avoided by Delaware Department of Education for Students Experiencing Homelessness

154. To minimize the educational disruption of a student experiencing homelessness or housing instability, the federal government enacted the McKinney-Vento Act in 1987. The federal legislation gives students experiencing homelessness the right to continue attending their school of origin (i.e., the school that the student attended when stably housed) regardless of where they are living while experiencing homelessness or housing

instability.⁴²⁹ Transportation to and from student's school of origin is both logistically and financially the responsibility of the state or local educational agency.⁴³⁰ Using state government general funds is often necessary for compliance with the McKinney-Vento Act transportation mandate.⁴³¹

155. According to data from the Delaware Department of Education, there were 2,971 students experiencing homelessness in the state during the 2019-2020 school year.⁴³² Stout used data from the Delaware Department of Education to estimate that 55 percent of students in Delaware schools experiencing homelessness need transportation to their school of origin.⁴³³ Of the 2,971 students experiencing homelessness in Delaware, an estimated 1,634 (2,971 multiplied by 55 percent) need transportation to their school of origin. We estimate that approximately 25 percent of these students are likely experiencing a form of homelessness due to disruptive displacement from the eviction process.⁴³⁴ Applying the 25 percent metric to the population of 1,634 students who are experiencing homelessness with school transportation needs results in an estimated 409 students in Delaware schools experiencing homelessness due to disruptive displacement. Of these 409 students, Stout estimates that 80 percent of their households would avoid the high likelihood of disruptive displacement if a right to counsel were implemented in Delaware, reducing the students' likelihood of experiencing homelessness and needing transportation.⁴³⁵ Of the 409 students experiencing homelessness because of disruptive displacement who have a school transportation need, 327 (409 multiplied by 80 percent) would have avoided the high likelihood of disruptive displacement if a right to counsel were implemented in Delaware. At an estimated per student school transportation cost of \$5,400, approximately \$1.8 million in annual transportation costs related to students experiencing homelessness because of disruptive displacement may be avoided if a right to counsel were implemented in Delaware. See **Exhibit C**.

⁴²⁹ "McKinney-Vento Law Into Practice Brief Series, Transporting Children and Youth Experiencing Homelessness." National Center for Homeless Education. August 2017.

⁴³⁰ Ibid.

⁴³¹ Ibid.

⁴³² Delaware Department of Education. <https://www.doe.k12.de.us/homeless>.

⁴³³ Estimated using Delaware Department of Education data on students experiencing homelessness and cost of transportation data in: Steele, Melissa. "Cape questions costs of busing homeless students." Cape Gazette. January 30, 2014.

⁴³⁴ Robin Hood is a New York City based non-profit organization that provides funding to more than 200 programs across New York City. See paragraphs 79-83.

⁴³⁵ See paragraph 140 for details on Stout's estimate of 80 percent of households avoiding the high likelihood of disruptive displacement if a right to counsel were implemented in Delaware.

Estimated Annual Additional Medicaid Spending by Delaware Related to Individuals Experiencing Homelessness as a Result of Disruptive Displacement

156. Stout quantified Medicaid spending on health care by Delaware that may be avoided if a right to counsel were implemented in Delaware. The two categories of care that could reasonably be quantified are in-patient care and emergency room care.
157. Stout estimates that 6,993 individuals in Delaware will avoid the high likelihood of disruptive displacement if a right to counsel were implemented in Delaware. Of the 6,993 individuals that will avoid the high likelihood of disruptive displacement, approximately 25 percent will likely experience homelessness as a result of disruptive displacement.⁴³⁶ Applying the 25 percent metric to the population of 6,993 individuals results in approximately 1,748 individuals that will experience homelessness as a result of disruptive displacement. Of these 1,748 individuals that will likely experience homelessness, approximately 23 percent will likely utilize in-patient care, and approximately 32 percent will utilize emergency room care, resulting in 402 and 559 individuals experiencing homelessness utilizing in-patient care and emergency room care, respectively.⁴³⁷
158. Research indicates that individuals experiencing homelessness utilize in-patient care and emergency room care more frequently than people who are not experiencing homelessness.⁴³⁸ Approximately 80 percent of people experiencing homelessness and accessing in-patient care are utilizing this type of care solely because of their experiencing homelessness.⁴³⁹ For emergency room care, this metric is 75 percent. Furthermore, approximately 84 percent of people experiencing homelessness and utilizing either type of care will be enrolled in Medicaid.⁴⁴⁰
159. Research indicates that the average cost to treat people experiencing homelessness with in-patient care and emergency room is approximately \$5,600 per person and \$18,500 per

⁴³⁶ Robin Hood is a New York City based non-profit organization that provides funding to more than 200 programs across New York City. See paragraphs 79-83.

⁴³⁷ Kushel, Margot, et. al. "Factors Associated With the Health Care Utilization of Homeless Persons." *The Journal of the American Medical Association*. January 10, 2001.

⁴³⁸ Kushel, Margot, et. al. "Factors Associated With the Health Care Utilization of Homeless Persons." *The Journal of the American Medical Association*. January 10, 2001. & Kushel, Margot, et. al. "Emergency Department Use Among the Homeless and Marginally Housed: Results From a Community-Based Study." *The American Journal of Public Health*. May 2002.

⁴³⁹ *Ibid.*

⁴⁴⁰ DiPietro, Barbara et al. "Early Impacts of the Medicaid Expansion for the Homeless Population." *The Kaiser Commission on Medicaid and the Underinsured*. November 2014.

person, respectively.⁴⁴¹ Applying individual costs to the portion of individuals who will experience homelessness as a result of disruptive displacement, will utilize each type of care, and will be enrolled in Medicaid and then adjusting for the state portion of Medicaid expenditures results in an estimated cost savings to Delaware of approximately \$500,000 for in-patient care and approximately \$2.3 million in emergency room care.⁴⁴² The total estimated Medicaid cost savings to Delaware will be approximately \$2.8 million. See **Exhibit D**.

Estimated Annual Costs Avoided by Delaware Related to Out-of-Home Foster Care Placements

160. Stout quantified potential out-of-home foster care costs avoided by the state of Delaware related to children who may be placed in out-of-home foster care if their household experiences disruptive displacement.
161. Stout estimates that 2,331 households in Delaware will avoid the high likelihood of disruptive displacement if a right to counsel were implemented in Delaware. An estimated 62 percent of households experiencing an eviction filing have children, and the average number of children per household with children is two.⁴⁴³ Approximately 4 percent of children from evicted families are placed in foster care and are likely living in foster care for at least one year.⁴⁴⁴ In Delaware, this means that an estimated 116 children from evicted families are placed in foster care each year. Based on cost data provided by the Delaware Department of Services for Children, Youth and their Families, Stout estimated an average annual per child in out-of-home care cost of \$14,600. Applying the \$14,600 annual per child out-of-home care cost to the estimated 116 children in Delaware who will enter foster care each year because of eviction results in a total cost of approximately \$1.7 million. Of the estimated \$1.7 million in annual out-of-home foster care cost in Delaware for children living in foster care because of eviction, approximately 83 percent is funded by

⁴⁴¹ Salit, Sharon, et al. "Hospitalization costs associated with homelessness in New York City." National Library of Medicine. 1998. And "The Cost of Homelessness Facts." Green Doors. N.d.

⁴⁴² Stout's calculation incorporates a utilization rate for in-patient and emergency room care based on the utilization rate of these services by people experiencing homelessness. While the starting populations for these calculations are the same, the utilization rates for people experiencing homelessness vary based on the type of care. The state portion of Medicaid expenditures is 35 percent based on "Federal and State Share of Medicaid Spending." Kaiser Family Foundation. Referencing Urban Institute estimates based on data from CMS (Form 64), as of FY 2019.

⁴⁴³ Desmond, Matthew et al. "Evicting Children." Social Forces. 2013. And U.S. Census. Average Number of Children per Family and per Family with Children by State. 2004.

⁴⁴⁴ Berg, Lisa and Brannstrom, Lars. "Evicted children and subsequent placement in out-of-home care: a cohort study." Public Library of Science. April 18. 2018.

the state. Of the 83 percent of foster care costs funded by the state, approximately 59 percent is spent on out-of-home foster care.⁴⁴⁵ Stout estimated that Delaware may avoid approximately \$800,000 related to out-of-home foster care placements due to disruptive displacement if a right to counsel were implemented. See **Exhibit E**.

162. The potential cost savings related to out-of-home foster care placements for Delaware are likely significantly understated. There are many additional services offered to children who are living in foster care that accompany foster care. The cost of social workers, case managers, maintenance payments, clothing, and monitoring the well-being of children placed with families, for example, are not included in Stout’s analyses as reliable, publicly available data to estimate these costs was limited. There may also be cost savings related to children who are living in foster care for reasons not related to housing but who cannot return home because their family is facing a housing instability issue that could be addressed by a right to counsel.

The Preservation of Affordable Housing

163. As of December 2019, New Castle County reported that “several thousand” households were on the waiting list for Housing Choice Vouchers and acknowledge that it is expected to take “several years to find housing for everyone currently on the waiting list.”⁴⁴⁶ This is evidence of the significant demand for affordable housing in Delaware. Given the demand for affordable housing, Delaware has demonstrated a commitment to building or preserving affordable housing units through numerous programs, such as Low Income Housing Tax Credits, Housing Development Fund, State Rental Assistance Program, Affordable Rental Housing Program, and Strong Neighborhoods Housing Fund. The Delaware State Housing Authority has requested the following budget / bond allocations in fiscal year 2022 to build or preserve affordable housing across the state through these programs:

Program	FY 2022 Request⁴⁴⁷
Housing Development Fund	\$4 million
State Rental Assistance Program	\$4 million
Affordable Rental Housing Program	\$6 million
Strong Neighborhoods Housing Fund	\$4 million
Total	\$18 million

⁴⁴⁵ "Child Welfare Agency Spending in Delaware." Child Trends. December 2018.

⁴⁴⁶ "New Castle County’s Housing Choice Voucher Waiting List is currently CLOSED." New Castle County.

⁴⁴⁷ "FY 2022 Joint Finance Committee Public Hearing." Delaware State Housing Authority.

164. In addition to these budget / bond allocation requests, Delaware also awards developers of affordable housing with Low-Income Housing Tax Credits. In 2019, the Delaware State Housing Authority awarded \$3 million in Low-Income Housing Tax Credits, which would build, preserve, or rehabilitate 202 units (149 in Wilmington and 53 in Laurel).⁴⁴⁸

Conclusion

165. Stout quantified the estimated potential annual cost savings to Delaware and the estimated return per dollar invested in a right to counsel. Fully implementing a right to counsel in Delaware would cost approximately \$3.4 million. The estimated potential annual cost savings to the state from a right to counsel in Delaware is approximately \$9.4 million: \$4 million in emergency shelter and transitional housing; \$1.8 million in school transportation for students experiencing homelessness; \$2.8 million in Medicaid spending for physical health care; and \$800,000 in out-of-home foster care. These estimated potential annual costs to Delaware are 276 percent greater than the cost of implementing a right to counsel. That is, for every dollar invested in a right to counsel for low-income tenants facing eviction in Delaware, Stout conservatively estimates a cost savings to Delaware of at least \$2.76. It is important to note that this estimate does not include the significant value contributed to Delaware through the preservation of affordable housing, cost savings to cities or counties, or the variety of other unquantifiable benefits of enacting a right to counsel such as, employment stability, community stability, better educational outcomes for children, fewer law enforcement interactions with people experiencing homelessness because of disruptive displacement, and the more efficient use of court

⁴⁴⁸ Danneman, George. "Delaware's 2019 Low-Income Housing Tax Credit Awards." The Danneman Firm. July 2019.

resources. Figure 22 shows the portion of total estimated potential annual cost savings to Delaware by cost category.

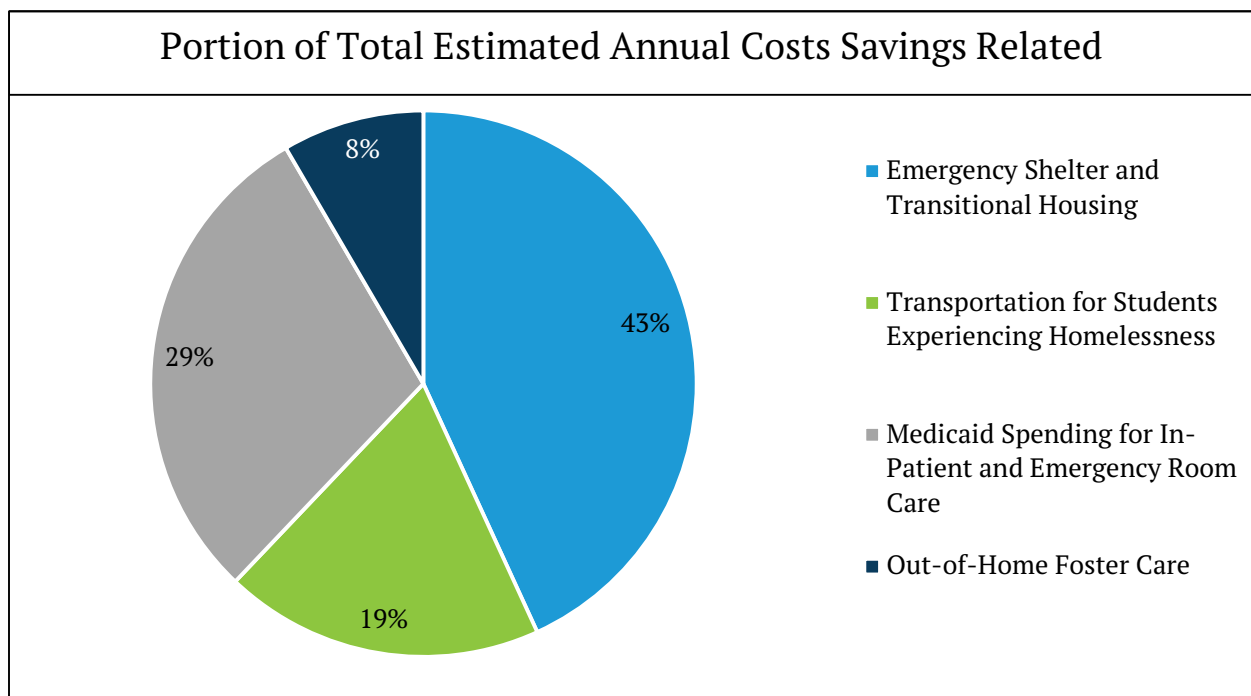


Figure 22

166. Counties and cities within Delaware may also realize potential cost savings if a right to counsel were implemented statewide. While Stout’s analysis focuses only on the annual cost savings that would be expected to accrue to the state, depending on how certain social safety net systems are funded, counties and cities may realize cost savings as well without any additional investment. Furthermore, Stout’s estimate of potential annual cost savings to Delaware is likely significantly understated. Included in Stout’s calculations are cost savings of a right to counsel that are quantifiable and reasonably reliable with available data. However, if tenants experienced more stable housing, Delaware would enjoy many benefits that are not at this time reliably quantifiable and therefore are not included in Stout’s calculations. The costs that would be avoided and benefits that would be enjoyed include, but are not limited to:


- The education costs, juvenile justice costs, and child welfare costs associated with children experiencing homelessness;
- The effects of stabilized employment and income and the economic and tax benefits to the state associated with consumer spending;
- The negative impact of eviction on tenants’ credit score and ability to re-rent;

- The cost of providing public benefits when jobs are lost due to eviction or the eviction process;
- Certain additional costs associated with homelessness, such as additional law enforcement and incarceration costs;
- The cost of family, community, and neighborhood instability;
- Preservation of financial assets and personal belongings; and
- A reduction, over time, of the number of eviction cases filed resulting in improved use of Delaware Justice of the Peace Courts' resources.

Assumptions and Limiting Conditions

167. Stout's conclusions are based on information received to date. Stout reserves the right to change those conclusions should additional information be provided.

168. Stout's review, research, and analysis was conducted on an independent basis. No one who worked on this engagement has any known material interest in the outcome of the analysis.



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Exhibit A

Summary of the Estimated Annual Cost Savings to Delaware

The Economic Impact of an Eviction Right to Counsel in Delaware
Exhibit A - Summary of the Estimated Annual Cost Savings to Delaware

1	Estimated annual emergency shelter and transitional housing costs related to disruptive displacement	\$4,000,000
2	Estimated annual transportation costs avoided by Delaware Department of Education for students experiencing homelessness	\$1,800,000
3	Estimated annual additional Medicaid spending by Delaware related to individuals experiencing homelessness as a result of disruptive displacement	\$2,800,000
4	Estimated annual costs avoided by Delaware related to out-of-home foster care placements	\$800,000
5	Total estimated annual costs avoided by Delaware related to disruptive displacement if a right to counsel were implemented	\$9,400,000
6	Total estimated cost to Delaware to provide a right to counsel to eligible tenants	\$3,400,000
7	Cost savings per dollar invested in a right to counsel	\$2.76

Exhibit B

Estimated Annual Emergency Shelter and Transitional Housing Costs Related to Disruptive Displacement

The Economic Impact of an Eviction Right to Counsel in Delaware

Exhibit B - Estimated Annual Emergency Shelter and Transitional Housing Costs Related to Disruptive Displacement

Emergency Shelter Costs Related to Disruptive Displacement		
1	Estimated number of households with a high likelihood of avoiding disruptive displacement because of a right to counsel [a]	2,331
2	Estimated portion of households that would have likely entered emergency shelter but for a right to counsel [b]	14.5%
3	Estimated number of households that would have likely entered emergency shelter but for a right to counsel	338
4	Estimated cost per exit from emergency shelter [c]	\$6,065
5	Estimated cost to exit from emergency shelter households that would have likely avoided disruptive displacement because of a right to counsel	\$2,049,940
6	Estimated number of households that would have likely entered emergency shelter and exited emergency shelter but for a right to counsel	338
7	Estimated portion of households exiting emergency shelter initially but have returned to emergency shelter [d]	29%
8	Estimated number of households exiting emergency shelter initially but have returned to emergency shelter	98
9	Estimated cost per exit from emergency shelter [c]	\$6,065
10	Estimated cost of people returning to homelessness who would have not initially experienced homelessness if right to counsel were implemented	\$594,483
11	Total estimated cost of first exit from emergency shelter and subsequent return to emergency shelter	\$2,644,422
Transitional Housing Program Costs Related to Disruptive Displacement		
12	Estimated number of households with a high likelihood of avoiding disruptive displacement because of a right to counsel [a]	2,331
13	Estimated portion of households that would have likely entered emergency shelter but for a right to counsel [b]	14.5%
14	Estimated number of households that would have likely entered emergency shelter but for a right to counsel	338
15	Estimated portion of households that would have likely entered transitional housing but for a right to counsel [e]	24%
16	Estimated number of households that would have likely entered transitional housing but for a right to counsel	81
17	Estimated cost per exit from transitional housing [c]	\$15,460
18	Estimated cost to exit from transitional housing households that would have likely avoided disruptive displacement because of a right to counsel	\$1,254,097
19	Estimated number of households that would have likely entered transitional housing and exited transitional housing but for a right to counsel	81
20	Estimated portion of households exiting transitional housing initially but have returned to emergency shelter [d]	19%
21	Estimated number of households exiting transitional housing initially but have returned to emergency shelter	15
22	Estimated cost per exit from emergency shelter [c]	\$6,065
23	Estimated cost of people returning to homelessness who would have not initially experienced homelessness if right to counsel were implemented	\$93,477
24	Total estimated cost of first exit from transitional housing and subsequent return to emergency shelter	\$1,347,574
25	Estimated annual total cost of emergency shelter and transitional housing responses to initial and subsequent instances of homelessness (rounded)	\$4,000,000

[a] Stout's calculation of the estimated number of income eligible households with a high likelihood of avoiding disruptive displacement as a result of right to counsel.

[b] Rolston, Howard et al. "Evaluation of the Homebase Community Prevention Program." Abt Associates. June 2013.

[c] "Rapid Re-Housing: Successfully Ending Family Homelessness." National Alliance to End Homelessness. N.d.

[d] "Rapid Re-Housing in Delaware: FY 2018 Report." Housing Alliance Delaware. 2018.

[e] Estimated by Stout using data from "The State of Housing & Homelessness in The First State." Housing Alliance Delaware. 2019.

Exhibit C

Estimated Annual Transportation Costs Avoided by Delaware Department of Education for Students Experiencing Homelessness

The Economic Impact of an Eviction Right to Counsel in Delaware

Exhibit C - Estimated Annual Transportation Costs Avoided by Delaware Department of Education for Students Experiencing Homelessness

1	Number of students in Delaware schools experiencing homelessness (2019-2020 school year) [a]	2,971
2	Estimated portion of students in Delaware schools experiencing homeless who need transportation to their school of origin [b]	55%
3	Estimated number of students in Delaware schools experiencing homeless who need transportation to their school of origin	1,634
4	Estimated portion of students in Delaware schools experiencing homeless as a result of disruptive displacement [c]	25%
5	Annual estimated number of students in Delaware schools experiencing homelessness as a result of disruptive displacement	409
6	Estimated portion of students who would have avoided the high likelihood of disruptive displacement if a right to counsel were implemented [d]	80%
7	Estimated number of students who would have avoided the high likelihood of disruptive displacement if a right to counsel were implemented	327
8	Estimated per child transportation cost paid by Delaware Department of Education [b]	\$5,400
9	Estimated annual transportation costs avoided by Delaware Department of Education for students experiencing homelessness (rounded)	\$1,800,000

[a] Delaware Department of Education. <https://www.doe.k12.de.us/homeless>.

[b] Estimated using Delaware Department of Education data on students experiencing homelessness and cost of transportation data in: Steele, Melissa. "Cape questions costs of busing homeless students." Cape Gazette. January 30, 2014.

[c] Estimated by Robin Hood. https://robinhoodorg-production.s3.amazonaws.com/uploads/2017/04/Metrics-Equations-for-Website_Sept-2014.pdf. See also paragraphs 79-83 of the report.

[d] Stout's estimate based on analysis of landlord-tenant docket data.

Exhibit D

Estimated Annual Additional Medicaid Spending by Delaware Related to Individuals Experiencing Homelessness as a Result of Disruptive Displacement

The Economic Impact of an Eviction Right to Counsel in Delaware

Exhibit D - Estimated Annual Additional Medicaid Spending by Delaware Related to Individuals Experiencing Homelessness as a Result of Disruptive Displacement

Cost Type	Individuals Avoiding the High Likelihood of Disruptive Displacement [a]	Portion of Individuals Experiencing Homelessness Due to Disruptive Displacement [b]	Individuals Experiencing Homelessness as a Result of Disruptive Displacement	Utilization Rate by People Experiencing Homelessness [c]	Individuals Experiencing Homelessness as a Result of Disruptive Displacement Utilizing Healthcare Services	Portion of Individuals Experiencing Homelessness as a Result of Disruptive Displacement Utilizing Healthcare Services But For Experiencing Homelessness [c,d]	Portion of Individuals Experiencing Homelessness as a Result of Disruptive Displacement Enrolled in Medicaid [e]	Average Cost per Individual Experiencing Homelessness [f,g]	Estimated Annual Additional Health Care Cost Related to Individuals Experiencing Homelessness as a Result of Disruptive Displacement	State Portion of Medicaid Expenditures [h]	Estimated Annual Additional Medicaid Spending by Delaware Related to Individuals Experiencing Homelessness as a Result of Disruptive Displacement
1 In-patient Care	6,993	25%	1,748	23%	402	80%		\$5,600	\$1,513,173	35%	\$529,611
2 Emergency Room Care	6,993	25%	1,748	32%	559	75%		\$18,500	\$6,520,273	35%	\$2,282,096
3 Total (rounded)											\$2,800,000

[a] Stout's estimate of individuals experiencing homelessness as a result of disruptive displacement.

[b] Estimated by Robin Hood. https://robinhoodorg-production.s3.amazonaws.com/uploads/2017/04/Metrics-Equations-for-Website_Sept-2014.pdf. See also paragraphs 79-85 of the report.

[c] Kushel, Margot, et al. "Factors Associated With the Health Care Utilization of Homeless Persons." The Journal of the American Medical Association. January 10, 2001.

[d] Kushel, Margot, et al. "Emergency Department Use Among the Homeless and Marginally Housed: Results From a Community-Based Study." The American Journal of Public Health. May 2002.

[e] DiPietro, Barbara, et al. "Early Impacts of the Medicaid Expansion for the Homeless Population." The Kaiser Commission on Medicaid and the Underinsured. November 2014.

[f] Salit, Sharon, et al. "Hospitalization costs associated with homelessness in New York City." National Library of Medicine. 1998. Average cost of \$3,000 adjusted for inflation.

[g] "The Cost of Homelessness Facts." Green Doors. N.d.

[h] "Federal and State Share of Medicaid Spending." Kaiser Family Foundation. Referencing Urban Institute estimates based on data from CMS (Form 64), as of FY 2019.

Exhibits E

Estimated Annual Out-of-Home Foster Care Cost Savings to Delaware

The Economic Impact of an Eviction Right to Counsel in Delaware
Exhibit E - Estimated Annual Out-of-Home Foster Care Cost Savings to Delaware

1	Income eligible households likely to avoid the high likelihood of experiencing disruptive displacement [a]	2,331
2	Estimated portion of households experiencing an eviction filing with children [b]	62%
3	Estimated number of households experiencing an eviction filing with children	1,445
4	Average number of children per household in Delaware [c]	2
5	Portion of children from evicted families placed in foster care [d]	4%
6	Estimated number of children from evicted families placed in foster care in Delaware	116
7	Estimated annual out-of-home foster care cost per child in foster care in Delaware [e]	\$14,600
8	Estimated annual out-of-home foster care cost in Delaware for children living in foster care because of disruptive displacement	\$1,688,017
9	Portion of foster care funding in Delaware funded by the state [f]	83%
10	Of the foster care funding in Delaware funded by the state, portion spent on out-of-home foster care [f]	59%
11	Estimated annual out-of-home foster care cost savings (rounded)	\$800,000

[a] Stout's estimate of income eligible households likely to avoid the high likelihood of experiencing disruptive displacement as a result of a right to counsel.

[b] Desmond, Matthew et al. "Evicting Children." Social Forces. 2013.

[c] U.S. Census. Average Number of Children per Family and per Family with Children by State. 2004.

[d] Berg, Lisa and Brannstrom, Lars. "Evicted children and subsequent placement in out-of-home care: a cohort study." Public Library of Science. April 2018.

[e] Estimated using cost data provided by Delaware Department of Services for Children, Youth and their Families (DSCYF). DSCYF estimates a cost per day of out-of-home foster care of \$20-\$60, depending on the needs of the child. Stout estimates an average cost per day of out-of-home foster care of \$40 and an average annual cost of \$14,600 per child in out-of-home foster care (\$40 per day for 365 days). Research on the length of stay in foster care in Delaware supports an average length of stay of at least 12 months.

[f] "Child Welfare Agency Spending in Delaware." Child Trends. December 2018.