

Eviction Record Sealing Legislation

Pennsylvania House Bill 1769

Testimony in Support of Sealing Eviction Records

The Pittsburgh Foundation, which has worked for decades to improve access to affordable housing, is urging the Pennsylvania legislature to pass House Bill 1769 to seal some eviction files in landlord-tenant court cases. The restrictions in this bill would establish basic fairness for tenants by preventing misuse of outdated, incorrect, incomplete, and misleading court records to deny renters new housing.

With the Clean Slate legislation passed in 2018, Pennsylvania led the country in automatically sealing criminal records to preclude old misconduct from permanently impairing the job prospects of reformed offenders. H.B. 1769 would correct an even more egregious harm inflicted on many Pennsylvania renters. When a landlord files for eviction, a record of that petition remains in the renter's name as an eviction even when the court finds in the tenant's favor, when the landlord and tenant negotiate a mutually acceptable settlement, and when the tenant pays the arrears and voluntarily moves out.

Record of an eviction petition, even when an eviction doesn't occur, is as ominous a dark shadow as a criminal record, trailing the tenant whenever they apply for new housing. That is because landlords have access to those records for untold years and routinely use them to reject rental applications. H.B. 1769 would correct that injustice.

The Pittsburgh Foundation does not come to this issue as a neophyte or with rose-colored glasses. The Foundation has a long track record of work on affordable housing issues, and in 2016, turned its attention to eviction specifically. To study the issue and work on solutions, the Foundation established the 30-member Eviction Prevention Cohort of Allegheny County, including legal experts, landlords, tenant advocates, and nonprofit organizations.

In partnership with Allegheny County's Department of Human Services, Foundation experts researched eviction and recommended solutions in a 50-page report published in 2021 (The report, "Eviction in Allegheny County" is [available on the Foundation website](#)). Among the changes endorsed in the report is what H.B. 1769 would accomplish – that is, sealing eviction records. The intent is to prevent exploitation of the records by data scraping agencies and landlords to improperly block tenants' access to safe and affordable housing, sentencing them to homelessness, slum housing, or unaffordable extra rent requirements.

As part of its mission to create a vibrant, equitable and just greater Pittsburgh, the Foundation has funded numerous efforts to improve landlord-tenant relationships. These includes Just Mediation Pittsburgh, whose trained mediators resolve landlord-tenant disputes and prevent evictions. In addition, the Foundation provided grants for the Housing Court Help Desk, where tenants can get proper legal forms, answers to questions and referrals to social services and pro bono legal help. The Foundation's support for H.B. 1769 is an effort to place another structural beam essential to erecting a safe and secure housing system in southwestern Pennsylvania.

The Pittsburgh Foundation is in good company in endorsing H.B. 1769. The White House, the American Bar Association, the Consumer Financial Protection Bureau (CFPB), Community Legal Services of Philadelphia, and PolicyLink of Philadelphia have all encouraged states to seal these records.

The White House Blueprint for a Renters Bill of Rights, issued in January 2023, says “eviction case filings should immediately be sealed, including in cases of nonpayment of rent, thereby reducing the chance for people to be locked out of future housing opportunities without a chance to defend themselves.” The bar association said the unfettered access to incomplete and inaccurate eviction records undermines the legitimacy of courts by incentivizing tenants to move out before an eviction petition is filed.

The CFPB has pointed out that while the federal Fair Credit Reporting Act limits public access to eviction petitions to seven years, enforcement is lax, and states have authority to impose additional restrictions and enforcement mechanisms, as H.B. 1769 would do.

At least 10 states and municipalities have imposed their own controls on access to eviction petitions. These include California, Colorado, Nevada, Arizona, and Philadelphia. California and Colorado, for example, automatically seal eviction records unless there is a judgement for the landlord. Philadelphia prohibits landlords from using eviction records older than four years to reject rental applicants. Still, Philadelphia landlords have access to the older information through data reporting agencies which amass eviction information from court records and sell it. Terminating access to the information, as H.B. 1769 would do in old cases and those in which a judge does not issue an eviction order, would solve this problem.

The statistics on eviction in Pennsylvania are staggering. According to Princeton University’s Eviction Lab, landlords filed 115,018 eviction petitions in Pennsylvania between September 2022 and September 2023. And there’s no indication that number will decline. Policy Link and Community Legal Services of Philadelphia reported last year that 189,000 Pennsylvania households were behind in paying rent. Fifty-seven percent of those were households with children.

The Princeton lab has found that 59 percent of those facing eviction were women. And, the lab has determined, the share of eviction filings and judgements against Black renters was considerably higher than their proportion of the renter population. In addition, rural and suburban regions are far from immune to this problem, with some of the highest eviction rates in the state occurring in those areas.

It's unclear how many of the 115,018 cases ended in forced evictions, where a sheriff’s deputy is dispatched to remove the tenant and their belongings from a rental unit. But a sizable portion ended with negotiated settlements, tenants moving without a court order, and judges finding in the renters’ favor. In fact, according to data from the Housing Alliance, 18,000 of those cases were found in the tenant’s favor. Despite winning, those tenants will be stalked by a record of an eviction petition filed against them.

For tenants who lose their cases, the eviction record provides no indication of the reasons for the financial crises renters faced at that moment in time. The eviction record does not report to potential future landlords the mitigating circumstances – that the renters fell seriously ill and were unable to work, that they lost jobs during the pandemic, that they had to take off from work to care for terminally ill children or parents. In addition, The Pittsburgh Foundation research into eviction in Allegheny County uncovered the fact that the average amount of rent owned by the lowest income tenants against whom Allegheny County’s housing authorities filed eviction petitions was shockingly small – \$208.

The current system is abjectly unfair to renters, subjecting them to dire consequences. The tenant who doesn’t have \$208 to pay his rent arrears to the housing authority, which charges no more than 30 percent of a person’s adjusted income, will not have the cash required for a security deposit, first month’s rent and possibly a second month’s rent often demanded by a private landlord who sees an eviction record.

If the renter can locate a landlord who will accept a very small upfront payment, the apartment frequently is problematic – in a dangerous neighborhood, in disrepair, or infested with fleas, hazardous mold or lead paint. Such slumlords frequently refuse to fix the unit’s broken windows or leaking plumbing, leading the tenant to withhold rent or complain to a code enforcement agency. The landlord may then retaliate by filing an eviction petition. That can put the family on the street again, now with a second eviction petition on their record.

Struggling families end up crammed in with irritated relatives, living in cars or ill-sheltered in tents under overpasses. Families lose all of their possessions. Adults lose jobs in the upheavals. Parents without stable, safe housing lose custody of their children. Parents fall mentally and physically ill under the stress, particularly when reduced to subsisting in cars or tents. Children are forced to switch schools repeatedly, causing learning setbacks. In addition, evictions cause instability in neighborhoods and classrooms, as families churn in and out.

As it stands now, these families can’t escape the cascade of devastating consequences from an eviction petition. There is no way for them to make it disappear from the court records or from the privately held information banks of data reporting agencies. And in the current climate of housing shortages, more landlords are using data reporting agencies, even though studies have shown their background checks are ineffective predictors of successful tenancy.

That is explained in part by the fact that data reporting agencies too often provide inaccurate information. The CFPB has found that many agencies make little effort to ensure the applicant named by the landlord is the same person cited in an eviction record and not just a person with the same or similar name. In addition, the CFPB said some reports speciously contain information about evictions filed in violation of COVID-19 eviction moratoriums. The result is that landlords may be turning away people grossly unfairly. Also, these agencies have been found to retain eviction records longer than the seven years allowed by federal law.

H.B. 1769 would resolve this by automatically denying access to all eviction records except those that end in a judgement in favor of the landlord. Even then, a judge could seal the record if

the court believes that would be in the best interest of justice. And the record would be automatically sealed after seven years elapse.

In addition, H.B. 1769 would require courts to seal specific old eviction records within 120 days of the bill becoming law. This would include all eviction cases that were withdrawn or dismissed, those that tenants won, and those that were settled by agreement between the parties or that the parties agree to have sealed. In addition, courts would seal all eviction records, no matter the outcome, which were older than seven years. The courts, the parties to an eviction case, attorneys for the parties, and legitimate researchers would retain access to these documents.

H.B. 1769 also would prevent data reporting agencies from circumventing the new rules. It would require anyone who has provided court information to these agencies to warn them that they could no longer use or sell information that the law would require to be sealed. The law would forbid the agencies from using sealed information, even if the agencies have it in their data banks, in creating tenant screening reports or recommendations for landlords.

Importantly, H.B. 1769 provides enforcement mechanisms. Disregarding the sealing rules would be considered a violation of the Unfair Trade Practices and Consumer Protection Law. A fine of as much as \$1,000 per violation could be imposed. In addition, H.B. 1769 would allow a tenant to sue the violator for an amount equal to two months of rent or twice the damages sustained, as well as attorney's fees.

H.B. 1769 is an opportunity for Pennsylvania lawmakers to eliminate the utter unfairness of the current eviction record system, provide housing security to struggling families, stabilize neighborhoods in which revolving door tenancy causes chaos, and reduce homelessness and hopelessness across the state. Passing this bill would once again put Pennsylvania at the forefront of states in providing a second chance to people struggling mightily to recover from a past setback.

Maura Jacob, MPH, MSW
Policy and Community Impact Officer
The Pittsburgh Foundation
412-394-2644
jacobm@pghfdn.org