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Before the Committee on Housing
Council of the District of Columbia

Public Hearing Regarding:

Bill 26-0141
"Eviction Reform Amendment Act of 2025"

and

Bill 26-0164
"Rebalancing Expectations for Neighbors, Tenants, and Landlords (RENTAL) Act of 2025"

May 28, 2025

Legal Aid DC[1] submits the following testimony regarding Bill 26-0141, the Eviction Reform Amendment Act of 2025, and the eviction process provisions of Bill 26-0164, the Rebalancing Expectations for Neighbors, Tenants, and Landlords (RENTAL) Act of 2025. These bills would roll back longstanding bedrock protections for tenants in the District under the guise of returning the eviction court process to its pre-COVID timelines and increasing public safety. However, neither bill will accomplish these goals. Instead, these

[1] Legal Aid DC is the oldest and largest general civil legal services program in the District of Columbia. The largest part of our work is comprised of individual representation in housing, domestic violence/family, public benefits, and consumer law. We also work on immigration law matters and help individuals with the collateral consequences of their involvement with the criminal legal system. From the experiences of our clients, we identify opportunities for court and law reform, public policy advocacy, and systemic litigation. For more information, visit www.LegalAidDC.org.

bills will strip tenants of their due process rights and common-sense eviction protections. These bills will lead to a less efficient court process and will result in more evictions.

These bills are very concerning for the following reasons:

- They would lead to increased litigation in eviction cases and a degradation of a core principle of DC landlord and tenant law by making a tenant's right to receive a legally sufficient notice to cure or quit less clear.

- These bills that would allow a landlord to evict an entire family without the opportunity to cure if one member of their household is either arrested for (the RENTAL Act) or found to have committed certain crimes by a court of competent jurisdiction (the Eviction Reform Amendment Act). This clearly violates District residents' due process rights, is unnecessary in light of existing District law, and is simply bad policy.

- The proposed reforms to the protective order process would violate tenants' rights to be heard before the court enters an order against them and will result in longer initial hearings, more motions practice, and less efficiency overall.

- Finally, requiring landlords to serve tenants only 14-days prior to their first court dates will result in more judgments by default when tenants are inevitably not able to appear on such short notice.

Most importantly, each of these provisions will result in more tenants being evicted from their homes and communities.

The RENTAL Act and the Eviction Reform Amendment Act Will Not Make the Court Process More Efficient

Legal Aid's understanding is that the RENTAL Act and the Eviction Reform Amendment Act are a response to allegations from landlords that the eviction process takes longer than it did prior to the pandemic, resulting in higher rent balances as well as public safety concerns. While it is true that some eviction cases take longer to resolve than was typical prior to the pandemic, it is not because of changes in tenants' substantive rights. It is because in response to the pandemic, the court fundamentally changed the way that tenants interact with the court and opposing counsel by holding many hearings

remotely.[2] Remote hearings are important for tenants who often have work, childcare, or other obligations that make it difficult for them to sit in court all day waiting for their cases to be called, which was typical prior to the pandemic. Other tenants are elderly or have disabilities that make commuting to the courthouse challenging or impossible. This shift to remote hearings has meaningfully decreased the number of tenants who are evicted from their homes simply because they were unable to spend hours waiting for their case to be called.

A byproduct of virtual hearings and increased tenant participation is that the court schedules fewer cases each day and enters fewer defaults against tenants. Also, fewer cases resolve early on because of the lack of communication between parties at initial hearings, which is exacerbated by the difficulty that tenants and their advocates face when trying to reach landlords' lawyers between hearings in order to resolve cases without court intervention.

There is not an easy answer to the challenges of remote court. However, Legal Aid and other eviction defense providers have been working in good faith with the court and attorneys from the landlords' bar to address them. For example, Legal Aid has proposed to the court that when both sides are represented by counsel, all hearings should be in person after the initial hearing. This would give tenants and their attorneys access to their landlords' lawyers, facilitating the quicker resolution of hearings and cases. Additionally, Legal Aid understands that the court is piloting same-day mediation at Further Initial Hearings this summer, as well as mediation-like office hours where counsel from both sides can meet in person to discuss and settle cases. Legal Aid is hopeful this could help parties resolve some cases without the need for additional court hearings.

Legal Aid is confident there are additional reforms to the court process that could address both landlord and tenant concerns about how long cases take to resolve. But one thing is clear: the answer to these procedural obstacles is not to strip tenants of their substantive rights, many of which long pre-date pandemic era protections.

Both Bills Would Water Down a Tenant's Right to Receive a Legally Sufficient Notice to Cure or Quit Before Their Landlord Sues for Eviction

The right to receive a notice to cure or quit is a bedrock principle of DC's eviction law. Both bills significantly undermine this principle by changing the word "shall" to "may" in paragraph (a)(4) of DC Code § 42-3505.01. This change gives the court discretion to not

[2] Further, to the extent that any delays were related to ERAP stays, those concerns have been alleviated and addressed through the Emergency Rental Assistance Reform Assistance Amendment Act of 2025.

dismiss a case when landlords fail to meet their legal obligation to serve a proper notice to cure or quit.

Under DC law, tenants are entitled to know what lease provisions their landlord alleges they violated and entitled to an opportunity to fix the alleged violation. Such notices are crucial to informing tenants of their rights and what they can do to avoid eviction. This requirement helps prevent displacement and eviction over minor or fixable lease violations and decreases the volume of eviction fillings. Without strict compliance, bad actor landlords may file superfluous, unnecessary cases, causing disruption and eviction for tenants and families. DC should be proud of this common-sense law, not water it down by making the court's dismissal of cases where the landlord does not follow it discretionary.

To the extent the Council is considering this change because it wants to give the court discretion when landlords fail to meet only technical requirements related to notices to cure or quit, that is not what the proposed bills do. Further, the council should be careful to categorize requirements as "technicalities." We frequently hear the court and landlords' attorneys refer to requirements as technical when they are in fact substantive and important. For example, DC law requires that a notice include the factual basis for the tenant's alleged breach, and state the specific actions the tenant must take to cure the behavior, with enough detail and in a way a reasonable person can understand.[3] The law also requires that a landlord serve the notice within six months of the alleged breach and give the tenant 30 days to cure the problem.[4] These are not technicalities. They are substantive rights that ensure landlords timely put tenants on notice of exactly what they are doing wrong and how to fix it in an understandable way. The two bills the Council is considering today will open the door for landlords to argue that the court need not dismiss a case even if they failed to meet these very basic obligations. And since landlords almost always have a lawyer, they will have the upper hand to make these arguments in court.

The "Public Safety" Provisions of These Bills Strip Tenants of Critical Due Process Rights and Would Destabilize Families and Communities

Each of these bills takes a slightly different approach to vitiating tenants' rights when they or a member of their household allegedly commits a crime, and both are

[3] 14 DCMR § 4301.4(a)-(b).

[4] 14 DCMR §§ 4303.1 & 4301.3.

unnecessary in light of pre-existing DC law that allows a landlord to evict tenants when they are convicted of committing a crime on the premises.[5]

The RENTAL Act proposes to allow landlords to evict tenants if they, or one of their household members, is merely arrested for a crime of violence or a dangerous crime. This means that even if the police arrest the wrong person or later realize the person they arrested did not commit the alleged crime, it does not matter. This is particularly troubling in instances of domestic violence, when police regularly arrest both parties, or the wrong party, when responding to calls. Under the RENTAL Act, the landlord will be able to evict the entire household because a person was arrested and that is all they have to prove. To make matters worse, the landlord would only have to give the tenant 10-days' notice before filing for eviction.

This proposed policy will exacerbate the consequences of over policing in low-income communities and communities of color and the wildly disproportionate rates at which Black residents are arrested in the District.[6] It presumes that anyone arrested for a crime is guilty, which we know is untrue and runs contrary to the principles our legal system was founded on. This proposed policy mirrors the failed Federal one-strike law – and is more far reaching than that law in some ways – which for well over 30 years has led to senseless evictions across the country, destabilizing families and communities.[7]

The Eviction Reform Amendment Act's public safety proposal is only slightly better. It at least appears to require a court of competent jurisdiction to find that the tenant or a household member committed a violent crime before the landlord can issue a notice to

[5] DC Code § 42–3505.01(c).

[6] ACLU of DC Research Report, *Bias at the Core?* ("Black people are being stopped at disproportionate rates in relation to their demographic representation in the District. Although Black people comprised just over 44% of the District's population in 2022 and 2023, they comprised 71.4% of the people stopped in 2022 and 70.6% of the people stopped in 2023."), *available at* aclu-dc_2024_stop-and-frisk_report.pdf.

[7] *See Weil, Lisa. "Drug-Related Evictions in Public Housing: Congress' Addiction to a Quick Fix." Yale Law & Policy Review, vol. 9, no. 1, 1991.* This article talks only about the drug related aspects of federal one-strike law, but its discussion is important and explains why punishing innocent family members is the harshest, and most unfair aspect of any one-strike law: "The damage to innocent children provides a final and compelling criticism of the vicarious liability component of the drug-related eviction provision. Although it is often a parent or older sibling who is involved in drug use or dealing, it is the child who suffers most from an eviction." Id. At 182.

vacate.[8] It also accounts for some of the many reasons it would be unjust to evict a tenant even in these circumstances – the tenant was a victim of an intrafamily offense (IFO), the tenant did not know about the criminal activity, or the tenant did "everything that could reasonably be expected" to prevent the crime. However, these defenses are inadequate. For example, and most importantly, it requires a tenant to get a Civil Protection Order (CPO) or call the police if they are the victim of an IFO to assert that defense, which is something not everyone is comfortable or safe doing.

DC law already allows a landlord to evict a tenant if a court of competent jurisdiction determines that the tenant committed an illegal act in the premises. The only difference between the Eviction Reform Act's proposal and the current law is that under current law the landlord must give the tenant a 30-day, not 10-day, notice to vacate, and the actual eviction does not have to occur within 20 days of the landlord getting judgment. But these shortened timelines are unrealistic and will lead to worse outcomes. Evicting tenants because they committed crimes will not make DC safer, and doing so with less notice – or perhaps no notice because it is unclear how the Evictions with Dignity Act would apply in these circumstances – ensures that tenants will have less time to make plans for where to go if forced to move and will more likely end up homeless.

Legal Aid and its clients want safe communities for families and tenants. But the provisions of this bill do nothing to make tenants safer. In fact, increased evictions will make communities less safe.[9]

The Proposed Protective Order Reforms Will Make the Court Process Less Fair and More Inefficient

When a landlord sues a tenant for non-payment of rent, the landlord can ask for a protective order. A protective order is a court order requiring a tenant to pay their rent to the court while the case is pending. The accuracy of these orders is vitally important because if a tenant fails to make a payment, the landlord can request sanctions.

[8] The law as drafted is inconsistent. Section 501b(a) seems to clearly require that a court must find the tenant guilty of a crime before the landlord can issue a 10-day notice to vacate. But section 501b(d) seems to suggest that the Landlord and Tenant Branch of DC Superior Court will decide if the tenant committed a crime through the eviction court process. We oppose this bill, but if it passes the Counsil should amend this proposal to reflect that a landlord can only serve a 10-day notice if a court has already found the tenant guilty of a crime.

[9] No Shelter, No Safety – Cornell ILR Eviction Filings Dashboard.

Sanctions can include anything from tenants losing their right to jury trials, to losing their counterclaims, to automatically losing their cases before trial and being evicted.

The DC Court of Appeals has routinely recognized the importance of correctly setting a protective order since 1970.[10] For example, the DC Court of Appeals has found that a protective order is subject to interlocutory appeal because of "serious, perhaps irreparable consequence" – namely eviction – that can flow from a tenant's inability to comply with it.[11] That is why when a landlord asks for a protective order, a tenant may challenge the amount of rent the landlord requests per month. Tenants may allege that there are serious housing code violations that reduce the value of the premises, that the landlord has not properly calculated their rent in accordance with their housing subsidy program, or that the landlord is incorrect about what the contract rent for the unit is.

The RENTAL Act attempts to upend decades-old housing law that permits tenants to raise these defenses before the court enters a protective order. Instead, the RENTAL Act requires the Court to enter a protective order for the amount the landlord requests at the initial hearing. Then, only later is the tenant allowed to present argument for why that amount should be lower based on housing conditions alone, even if the tenant may have other defenses. This violates a tenant's right to be heard before a protective order is entered, will result in landlords filing needless motions for sanctions if a tenant misses a payment but the protective order amount is later reduced, and, perhaps worst of all, will lead to tenants being evicted even when their landlord was incorrect about their base rent level.

The Eviction Reform Amendment Act's provision regarding protective orders is better but still suffers from the same fatal flaw of not allowing tenants to be heard *before* the court enters an order against them. Just like the RENTAL Act, tenants would only be able to present their housing conditions defenses to the court after the court has already entered a protective order for the full amount of the contract rent. Then, the court would have to figure out what, if anything, the tenant has overpaid into the court registry and refund that money. This backwards process will make the court process more complicated, less efficient, and harder for tenants to navigate.

Another side effect of both bills is that tenants and their advocates would need to come to initial hearings prepared to put on evidence of their defenses in response to a landlord's request for a protective order, further burdening the court's administrative resources. This means that initial hearings will take longer, and the court will get through

[10] *Bell v. Tsintolas Realty Co.*, 430 F.2d 474 (D.C. 1970).

[11] McQueen v. Lustine Realty Co., 547 A.2d 172, 178 (D.C. 1988).

fewer cases, as tenants do their best to ensure the court does not enter an incorrect or improperly high protective order against them.

The RENTAL Act Would Reduce the Amount of Notice Tenants Get Before an Initial Hearing, Which Will Result in More Default Judgments

The eviction court process is not backed up because of the amount of notice landlords have to give tenants. Yet, the RENTAL Act proposes to reduce the amount of notice that landlords must give tenants of the summons and complaint filed against them from thirty days to fourteen days. Fourteen days is simply not enough time for tenants to compile their relevant documents and information, try to find legal representation, request time off work, or line up childcare if they need to. If a tenant is out of town or in the hospital, they may not even know about the hearing. All this shortened notice period will ensure is that more tenants lose their cases by default and are evicted with no ability to defend themselves.

There is no reason to shorten this notice period. Even under the RENTAL Act's unrealistic (and likely impossible) timelines, the court would have to hold an initial hearing in a typical eviction case within 45 days of the landlord filing the complaint. If the initial hearing does not have to occur for 45 days, landlords can and should be required to serve tenants with the summons and complaint at least 30 days prior to the initial hearing.

The RENTAL Act Unnecessarily Complicates the Law by Extending the Cure Period from Thirty Days to Twelve Months for "Substantially Similar" Violations

The RENTAL Act would effectively require tenants to maintain the cure for any alleged lease violation for twelve months. It accomplishes this by adding an unclear and ambiguous provision to the code that allows landlords to serve a notice to vacate, without an opportunity to cure, if a tenant commits a violation that is "the same or of a substantially similar nature" to a prior violation that the tenant received a notice to cure or quit for during the prior twelve months.

Landlords already bring eviction actions against tenants in instances when they allege a tenant failed to cure a lease violation they were warned about many months prior. All the RENTAL Act would accomplish then is: 1) introducing ambiguity that will likely lead to litigation about was "substantially similar" means; 2) eliminating or watering down the fact intensive inquiry the court is required to engage in when deciding if a tenant effectively cured an alleged lease violation or frustrated that cure by reoffending close in time to the

original violation;[12] and 3) ensuring that tenants are evicted when they are unable to maintain a cure for twelve months.

If this law passes as written, here is an example of the type of case you will see in eviction court: Landlords routinely sue tenants for consistent late payment of rent, as opposed to nonpayment of rent. To cure, tenants must begin paying their rent on time. If the RENTAL Act passes, a tenant will have to pay their rent on time, not even a day late, for an entire year or their landlord can evict them. It would not matter if the tenant paid their rent on time for seven months after receiving the notice to cure if, during the eighth month, the tenant misses a week of work due to illness and falls behind. The RENTAL Act would allow the landlord to evict that tenant.

The Council Should Not Allow Landlords to Serve Tenants with Eviction Notices by Email in Lieu of First-Class Mail

The RENTAL Act proposes to allow landlords to serve tenants with 30-day notices to cure or quit by posting them on tenants' doors and sending tenants an email. This is a departure from the current requirement that landlords post and mail these notices via traditional mail. Many of our clients may have email addresses but rarely check them, have trouble navigating technology, or have limited access to the internet. And we all experience important emails ending up in our spam folder or hard to spot amongst the constant influx of advertisements and other inbox clutter. Allowing landlords to serve tenants by email will mean that fewer tenants get actual notice that their landlord is alleging they owe rent or are violating their lease in another way.

Posting is already a disfavored form of service because it is unreliable,[13] which is why DC law requires landlords to post and mail notices. The Council should not permit landlords to replace traditional mail with email, making an already unreliable form of service even less likely to result in actual notice to tenants.

[12] Borger Mgmt. v. Nelson-Lee, 959 A.2d 694, 697 (D.C. 2008) (A court "would consider whether the initial notice to cure was specific as to the type of violation, whether the second violation was the same as or sufficiently similar to the first violation in the initial notice to cure, and whether the recurrence was near in time to the first notice to cure.")

[13] Jones v. Hersh, 845 A.2d 541, 547 (D.C. 2004); S. Hills Ltd. P'ship v. Anderson, 179 A.3d 297, 302 (D.C. 2018).

Conclusion

Thank you for the opportunity to submit this testimony on the many problems with the RENTAL Act and the Eviction Reform Amendment Act. Legal Aid asks that you reject both bills and preserve tenants' rights to defend themselves against eviction. While change to the court process may be necessary to make the system better for both tenants and landlords, these bills will not accomplish that, and, if anything, will lead to increased inefficiency and litigation. Most importantly, however, these bills will lead to more evictions.