

**Testimony before the District of Columbia Council
Committee on Human Services
Tommy Wells, Chair
Public Hearing
Re: “Homeless Services Reform Amendment Act of 2010”
Bill 18-1059**

**Monica Bell, Arthur Liman Public Interest Fellow, Legal Aid Society
November 8, 2010
11:30 AM**

Introduction

When the District of Columbia Council passed the Homeless Services Reform Act (HSRA) in 2005, this Committee reasoned that the Act not only “outline[d] the common standards by which services will be provided to homeless residents,” but also enumerated “universally recognized human rights.”¹ The Committee Report specified that, although the legislation was not designed to create a general entitlement to shelter on demand, it was an official recognition of the entitlement to shelter in severe weather conditions.²

Bill 18-1059 proposes several changes to the original HSRA. The bill would require individuals and families seeking shelter during severe weather season to prove District residency before receiving shelter. This proof must be in the form of official identification, documentation of District school attendance or receipt of public services in the District, or by having a “verifier” (who must be a District resident) write a letter substantiating their claim of residency. The only type of shelter excluded from this new requirement is “low-barrier” shelter (which, by definition, does not include shelters for families),³ and the only individuals exempt from the residency requirement are survivors of domestic violence, sexual assault, or human trafficking.

The Legal Aid Society of the District of Columbia⁴ shares this Committee’s dedication to ensuring that District residents receive shelter on the coldest nights. We understand that the proponents of Bill 18-1059 view the measure as a way to protect District residents’ statutory right to shelter in severe weather by targeting shelter expenditures toward District residents. However, we oppose this legislation because it is a blunt instrument that will erect insurmountable barriers to shelter for some of the District’s most vulnerable families. Furthermore, the barriers this legislation would create are not likely to be effective in keeping out-of-jurisdiction families out of District shelters. In addition, the high costs of implementing the residency requirement will increase District expenditures in a time of

¹ Report of the District of Columbia Committee on Human Services on B16-103, the “Homeless Services Reform Act of 2005,” Apr. 21, 2005, at 17, *available at* <http://www.dccouncil.washington.dc.us/images/00001/20050628093926.pdf>.

² *Id.*; *see also* D.C. Code § 4-755.01(a).

³ D.C. Code § 4-751.01(26).

⁴ The Legal Aid Society was formed in 1932 to “provide legal aid and counsel to indigent persons in civil law matters and to encourage measures by which the law may better protect and serve their needs.” Legal Aid is both the oldest and largest general civil legal services program in the District of Columbia. Over the last 70-plus years, tens of thousands of the District’s neediest residents have been served by Legal Aid staff and volunteers.

recession. For these reasons, Legal Aid urges the Council to work with advocates, service providers, and the homeless community to develop more effective, fiscally responsible, and humane solutions.

I. Bill 18-1059 Would Place Significant Obstacles to Shelter in Front of Those Who Already Struggle to Access Critical Services.

It is well-documented that many people affected by homelessness have difficulty accessing social safety net programs. The difficulty of accessing programs can be attributable to challenges such as mental illness, substance abuse, limited English proficiency, disconnection from community, lack of a stable residence, and because lengthy, complex, and confusing application processes fail to accommodate these common challenges.⁵ Female heads of homeless families – one of the most rapidly growing segments of the homeless population – generally have few job skills and a limited amount of education. They are often overwhelmed by tasks like arranging for child care and are frequently survivors of domestic violence.⁶ They also tend to be afflicted with a variety of acute and chronic physical and mental health problems.⁷ Homeless families have often moved several times in the months before they resort to seeking shelter of any kind. This extreme transience makes keeping important documents (such as those that would prove their District residency) difficult, as they do not have a secure place to store them.⁸

The residency requirement proposed in this legislation would exacerbate the already high barriers families face to accessing shelter. First, the process itself would deter District families from seeking shelter. Even though a family could prove its District residency without a District driver's license, they would still need to show residency with public assistance records, school records, or by having a District resident write a letter to support their shelter application. Families with the youngest children would lack school records, and because the most vulnerable families often go without other forms of public assistance, they would not be in the system with those applications. As we have already seen with other forms of public assistance, the more complicated a process becomes, the fewer families in need can access it. The proposed legislation would make seeking emergency family shelter yet another confusing process that would leave families with children, who seek shelter as a last resort, out on the street in severe weather.

II. The Bill's Exemptions for Survivors of Domestic Violence, Human Trafficking, or Sexual Assault Raise Concerns About Confidentiality.

Bill 18-1059 contains an exemption from the residency requirement for those affected by domestic violence, sexual assault, or human trafficking. Although well-intentioned, Legal Aid is

⁵ See, e.g., U.S. General Accounting Office, *Homelessness: Barriers to Using Mainstream Programs* 7-10 (July 2000), available at <http://www.gao.gov/new.items/rc00184.pdf>.

⁶ Michael R. DeVos, *Ending Homelessness: Maine's Strategic Plan* 4-5 (2002) (reviewing national data), <http://www.ich.gov/slocal/plans/maine.pdf>; National Coalition for the Homeless, *Homeless Families with Children* (Aug. 2007), <http://nationalhomeless.org/publications/facts/families.pdf>; see also Debra J. Rog & John C. Buckner, *Homeless Families and Children* (February 12, 2007), available at <http://aspe.hhs.gov/hsp/homelessness/symposium07/rog/>.

⁷ Rog & Buckner, *supra* note 5.

⁸ GAO, *supra* note 4; DeVos, *supra* note 5; Schwab Foundation, *Holes in the Safety Net: Mainstream Systems and Homelessness* 10 (2003) ("Many homeless people have no ability to store the documents needed to prove citizenship, health conditions, income or even identity."), available at <http://www.schwabfoundation.org/files/PDF/SafetyNet.pdf>.

concerned about the effects this exemption would have on victims' confidentiality and ability to access shelter.

In order to receive this exemption, survivors would first have to disclose their status to a complete stranger. The necessity of this disclosure alone could deter District families from seeking shelter because they may feel ashamed or fear that the information itself, or their location, may not be kept confidential.⁹ Evidence suggests that survivors are often reluctant to divulge their status, even when seeking essential services.¹⁰ This reluctance would be similar or even more extreme among those who have been trafficked, as they often struggle with limited English proficiency, extreme fear of being deported, and concern about being morally judged by service providers. Indeed, even specialists in serving survivors of human trafficking report extreme difficulties in identifying survivors.¹¹ Workers at District shelters who do not specialize in serving this population are even less likely to make the necessary identifications.

If the legislation would not require evidence of a survivor's status, it would make the residency requirement highly ineffective. An out-of-jurisdiction family desperate for severe weather shelter could simply claim one of the exemptions in order to avoid showing evidence of residency. These exemptions, though well-intentioned, would therefore discourage the most vulnerable District families from seeking severe weather shelter without accomplishing the stated goals of the legislation – denying out-of-jurisdiction families the ability to access the shelter system.

III. The Bill's Narrow Definition of a "Verifier" Is Too Harsh in the Context of Severe Weather Shelter.

Bill 18-1059 would permit people seeking shelter to prove their residency not only through documentation of residency, services, or schools, but would also allow a "verifier" – a person who knows where the person or family seeking services lives – to write a letter vouching for the person or family's District residency. Unfortunately, the bill as drafted requires that the verifier be a District resident. Therefore, if the person or family seeking shelter has been working with a service provider at a community health center who happens to live in Maryland or Virginia, that health care worker would not be eligible to verify a homeless family's District residency. This elevated standard of residency verification is higher than every other standard used by IMA to determine residency-based eligibility for services.¹²

Perhaps the drafters of the bill intended that the verification requirements match the elevated standards for the D.C. Healthcare Alliance program adopted by the Department of Health Care Finance in 2009. If that was the intention, there are two significant problems with this approach. As a preliminary matter, the bill as drafted does not, in fact, apply the same definition of "verifier" as the Alliance's. The Alliance permits District residency to be verified by a non-profit social services

⁹ See Michelle Ganow, *Strategies for TANF Agencies to Identify and Address Domestic Violence* (Dec. 2001), http://www.financeproject.org/Publications/tanf_dvissuenote.htm.

¹⁰ *Id.*; see also Tanya R. Anderson & Ann M. Aviles, *Diverse Faces of Domestic Violence*, *ABNF Journal* (Fall 2006), at 129.

¹¹ See U.S. Dep't of State, *Assessment of U.S. Activities To Combat Trafficking in Persons* 7 (2003), <http://www.state.gov/documents/organization/23598.pdf>; April Rieger, *Missing the Mark: Why the Trafficking Victims Protection Act Fails to Protect Sex Trafficking Victims in the United States*, 30 *Harvard Journal of Law & Gender* 231, 244-47 (2007).

¹² See IMA Policy Manual, Part IV: Non-Financial Eligibility Requirements Verification 2.7.

organization, such as a homeless shelter, community health center, immigrant services provider, legal clinic, or a religious organization, regardless of whether the non-profit employee who writes the verification letter is a District resident.¹³ This legislation, however, would not permit verification through non-governmental social service organizations, which means that the standard for verification under Bill 18-1059 is actually *stricter* than the Alliance standard.

Using consistent residency standards across social safety net programs seems appealing at first. However, the context of emergency hypothermia shelter is significantly different from the context in which someone applies for Alliance health coverage and should be treated differently. When a family is homeless and seeking emergency shelter in below-freezing temperatures, the burden of providing written evidence of residency from a District resident can be prohibitive. The Alliance, on the other hand, is a health insurance program that is not primarily targeted toward emergency situations. Applying the Alliance's residency requirement in the emergency shelter context is comparable to requiring someone who shows up at an emergency room with a gushing gunshot wound to present identification or to get a letter proving District residency before a doctor will stop the bleeding.

IV. The Residency Requirement Will Likely Increase Financial Costs to the District During a Time of Recession.

It is undisputed that Bill 18-1059 is unlikely to reduce financial costs to the District. Although the recession has increased the number of families needing shelter, the corresponding number of shelter beds has remained flat. The fiscal impact statement attached to this bill, released on November 2, 2010, concludes that, "given the current waitlist for homeless services, no cost savings could be certified in association with this bill at this time."

However, although the fiscal impact statement anticipates that implementing the requirement would not cost additional funds, we believe that in order for the requirement to be effective, the Department of Human Services would need more funding to train shelter workers. As explained above, the exemptions alone will require workers to request information about families' history of domestic violence, sexual assault, and/or trafficking. The Department would need to train workers to create an environment in which people feel comfortable disclosing this information, and to notice the unspoken signs of these situations. These new requirements will place great strain upon workers who have not historically needed to elicit this information to perform their jobs effectively.

In the past, the District has been criticized for the poor administration of residency requirements for public services such as the D.C. Healthcare Alliance, and has needed to devote additional resources to training workers to administer those requirements.¹⁴ In the context of emergency family shelter, when dealing with a highly transient population, shelter workers will need substantial support to implement

¹³ See D.C. HealthCare Alliance Proof of Residency Form, Sec. C (requiring that organizational verifiers list the organization's name, address, and D.C. tax-exempt ID and the verifier's name, title, email address, and telephone number); see also Press Release, *DHCF Implements Controls to Alliance Program*, Aug. 21, 2009 ("The form allows another District resident or a non-profit social-services organization to verify that the applicant lives in the District") (emphasis added); IMA Policy Manual, Part IV: Non-Financial Eligibility Requirements 2.7 (stating that a residency verification letter must be "signed by a DC resident, or a DC social service provider") (emphasis added).

¹⁴ See Susan Levine, *D.C. Health Alliance Faulted on Eligibility Control*, *Washington Post*, Feb. 28, 2008, <http://www.washingtonpost.com/wp-dyn/content/article/2008/02/27/AR2008022704108.html>.

this new policy correctly. Giving them this support will necessitate additional expenditures that will be difficult for the District to afford given the current budget.

Conclusion

Bill 18-1059 contains serious flaws that would shut many District families out of services when they need them most. This bill would undermine District residents' right to severe weather shelter as recognized in the original Homeless Services Reform Act; the bill would also require the District to use financial resources that it does not have to educate shelter workers on implementing the new policy. We urge the Council to reject Bill 18-1059 and stand ready and willing to work with the Council and with other advocates to think of more effective, humane, and financially responsible solutions to the shortage of severe weather shelter in the District.