

**Testimony of Damon King  
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**Before the Committee on Human Services  
Council of the District of Columbia:  
Bill 22-0293  
“The Homeless Services Amendment Act of 2017”**

**June 14, 2017**

The Legal Aid Society of the District of Columbia submits this testimony to express significant concerns about the Homeless Services Amendment Act of 2017 – particularly changes to provisions of the Homeless Services Reform Act that determine who can gain and maintain access to the District’s homeless services system. Individuals and families struggling with homelessness are among the most vulnerable members of our community and they often seek assistance from our homeless services system in the midst of personal crises. The consequences of turning a person in need of assistance away from services can be dire. Because of this, it is important that our laws regarding eligibility for services be flexible enough for the system to respond to people at their most vulnerable.

Much like similar legislation introduced last fall, however, this bill strips significant flexibility from current law, making it harder for those seeking services to prove District residency, forcing applicants in crisis to meet an unrealistically high standard in showing that they have nowhere else to go, and giving the executive branch broad power to review and re-determine eligibility for services without adequate review of eligibility decisions. Legal Aid cannot, therefore, support the bill as currently drafted. We instead urge the Committee to work with advocates and community members to explore how it can revise the bill’s eligibility-related provisions to better reflect the difficult circumstances under which people typically come into contact with the homeless services system.

**Why Eligibility Criteria Matter**

Before discussing the substance of the bill, it is important to acknowledge at the outset why it is so important that our homeless services law get its eligibility criteria right. People struggling with homelessness approach our homeless services system at a time when they are in crisis. They are often struggling with a combination of factors that led to their homelessness, as well as histories of trauma – including trauma that directly preceded their seeking services. Studies from other jurisdictions show, for example, high percentages of women who are homeless have life histories that include intimate partner violence or severe physical or sexual assault, including by their most recent partners.<sup>1</sup> Experts have also pointed to the relationship between severe physical and mental health problems – which can destabilize individuals and

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<sup>1</sup> Rog, Debra & Buckner, John. *Homeless Families and Children*. 2007 National Symposium on Homelessness Research (2007), pp. 5-7 – 5-8.

families economically – and the loss of safe and affordable housing.<sup>2</sup> Being homeless can in turn make it harder to access and maintain treatment for health and mental conditions, making them worse and creating a vicious cycle.<sup>3</sup> Hunger is a persistent problem among homeless children, and homeless families are often victims of or witnesses to violent crime.<sup>4</sup>

These facts have three important implications. First, because individuals and families seeking services are often coming to the system from unstable, chaotic, and, in some cases, physically dangerous situations, they may struggle to meet complex eligibility criteria, particularly those that require extensive documentation. Second, the consequence of turning away someone approaching the system for help can be quite serious. A denial of services can mean that a mother is forced to return to a dangerous relationship in order to maintain housing, that a family must return to a setting that harms the health of its children, or that a young adult must continue to bounce from place to place, becoming ever more disconnected from services that could help him/her become stable and independent. Third, precisely because individuals and families struggling with homelessness are often grappling with multiple, co-occurring challenges, they need time to work through these challenges with services that remain stable and accessible over time. Premature revocation of services, or the constant threat of it, can feed fear of a return to past trauma and plunge them right back into the very instability that contributed to their homelessness in the first place.

What all of this means is that in “modernizing” the HSRA, we must ensure that any revision of the eligibility criteria allows for a degree of flexibility to determine people experiencing homelessness eligible when they are in need of help. Flexibility is what allows the system to serve applicants that present with a variety of challenges, to avoid turning people away from help at their most vulnerable moments, and to assure those who are receiving services that they can continue to receive support as they re-build their lives and make progress toward stable housing. Without flexibility, the system simply will not work for those who need it the most.

### **What Does the Homeless Services Amendment Act Do?**

While the Homeless Services Amendment Act of 2017 includes a range of changes to current law, its revisions to HSRA eligibility-related provisions are particularly concerning. Despite the need for a flexible system, this bill introduces a rigidity that would likely make it *more* difficult for vulnerable individuals and families to access and retain services. The bill does so in at least three key, problematic ways: (1) it creates new and unnecessary documentation requirements to prove District residency, (2) it introduces a presumption of ineligibility for shelter applicants whose names are found to be on leases and (3) it contains new provisions regarding both re-determination of eligibility and subsequent “program exits.” With the exception of the “program exit” language, versions of all of these provisions were included in

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<sup>2</sup> See, *Homelessness and Health: What’s the Connection?* National Health Care for the Homeless Council, June, 2011. [http://www.nhchc.org/wp-content/uploads/2011/09/Hln\\_health\\_factsheet\\_Jan10.pdf](http://www.nhchc.org/wp-content/uploads/2011/09/Hln_health_factsheet_Jan10.pdf) (discusses the ways in which health problems can put individuals on the path to homelessness, as well as how homelessness make treatment for and recovery from health challenges more difficult).

<sup>3</sup> *Id.*

<sup>4</sup> Bassuk, Ellen & Friedman, Steven. *Facts on Trauma and Homeless Children*. National Child Traumatic Stress Network (2005), p. 2; Rog & Buckner, *supra*, note 1, p. 5-7.

legislation that was introduced in the Council – but did not pass – last fall.<sup>5</sup> At that time, several legal services providers, including Legal Aid, Children’s Law Center, Bread for the City, and Washington Legal Clinic for the Homeless, raised concerns about those provisions. Yet, they remain largely unchanged in this version of the bill.

### Documentation of District Residency

The bill doubles the number of documents – from one to two – that a person must present in order to prove that they are DC residents eligible for homeless services.<sup>6</sup> Further, it limits the types of documents that a person can provide to prove residency to a list of options prescribed in the bill.<sup>7</sup> There is no “catch-all” provision in this list that would allow applicants to show residency by means other than the documents listed.

Legal Aid and others have previously noted that many applicants seeking shelter leave chaotic or dangerous situations in which they would not necessarily have access to these documents, meaning that raising the number of documents required may have the effect of screening out some of the most vulnerable members of our homeless population. Additionally, certain groups within the homeless population (for example, young adult applicants with limited or no histories of living on their own), are also less likely to have many of these documents, which tend to be dependent on either a significant history of stable housing, living independently, or both. Doubling the number of documents that an applicant must present creates a potentially insurmountable challenge for members of these groups.

More troublingly, the Administration seeks to double its residency documentation requirements even though many of the documents listed in the bill already require their own residency verification. If a person has obtained a DC driver’s license or ID card, for example, he/she has already proven District residency to the Department of Motor Vehicles as part of his/her application.<sup>8</sup> The DCPS and charter school enrollment process similarly includes residency verification.<sup>9</sup> By doubling documentation requirements – even for families who have already demonstrated their DC residency for the purposes of identification, school enrollment, or public benefits, the bill effectively creates a residency standard for homeless services that is higher than any of these programs. The bill does this in spite of the fact that, as noted above, failing to provide services to people experiencing homelessness can have serious and immediate consequences for their health and safety.

We urge the Council to review and revise language around residency verification. Proof of residency requirements need to reflect the emergency circumstances under which applicants actually seek services and must not contain artificial and unnecessary barriers to accessing services for individuals and families who are often in crisis.

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<sup>5</sup> Bill 21-0861, *The Homeless Services Modernization Amendment Act of 2016*.

<sup>6</sup> Bill 22-0293, *The Homeless Services Amendment Act of 2017*, § 2.

<sup>7</sup> *Id.*

<sup>8</sup> 18 DCMR § 103, 18 DCMR § 112, 18 DCMR § 114.

<sup>9</sup> DC Code § 38-306.

### Presumption of Safe Housing

The bill also includes a provision that if the Mayor “determines that an individual or family has an ownership interest in safe housing or is listed on a lease or occupancy agreement in safe housing, the Mayor may presume that the individual or family is not eligible for shelter.”<sup>10</sup> Once this presumption is triggered, an individual or family seeking shelter must “establish by clear and convincing evidence that they cannot return to such housing.”<sup>11</sup>

“Clear and convincing evidence” is a high standard for individuals and families seeking shelter to satisfy, and it is unclear what type of evidence they could provide in order to do so, particularly under the emergency circumstances in which they would be seeking shelter. As advocates noted in the fall, people seeking shelter are often not in a position to present more than their report of the experiences that led them to be homeless, and it is unlikely they would carry with them corroborating evidence that would be necessary to meet an elevated standard of proof.

The trigger for the presumption – a family or individual being listed on a lease – may also be problematic. Being on a lease does not prove that an individual’s housing is safe for them and it is unclear how eligibility workers would be able to determine whether the housing referenced in a lease meets the HSRA’s definition of “safe housing.” And while the bill does contain exceptions for “families seeking shelter services by reason of domestic violence, sexual assault, or human trafficking,”<sup>12</sup> it is unclear how such a determination would be made.

The Committee should closely question the Administration about why such a presumption (and the accompanying high standard for overcoming it) is necessary. In particular, the Committee should ask why such a potentially significant barrier to shelter is necessary when the Administration already has the power to admit families through the interim eligibility process, which was designed specifically to serve families for whom DHS needed more time to make an eligibility determination.

### Re-Determinations of Eligibility and “Program Exits”

Finally, the bill adds language allowing the Mayor to re-determine the eligibility of anyone in the continuum of homeless services at any time “if new or relevant information becomes available to the Mayor regarding the individual or family’s eligibility or the Mayor learns of changed circumstances which makes the individual or family no longer eligible for program assistance.”<sup>13</sup> Once the Mayor has re-determined an individual or family’s eligibility for a program, they can be removed from the program via a “program exit.”<sup>14</sup>

Program exits, which can be triggered either by a re-determination of eligibility or by an individual or family reaching the end of a time-limited program (like Rapid Re-Housing), are different from either terminations of services or denials of applications for services in that, unlike terminations or denials, a person or family who is “exited” from a program cannot request a fair

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<sup>10</sup> Bill 22-0293, *The Homeless Services Amendment Act of 2017*, § 2.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

hearing to review the Mayor’s decision.<sup>15</sup> The only review of a “program exit” that the bill allows is by the Director of the Department of Human Services.<sup>16</sup>

The combination of the power to re-determine eligibility at any time and the power to subsequently “exit” clients from programming without outside review has important implications. For one thing, it by-passes an important protection (the fair hearing process) that exists to prevent erroneous decisions and ensure a degree of consistency and reliability in the decision-making process around services for those facing homelessness. Furthermore, as my colleague, Rachel Rintelmann, will testify, the fact that program exits apply to services across the continuum has important implications for families in Rapid Re-Housing, who we have seen struggle to find and maintain safe, affordable housing and to generate the income necessary to exit the program without a serious risk of falling into homelessness.

We urge the Committee to ask the Administration why it believes these changes to be necessary. The Administration needs to identify the specific problem or problems that it is trying to address with this proposal, and why they cannot be effectively addressed by already-existing HSRA provisions. Given the considerable risks that premature or inappropriate “program exits” with no outside review pose for individuals and families receiving support from the homeless services system, we urge the Committee to reject the broad, sweeping provisions in the current version of the bill. If there are bottlenecks or inefficiencies in the system that cannot be addressed by the current HSRA, amendments to the HSRA should be narrowly tailored to address them.

Legal Aid believes that every person in the District who has no safe place to sleep at night should have access to safe, humane shelter, unfettered by bureaucratic hurdles; that clients in shelter and housing programs deserve due process and fair, transparent policies; and that the root cause of this District’s high rate of homelessness – a lack of affordable housing – cannot be solved by narrowing the front door to shelter or by imposing arbitrary time limits on housing. The Homeless Services Amendment Act of 2017 makes it harder, not easier, for vulnerable District residents to access the shelter services they desperately need. For that reason, Legal Aid cannot support it.

Thank you for the opportunity to submit this testimony.

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<sup>15</sup> *Id.*

<sup>16</sup> *Id.*