



NATIONAL LOW INCOME
HOUSING COALITION

END RENTAL ARREARS TO STOP EVICTIONS

EVICTION RECORD SEALING AND EXPUNGEMENT TOOLKIT

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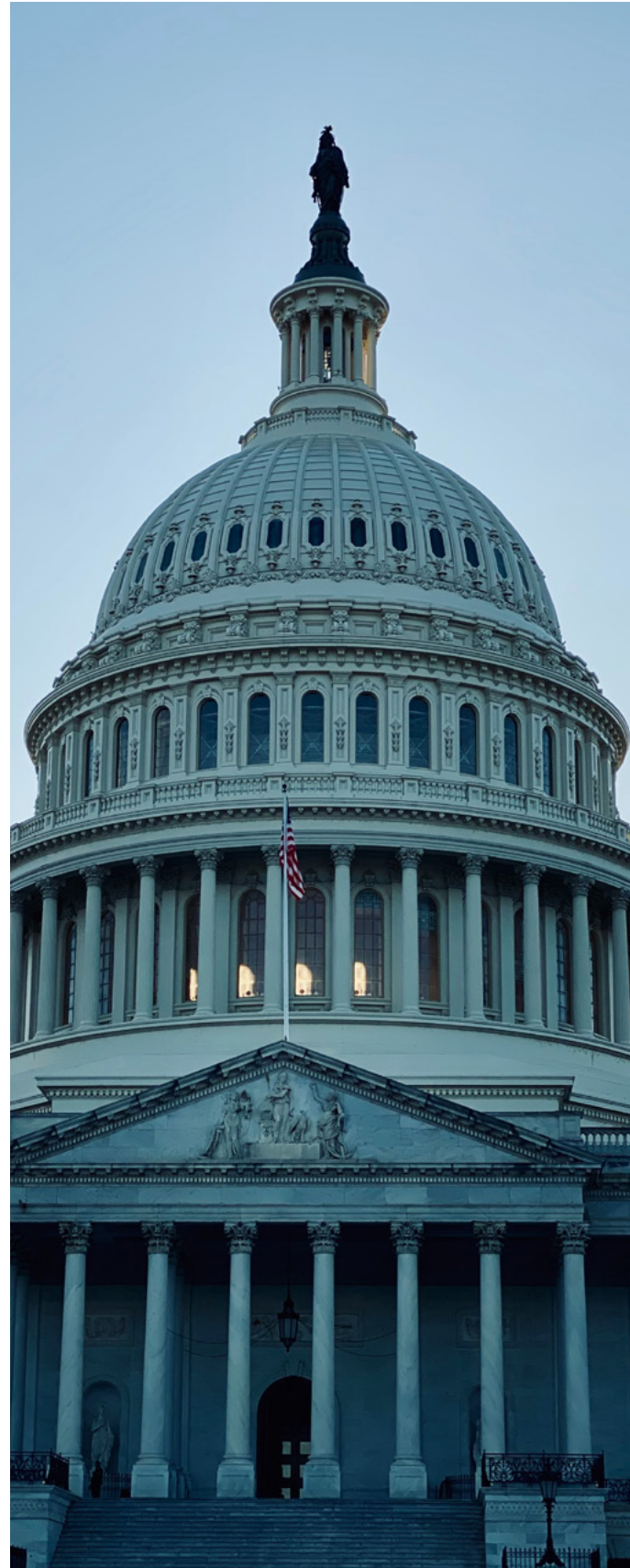
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Executive Summary

During the COVID-19 pandemic, policymakers recognized the importance of implementing tenant protections that diverted eviction cases and kept tenants securely housed.¹ Since the start of the pandemic, NLIHC has [tracked](#) more than 180 tenant protections that address both the long- and short-term effects of the pandemic, and its overall impact on housing. When local, state, and federal eviction moratoriums were in place to halt any eviction proceedings on the grounds of nonpayment of rent, eviction filings decreased in comparison to previous years. In states like California, for example, eviction filings dropped at the beginning of the pandemic to approximately 30% of 2018 levels.²

Today, historic rates of inflation, skyrocketing rents, and a shrinking affordable housing stock have only compounded the risk of housing insecurity brought on by the pandemic. As eviction rates return to the pre-COVID-19 status quo, many renter households across the country have become increasingly vulnerable to the threat of eviction.³ In Minneapolis and St. Paul, Minnesota, for example, eviction filings in 2022 increased by more than 137% over the pre-pandemic average, showing the dire need for passing more stringent and permanent tenant protections.⁴

This toolkit is the result of an effort by the National Low Income Housing Coalition’s (NLIHC) 2022-2023 End Rental Arrears to Stop Evictions (ERASE) Project Cohort to learn about how access to renters’ rental histories can be better controlled. The Cohort is interested in exploring eviction record sealing and expungement legislation as part of its larger goal of preventing evictions and creat-

ing a permanent Emergency Rental Assistance fund. This toolkit provides information about evictions and eviction record sealing and expungement policies, current eviction record sealing and expungement legislation, and the core components of existing protections, as well as answers to frequently asked questions.

For more information on NLIHC’s ERASE Project, visit: <https://nlihc.org/erase-project>

I. INTRODUCTION

Regardless of their outcomes, eviction filings can result in lasting and sometimes permanent [consequences](#) for individuals. Even in cases where an eviction judgement does not result in displacement for a tenant, the mere presence of an eviction on a tenant’s public record, especially as it appears in their credit history when applying for future housing opportunities, can prohibit a tenant from securing safe, stable, accessible, and affordable housing long into the future. For low-income and marginalized renter groups particularly, the effects can be detrimental to aspects of life well beyond housing stability, impacting an individual’s and their family’s ability to access reliable transportation, quality schools, and work opportunities.⁵

To help mitigate the negative effects of eviction records and support renters at risk of eviction, a growing number of lawmakers in states and localities across the country have passed eviction record sealing and expungement protections. While the strength of these policies and programs varies based on state and local contexts, the general purpose of enacting such protections is to prevent

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1 Gromis, A. et al. (2022, March 8). [Estimating Eviction Prevalence Across the United States](#). *Proceedings of the National Academy of Sciences*, Volume 119, Issue 21.

2 Herrera, J. & Paluch, J. (2023, March 6). [Eviction Rates Plunged During the Early Part of the Pandemic](#). Public Policy Institute of California.

3 Fitzpatrick, A. & Beheraj, K. (2023, March 16). [Evictions Have Returned to – or Exceeded – Pre Pandemic Levels](#). *Axios*.

4 Fitzpatrick, A. & Beheraj, K. (2023, March 16). [Evictions Have Returned to – or Exceeded – Pre Pandemic Levels](#). *Axios*.

5 Bell, J. (2021, November 5). [Beyond Displacement: How the Impact of an Eviction Can Last for Years](#). *PublicSource*.

eviction filings from impacting the ability of tenants to secure stable housing.

Currently, there are 10 states, including the District of Columbia, with active legislation related to the sealing or expunging of eviction records to protect renters, while many other states and localities are working to enact such protections in their jurisdictions.

II. WHAT CAUSES AN EVICTION?

For decades, renters in the U.S. have experienced alarmingly high rates of eviction. Using data collected over an 18-year period, the Eviction Lab at Princeton University recently found that, on average, 3.6 million evictions had been filed annually since 2000 – that is, approximately nine eviction filings for every 100 households.⁶ Black and Indigenous renter households and households of color are more likely to have an eviction filed against them than white renters, with low-income Black women experiencing the highest eviction rates. Over the course of their lifetime, one out of every five Black women is evicted, while one out of every 15 white women is evicted.⁷ Low-income households with children are also disproportionately more likely to face eviction. More than 14% of children who live in low-income households have experienced an eviction by the time they are 15 years old.⁸

Evictions can happen for many reasons. During or at the end of a tenant’s lease term, a landlord can file to legally remove a tenant from their residence for reasons such as nonpayment of rent, violation of the lease agreement, or criminal activity. The most common cause of eviction, typically, is nonpayment of rent. In many states, clearing a rental balance with a landlord is one of the only options for diverting the threat of eviction once a “notice to quit” has been issued against a tenant. However, because eviction cases disproportionately impact low-income renters, many tenants who are evicted for nonpayment of rent find it dif-

ficult to pay back any arrears and have their eviction case dismissed. Consequently, a tenant who is aware that they have not met this requirement will often not challenge an eviction order brought against them. The tenant may then choose not to appear in court, resulting in a default eviction judgement against the tenant, usually in favor of the landlord.

Lack of legal services, particularly for low-income renters, can also result in eviction judgements being brought against tenants. Low-income families usually cannot afford private lawyers, while legal aid attorneys are often unavailable due to high demand. (Indeed, approximately 50% of individuals seeking representation through legal aid are turned away.) As a result, in eviction cases nationwide, approximately 82% of landlords are [represented in court](#), while only 3% of tenants are.

Eviction lawsuits can also be filed against tenants without good or “just” cause, meaning, landlords can evict tenants for no reason – or fault of the tenant – whatsoever. In many states and localities around the country, landlords are not required to provide a reason for evicting a tenant at the end of a lease term or for evicting a tenant without a lease (i.e., a resident with a month-to-month tenancy). Moreover, a landlord who is unable to evict a tenant during their lease term may choose not to renew the tenant’s lease and use the lease holdover as grounds for eviction. Only 10 states have just cause eviction laws that limit the causes for which a landlord can evict a tenant or refuse to renew a tenant’s lease when the tenant is not at fault or in violation of any law. While no-fault evictions are illegal in some states, in others they are commonplace. In September 2021, of the 1,045 eviction cases filed in the State of Connecticut that month, 537 were due to no-fault causes.⁹

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6 Garnham, J., Gershenson, C., & Desmond, M. (2022, July 11). [New Data Release Shows that 3.6 Million Eviction Cases were Filed in the United States in 2018](#). Princeton University.

7 Lake, J. & Tupper, L. (2021, September 30). [Eviction Record Expungement Can Remove Barriers to Stable Housing](#). Washington, DC: Center for American Progress.

8 Benfer, E. (2022, November 2). [U.S. Eviction Policy is Harming Children: The Case for Sustainable Eviction Prevention to Promote Health Equity](#). Harvard University.

9 Vallejo, C. & Rabe-Thomas, J. (2022, April 14). [Rent Paid, Still Evicted: the COVID-era Rise of No-Fault Evictions](#). Connecticut Public Radio.

III. CONSEQUENCES OF AN EVICTION FILING

Once an eviction has been filed with the court, the filing can follow an individual for years, making it more difficult to obtain and maintain future housing as a renter. Eviction filings pose a threat to individuals because they appear during background screenings. Landlords often utilize background screenings through third-party screening companies during the application process, which can result in outdated and inaccurate or misleading information about applicants being shared with landlords.¹⁰ As a consequence, property owners and landlords often reject applications from prospective tenants whose screening reports reveal eviction filings, regardless of the outcome or circumstances surrounding the filing.¹¹

Despite the bearing of an eviction record on the ability of an individual to secure housing opportunities, a past eviction filing is not an accurate indicator of future tenancy. Once an eviction record is created, credit companies can access a tenant’s eviction data immediately. The data is then packaged and made accessible to landlords as part of a tenant’s screening report when a tenant fills out a rental application. Tenant screening reports do not detail why a tenant was evicted but rather only note that an eviction filing is present. Notably, a tenant screening report does not accurately reflect a tenant’s ability to pay rent or uphold the terms of the lease agreement.¹² Instead of such reports, landlords should utilize more qualitative measures to evaluate rental applications, including reference checks and interviews.

IV. EVICTION RECORD SEALING AND EXPUNGEMENT PROTECTIONS: DEFINITIONS AND EXAMPLES

Historically, record sealing and expungement laws have been used to provide restitution to individuals in certain criminal and juvenile cases. However, similar protections have also been extended to tenants with eviction records within the last decade to minimize the chances that these records are used against them in the future and reduce the likelihood of chronic housing instability.¹³

When an eviction record is sealed, it is removed from public view, with restrictions put in place detailing who can access the eviction record. In Arizona, for example, “[House Bill 2485](#),” which was passed in 2022, seals eviction records that are resolved in mediation pre-judgement – that is, outside of a courtroom – or in cases where a judge rules in favor of the tenant. Under this act, once an eviction record has been sealed, it cannot be unsealed or sold to a third party, such as a credit company or another landlord. Instead, only the party who has been evicted is able to access their case files. Even so, tenants whose eviction records are sealed must still reveal that they have been evicted on housing applications, which can often trigger an automatic denial by a landlord.^{14,15}

Expungement is a comparatively more permanent process that completely erases an individual’s eviction record, making it seem as if it were never there. In Oregon, lawmakers passed “[Senate Bill 873](#)” in 2019 to allow individuals with past eviction judgements to have their records cleared. When the bill was first passed, it only applied to cases that resulted in rulings in favor of the tenant or that were dismissed, cases in which a final court judgement was at least

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10 Duke, A. & Park, A. (2019, July 18). [Court Database Shouldn’t Be Landlord Screening Tool](#). *Commonwealth Magazine*.

11 Collatz, A. (2017, June 6). [Landlord Survey: Optimism in Renting Your Property](#). *SmartMove*.

12 Dada, T. & Duarte, N. (2022, July 7). [How to Seal Eviction Records](#). *Upturn*.

13 Rickard, E. & Khwaja, N. (2021, August 26). [State Policymakers Are Working to Change How Courts Handle Eviction Cases](#). The Pew Charitable Trusts.

14 Lake, J. & Tupper, L. (2021, September 30). [Eviction Record Expungement Can Remove Barriers to Stable Housing](#). Washington, DC: Center for American Progress.

15 Scherer, J. (2021). [Changing the Rule that Changes Nothing: Protecting Evicted Tenants by Amending Cleveland Housing Court Rule 6.13](#). *Cleveland State Law Review*.

five years old, and cases in which the landlord and tenant agreed to jointly file to have the eviction record expunged. During the pandemic, the law was amended to allow tenants in all types of eviction cases that arose on or after April 1, 2020, and before March 1, 2022, to file a request that their eviction record be erased from the court system. The permanent nature of such expungement legislation can prevent prospective landlords from finding eviction records in tenants’ rental histories, while also allowing applicants to answer “No” on housing applications when asked whether they have been evicted.

V. IMPLEMENTING EVICTION RECORD SEALING AND EXPUNGEMENT PROTECTIONS

Eviction record sealing and expungement protections can target any stage of the eviction process and can be triggered automatically or through a petition process initiated by the tenant or landlord. States like [California](#) and [Colorado](#) allow for the automatic sealing of an individual’s record as soon as an eviction lawsuit has been filed, while other states, like [Indiana](#) and [Minnesota](#), require a tenant to formally apply to have their record sealed or expunged once a court decision has been delivered.

Passing eviction record sealing and expungement legislation

Eviction record sealing and expungement protections can be passed at the federal, state, or local levels. There is currently no federal legislation that mandates the sealing or expungement of an individual’s eviction record, making state and local legislation even more important. Currently, 10 states nationwide (including the District of Columbia) have enacted sealing or expungement protections for tenants, with dozens of localities currently working to pass their own policies.

Two distinct avenues are available for lawmakers who wish to codify protections for tenants: statutory laws (employing legislative means) and administrative policies and orders (using executive means).

◀ STATUTORY LAWS

Statutory laws are written laws passed in the form of bills or acts at either the federal or state levels that are signed into law by members of the executive branch. At the local level, statutory laws are passed by city or town councils and then signed into law by a mayor.

There are several benefits to enacting tenant protections through statutory – or legislative – means. Statutory laws can provide:

- ◀ Clarity and permanence: As outlined in the text of a bill or act, statutory laws help individuals or organizations better understand their rights. Statutory laws, once enacted, can also extend permanent protections to individuals, especially when these protections are codified into law.
- ◀ Flexibility: Once passed, statutory laws can be updated or amended by a state or local legislature, allowing them to be responsive to the needs of the public.
- ◀ Public input and transparency: Statutory laws allow public input and debate, which can in turn promote transparency and increase accountability.
- ◀ Legitimacy: Insofar as they result from democratic processes, statutory laws can be seen as more legitimate, especially when such laws are passed with input from the public.

◀ ADMINISTRATIVE POLICIES AND ORDERS

A second avenue for enacting eviction record sealing and expungement protections is through administrative policies and orders. Administrative policies are rules and regulations that deal specifically with the implementation and interpretation of laws. Administrative – or executive – orders, on the other hand, are temporary policies passed by the executive branch at the federal or state level that do not require support from a legislative body. When administrative policies and orders are issued, the court system oversees their implementation to ensure that the laws are upheld both consistently and efficiently.

Administrative policy differs from statutory law. While statutory law deals with the creation of laws and legislation,

administrative policy focuses on its implementation. Administrative policies are thus more technical than statutory laws, insofar as they detail the processes and procedures needed to implement and interpret laws and legislation. While administrative policies are not laws *per se*, they are rules and regulations that have a power akin to law.

Texas, which is one of 10 states to have enacted eviction record sealing and expungement policies and programs, is the only state to have passed these protections through administrative means. In 2020, the Supreme Court of Texas, in collaboration with the Texas Office of Court Administration and the Texas Department of Housing and Community Affairs, passed [Executive Order No. 27](#) to establish the Texas Eviction Diversion Program (TEDP). Through this program, a tenant can enter mediation with their landlord with the help of the Court’s Justice of the Peace staff. Once the tenant and landlord enter mediation, any eviction filing that has been brought against the tenant is paused for 60 days, and all records related to the case are sealed and made confidential. During the 60-day time period, if the landlord receives any rental assistance or reaches an amicable conclusion to the case with the tenant, the case is dismissed, and the tenant’s eviction record is sealed and remains confidential. Notably, eviction record sealing policies in Texas have been renewed 14 times through administrative means since the start of TEDP in 2020.

Role of the Courts

When eviction record sealing and expungement policies and programs are put in place, the courts play a critical role in their enforcement. Throughout the eviction process, the courts are involved in every aspect of a tenant’s case. At the beginning of the eviction process, when an eviction order is levied against a tenant, court clerks are tasked with maintaining a tenant’s eviction file. If sealing or expungement policies are in place, court clerks are in charge of maintaining the confidentiality of these records.

A court’s capacity and resources, or lack thereof, play an important role in its ability to effectively implement eviction record sealing and expungement policies or programs. Due to budget constraints, local courts often have outdated infrastructures, leading to difficulties for court clerks when it comes to efficiently tracking or accessing individuals’ records. Court clerks can also be hesitant to

change processes because of a lack of staff capacity. In New Orleans, a city court clerk [testified](#) against a proposed eviction record sealing bill, arguing that the bill would place undue pressure on the courts. In the clerk’s testimony, they stated that the courts did not have the capacity to oversee the implementation of the proposed eviction sealing and expungement policy and lacked the funding to hire additional staff.

Therefore, for states and localities working to enact sealing and expungement protections within their jurisdictions, it is imperative that lawmakers engage court staff when drafting these bills. In California, for example, when advocates were working to pass “[Assembly Bill 2819](#),” court staff were included in deliberations about the bill, ensuring that courts would have the capacity to implement the law effectively.¹⁶

VI. CORE COMPONENTS OF EVICTION RECORD SEALING AND EXPUNGEMENT PROTECTIONS

To date, 10 jurisdictions have passed eviction record sealing or expungement legislation: Arizona, California, Colorado, the District of Columbia, Indiana, Minnesota, Nevada, Oregon, Texas, and Utah. California was the first state to enact such protections for tenants (in 2016), while other states followed suit during the pandemic.

While each jurisdiction has implemented unique sealing and expungement protections, many of the protections share core components that have been urged by advocates. These include the following:

- ◀ Automatic sealing for eviction records at the point of filing.
- ◀ Sealings that last as long as possible.
- ◀ Minimal administrative barriers to sealing and expunging records.
- ◀ Processes for accessing sealed eviction records by tenants and their attorneys for housing justice pur-

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 16 Dada, T. & Duarte, N. (2022, July 7). [How to Seal Eviction Records](#). *Upturn*.

poses, as well as aggregated levels to track eviction rates at the state and local levels.¹⁷

- ◀ Limitations on the selling of data to third-party entities, including credit companies.
- ◀ Processes for engaging court staff to understand capacity and administrative needs and ensure successful program implementation.

Based on an examination of existing protections and their common components, the ERASE project offers the following recommendations for lawmakers developing new eviction record sealing and expungement protections:

CLARIFY THE OPTIONS AVAILABLE TO INDIVIDUALS WISHING TO SEAL OR EXPUNGE THEIR EVICTION RECORDS

Lawmakers should clearly detail the options available to individuals hoping to secure their records and make them confidential. In currently existing protections, tenants have four options when attempting to seal or expunge their eviction records. These options are common across all states with legislation in place:¹⁸

- ◀ Tenants can attempt to prevail in court and be found not at fault or can attempt to convince a court to dismiss their eviction case altogether.
- ◀ Tenants can enter into mediation with landlords before eviction trials and resolve cases outside of court.
- ◀ Tenants and landlords can file joint requests with courts to have eviction records sealed.
- ◀ Tenants can wait for a certain amount of time to pass following an eviction judgement, after which time they may qualify for an expungement.

ENSURE THAT PROTECTIONS COVER ALL TYPES OF EVICTION CASES

Lawmakers devising protections will need to distinguish what types of eviction cases are eligible to be sealed.

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17 Dada, T. & Duarte, N. (2022, July 7). [How to Seal Eviction Records](#). *Upturn*.

18 DalPorto, D. & Hayford, M. (2022) [Eviction Sealing](#). *Case Western Reserve Social Justice Law Center: Reporter*, Vol. 2022, Article 8

While some jurisdictions – such as California, Colorado, the District of Columbia, Minnesota, and Nevada – allow for the sealing of records for all types of eviction cases, other states only allow the records of certain eviction cases to be sealed. In Arizona, for example, only individuals who have had an eviction order brought against them, either for noncompliance with a lease agreement or failure to pay rent, can have their eviction record sealed. In Indiana, however, an individual’s request for sealing is considered on a case-by-case basis. To protect renters who have been evicted, lawmakers should opt to provide coverage for all types of eviction cases.

REQUIRE THAT EVICTION FILINGS ARE SEALED AT THE POINT OF FILING

Lawmakers must also consider when in the eviction process an individual’s record should be sealed. Eviction records can be sealed automatically, at the time of an eviction being filed, or at the end of the eviction process when a judgement is brought down. Yet because third parties can access eviction data as soon as a case is filed, it is imperative that eviction records be sealed at the point of filing. When credit companies pull data on individuals early in the eviction process, that data can often provide misleading information about an individual, especially if the individual ends up prevailing in court. States such as Colorado have attempted to limit third-party access by sealing an individual’s eviction record as the individual moves through the eviction process. Other states, such as California and Colorado, seal an individual’s eviction record automatically.

STREAMLINE EVICTION RECORD SEALING AND EXPUNGEMENT PROCESSES BY REDUCING DOCUMENTATION

When eviction records are not sealed automatically, individuals must apply to have their records sealed. Usually, this process involves reams of paperwork for the individual. In addition to making sure the proper paperwork is filled out, individuals in some states, like Oregon, must convince a landlord to affix a signature to a document asserting that the individual has satisfied the terms of the eviction judge-

ment. At times, landlords can refuse to sign the individual's paperwork, creating additional barriers. These challenges can be mitigated by implementing policies that seal eviction records at the time of filing.

LIMIT ACCESS TO EVICTION DATA

To help mitigate the collateral consequences of evictions, lawmakers should consider limiting access to sealed eviction records. In the District of Columbia, for example, once an eviction record has been sealed, the record may only be opened upon written request by the tenant named in the case or when the Superior Court shows compelling need for the record (for example, when data are being used for scholarly, educational, journalistic, or governmental purposes). Even when a court can show compelling need for the record, the tenant's identifying information is made private.

ENSURE THAT SEALED RECORDS ARE SEALED PERMANENTLY

When an eviction record is sealed, it should be closed off from public view for as long as possible, and ideally permanently. All 10 states that have implemented sealing protections for tenants – including the District of Columbia – have designed protections that maximize the amount of time records remain sealed.

VII. CONCLUSION

Eviction record sealing and expungement protections are effective interventions for minimizing the impacts of eviction. While eviction record sealing and expungement protections do not prevent evictions from occurring, these protections can be used to reduce the threat of housing instability for many renter households. For low-income and marginalized renter groups, sealing and eviction protections, especially those that limit public access to eviction records, can ensure that tenants who have faced eviction lawsuits are not forced into undesirable and unsafe living situations. It is imperative that state and local lawmakers work to enact protections for tenants that address evictions in all forms and at all stages of the eviction process.

FREQUENTLY ASKED QUESTIONS

WHAT IS AN EVICTION RECORD?

An eviction – or unlawful detainer - is the legal removal of a tenant from their home. An eviction record is a public record housed within the court system that indicates that a tenant has been evicted from their place of residence. Once an eviction has been filed against a tenant within the court system, it appears on the tenant’s record almost immediately, sometimes remaining there permanently.

HOW MANY EVICTIONS ARE FILED PER YEAR NATIONWIDE?

The Eviction Lab at Princeton University reports that between 2000 and 2018, more than 3.6 million evictions were filed per year in the United States.¹⁹ During the COVID-19 pandemic, states and localities encountered challenges in trying to accurately track the number of eviction cases filed within their jurisdictions – whether this was weekly, monthly, or annually. The challenges faced by states and localities stemmed from a lack of administrative personnel to keep track of eviction data, as well as outdated infrastructure that made collecting data difficult.²⁰ Therefore, more recent eviction data are not readily available.

WHO IS MOST IMPACTED BY EVICTION?

Evictions disproportionately impact certain population groups over others. Low-income individuals, and especially renters of color, including members of Black and Hispanic populations, experience evictions at higher rates than their

white counterparts. Of these populations, low-income women of color and single mothers tend to be the most impacted. Nationwide, one out of every five Black women is likely to have experienced an eviction during their lifetime, while only one out of every 15 white women is likely to have experienced an eviction.²¹

WHY SEAL OR EXPUNGE EVICTION RECORDS RATHER THAN KEEP THEM PUBLIC?

The purpose of enacting such protections is that once an eviction – or the legal removal of a tenant from their residence – has been levied against a tenant, it cannot be used against them as they attempt to secure future housing. The mere presence of an eviction on a tenant’s public record, especially as it appears in their credit history when applying for future housing opportunities, can prevent a tenant from securing safe, stable, accessible, and affordable housing long into the future. For low-income and marginalized renter groups particularly, the effects can be detrimental to aspects of their life beyond housing stability, impacting an individual’s and their family’s ability to access quality transportation, schools, and work.²²

WHAT IS THE DIFFERENCE BETWEEN SEALING AND EXPUNGING EVICTION RECORDS?

Expungement, which is less common than sealing, means an eviction record is removed from a court system’s public view, preventing prospective landlords from seeing an eviction in a tenant’s rental history and allowing the appli-

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19 Garnham, J., Gershenson, C., & Desmond, M. (2022, July 11). [New Data Release Shows that 3.6 Million Eviction Cases were Filed in the United States in 2018](#). Princeton University.

20 Choi, J., Goodman, L., & Pang, D. (2022, February). [Navigating Rental Payment and Eviction Data During the Pandemic](#). The Urban Institute.

21 Lake, J. & Tupper, L. (2021, September 30). [Eviction Record Expungement Can Remove Barriers to Stable Housing](#). Washington, DC: Center for American Progress.

22 Bell, J. (2021, November 5). [Beyond Displacement: How the Impact of an Eviction Can Last for Years](#). PublicSource.

cant to answer “No” when asked whether they have been evicted on a housing application. Eviction record sealing, by comparison, refers to a court controlling and provisionally restricting access to an eviction record.²³ While sealing still reveals the presence of an eviction filing, expunging an eviction record is a more permanent process that completely clears a tenant’s eviction record from view.

WHAT ARE EVICTION RECORD SEALING AND EXPUNGEMENT PROTECTIONS?

Eviction record sealing and expungement protections are policies that either limit access to or erase an individual’s eviction record. Lawmakers often advocate for these laws to be passed in order to mitigate the negative impacts of evictions on individuals and their families.

WHICH LEGISLATIVE BODIES CAN PASS EVICTION RECORD SEALING AND EXPUNGEMENT LAWS?

These laws can be passed by legislative bodies at the federal, state, and local levels. There are currently no federal eviction record sealing and expungement protections in place, but 10 states – including the District of Columbia – have enacted local protections.

WHAT IS THE PROCESS FOR PASSING EVICTION RECORD SEALING AND EXPUNGEMENT LAWS?

These laws can be passed in two ways: through the legislative process (i.e., statutory law) and through administrative means (i.e., executive orders and policies). Statutory law encompasses legislation (an act, a bill, or an ordinance) introduced by a legislative body that is voted on before being signed into law by an official from the executive branch. By comparison, administrative law focuses on the enforcement of laws and ensures that laws are upheld through rules and regulations. Administrative policies can be passed by executive branches at the federal, state, or local levels. Examples of administrative agencies include bureaus, courts, commissions, and other departments.

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23 Scherer, James J. (2021). [Changing the Rule that Changes Nothing: Protecting Evicted Tenants by Amending Cleveland Housing Court Rule 6.13.](#) *Cleveland State Law Review*, Volume 70, Issue 1.

24 Lippman, D. (2021, August 06). [Groups Opposing Eviction Ban Spent Big on Lobbying.](#) *Politico*.

25 DalPorto, D. & Hayford, M. (2022). [Eviction Sealing.](#) *Case Western Reserve Social Justice Law Center: Reporter*, Vol. 2022, Article 8.

WHO ARE THE BIGGEST OPPONENTS TO PASSING EVICTION RECORD SEALING AND EXPUNGEMENT LAWS?

In addition to those landlords opposing the passage of eviction record sealing and expungement protections, there are several lobbying firms that oppose such protections. In 2021, lobbying firms spent more than \$100 million trying to prevent the passage of tenant protections.²⁴

IF EVICTION RECORD SEALING PROTECTIONS DO NOT PREVENT EVICTIONS, WHY SHOULD THIS TYPE OF LEGISLATION BE PASSED?

An eviction filing is not the same as an eviction, but it still carries the same negative stigma that eviction does. When an eviction is filed against a tenant, it creates a permanent legal record that is available to the public, regardless of the outcome of the case. Background screenings often do not specify the outcome of a case and are also inaccurate, pulling histories of unrelated people with similar names.²⁵ Having an eviction record can generate a slew of negative consequences for tenants, including limiting their ability to seek out additional housing opportunities after they have been evicted. As a result, individuals are often forced into undesirable living situations. Sealing these records, however, can allow a tenant to shield their eviction history from public view, which in turn can limit potential landlords from accessing an individual’s eviction record and denying their tenancy.

WILL SEALED EVICTION RECORDS DISTORT THE ISSUE OF HOUSING INSTABILITY ALTOGETHER, THWARTING RESEARCHERS’ EXPLORATION OF THESE ISSUES?

Although eviction records offer important data to researchers, such records also have devastating impacts for renters, including housing instability, mental health issues, familial strains, educational impediments, loss of jobs, and loss of income. Expungement or sealing laws can include clauses to ensure that researchers have access to uncoupled data so they can document trends without accessing specific

cases.²⁶

WHAT ABOUT PROFESSIONAL TENANTS WHO SCAM THE SYSTEM, NEVER PAY RENT, AND KEEP MOVING? SEALING AND EXPUNGING RECORDS PREVENTS LANDLORDS FROM BEING ABLE TO SEE WHETHER A TENANT HAS A HISTORY OF NOT PAYING RENT AND MOVING FROM PLACE TO PLACE.

If a landlord is checking references, and a tenant cannot come up with any, the landlord does not have to rent to them. References are a more accurate way to gather background information on a tenant than their record. Additionally, eviction records do not display whether an individual was at fault during an eviction case. This can result in misleading information being shared about a prospective tenant.²⁷

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26 DalPorto, D. & Hayford, M. (2022). [Eviction Sealing](#). *Case Western Reserve Social Justice Law Center: Reporter*, Vol. 2022, Article 8.

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Looking for more information?

- ◀ For more information about evictions and eviction record sealing and expungement protections, please visit the ERASE [website](#)
- ◀ If you have a question, please contact the ERASE team at eraseproject@nlihc.org