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February 28, 2022

Minnesota House Committee on Housing Finance and Policy

Dear Madam Chair and Committee Members:

I am writing to encourage you strongly to adopt HF 835's the proposed changes to housing law statutes, in particular those regarding eviction and expungement.

After retiring from 3M's Office of General Counsel, through Volunteer Lawyers Network I have been representing unhoused clients around Minnesota who seek to have their eviction records expunged. I have seen first-hand the unintended impacts of the current statutes that result in eviction records remaining public for years. These eviction records block families from being accepted for rental housing, and result in families staying unhoused for years. In many cases the adults' employment ends or is placed at great risk. And the attendant physical and mental distress is exceedingly damaging to everyone in the family.

I have had clients who *won* eviction cases with landlords, but did not understand that the eviction records would remain in public view, follow them for years, and result in most of their future rental applications being rejected. I have had clients with severe physical limitations who had been unable to navigate the many steps required to petition the courts to expunge their records. And I have had many clients who – had they had representation – would have been able to assert effective defenses to landlords' unwarranted attempts to evict them – and to request in the moment the expungement of the records of eviction cases they had won. I also have had many rentworthy clients – fully able to pay their rent - crippled by eviction records where their only misstep had been not escrowing their rent when the landlords would not fix critical infrastructure to enable the premises to be habitable in the first place.

Let me share a couple of examples:

F.A. – had a long history of rental reliability with several landlords. She then rented an apartment with her sister, paid rent on time, and took excellent care of the property. After 16 months, the landlord had granted her formal request to remove her from the lease when she moved out. Nonetheless, the landlord later included her name in its eviction case against her sister when her sister defaulted on the rent. Not only was F.A. not legally served, but she had no idea that she had an eviction record until she tried to find rental property for herself and her two young daughters. Her rental applications were repeatedly rejected and she was forced to shelter in two small rooms in a house from someone. Her daughter had to take a public bus alone for two hours each day – often in the dark in winter – to ride across town to remain at her supportive school. Had F.A. had counsel, the case likely would have been dismissed and expunged promptly, and her family would not have been rendered unhoused for months.

P.V. – paid her rent in cash for years to her landlord. When the landlord became ill, the landlord's son demanded and kept the rent money and claimed P.V. had not paid it. He brought a motion to evict, did not properly serve her, and wrongfully told her that the court was going to kick her out the next day. Rather than go to court, she scrambled to try to extract some of her belongings. The court issued a writ and she left earlier than she would have had to, leaving most of her possessions in the apartment, which the landlord seized. Had she had counsel, she might have been able to demonstrate her long and sustained, timely rental payments, objected to the lack of proper service, obtained time to remove her items even if she had lost the case, and possibly negotiated immediate expungement of the records. Upon her moving out, no one would rent to P.V. because of her eviction record and she wound up sleeping alternatively on her son's and her daughter's couches on different sides of town, moving every few days. She could not retain her employment because of her lack of reliable transportation. Her daughter and her pre-school children were then evicted for having P.V. stay with her even though she then was providing daycare to her grandchildren. Both the mother and daughter might not have been forced out of their homes had each had counsel, able to raise defenses.

A.B. – is a single mom who lived with two other friends. She reliably paid her share of the rent and had a strong rental history. When one of her friends did not pay her share, the landlord brought an action against all. The tenants settled with the landlord at court, timely paid the agreed upon amount, and continued to rent from the landlord amicably for months. Nonetheless the eviction remained on her record and later she and her young son were repeatedly rejected for new apartments despite her unblemished record of paying rent. In short, her eviction record was not an accurate reflection of her rentworthiness. As a result she had to beg for months to stay temporarily on the couches of friends' homes and her elementary-aged son took a public bus from Minneapolis to St. Paul every day alone to stay in his supportive school. It was years before she learned she might request volunteer legal counsel and that it was possible to have her records expunged. Had A.B. had legal counsel from the beginning she could have included in the settlement agreement with the original landlord a requirement that the record be expunged upon the payment of the settlement amount. She and her son would never have had to endure homelessness.

S.A.: rented from a landlord who refused to fix plumbing that flooded his unit, ruined his personal belongings, and forced him to move out. Fully able to pay the rent, but not appreciating that he had to pay the money to the court in escrow, he withheld rent to try to force the landlord to make repairs and make the unit habitable. The landlord successful had him evicted and - due to the eviction record – he and his children were homeless for years. Even when S.A. had a slim lead on a unit he could rent, he did not have the money to pay the "penalty" often imposed by landlords on those with an eviction record – to prepay the first and last months' rent, along with an exorbitant security deposit. Had he had legal representation at the time or had automatic expungement after a reasonable time been enacted statutorily, his family would not have been living on friends' couches for months and years at a time.

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Minnesota Statutes provide extensive protections for landlords, but need to be amended to prevent the dire and unintended consequences of rendering homeless those who are rentworthy, have had defenses, have won and/or who would have won or settled cases had they had access to legal assistance. Even for those who were legitimately evicted for inability to pay the rent, the deep damage to families and to communities arising from the indefinite public access to eviction records far outstrips the public's short-term need to know of one's past rental difficulties. There must be balance and consideration of the impact on families and communities. In addition, those with eviction actions commenced against them should have access to legal services to understand their rights and options.

Please support HF 835's proposed changes to the statutes, in particular those to:

- Grant immediate, mandatory and automatic expungement (without the tenant having initiate another court process) to eviction cases where:
 - no hearing was ever held;
 - the case was dismissed for any reason;
 - the tenant prevailed in the case;
 - the tenant had vacated the property before the court eviction order was entered;
 - the tenant had not been provided proper, legal notice;
 - where the settlement was fulfilled; or
 - the parties agreed to expungement.
- Grant automatic expungement (without the tenant having to initiate another court process) within three years of the issuing of a writ.
- Provide all tenants written fourteen days' prior notice and opportunity to pay prior to the filing of an eviction case, as well as information enabling tenants to access to legal advice to learn of their rights and defenses.
- Prohibit public access to an eviction action prior to the entering of an eviction writ in favor of the landlord.

Do not hesitate to contact me if you have any questions. Thank you for your consideration.

Sincerely,



Nancy G. Etwiler