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Testimony in Support of Senate Bill 245
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Senate Housing Committee
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Chair Reynolds, Vice Chair Johnson, Ranking Member Craig and members of the Senate Housing Committee, thank you for the opportunity to provide testimony in support of Senate Bill 245. My name is Zack Eckles, and I am an attorney at the Ohio Poverty Law Center (OPLC). Our mission is to reduce poverty and increase justice by protecting and expanding the legal rights of Ohioans living, working, and raising their families in poverty.

A primary objective in pursuit of that mission is ensuring access to, and the ability to maintain, safe and affordable housing. There are several parts of SB 245 such as increased mediation and access to counsel that, if enacted, would improve the eviction process. For my time today, though, I'd like to focus on eviction record sealing.

In Ohio there are currently an estimated 76 affordable and available rental units per 100 households at or below 50% of the area median income. In this competitive rental market, an eviction record can significantly impede a person's ability to find safe and secure housing even if the eviction was dismissed, was not the fault of the tenant, or is no longer indicative of their ability to pay rent.

Unfortunately, many tenant screening reports utilized by landlords only report whether an eviction record exists, and do not include important context or even how the case was resolved. While these companies could certainly do better, **a 2020 study of over 3.6 million administrative eviction court records from 12 states found that, on average, 22% of eviction records contain ambiguous information on how the case was resolved or falsely represent a tenant's eviction history.** So, when we talk about "eviction records," the most important part of the record is the initial filing.

Eviction filings are merely allegations, which may not be meritorious, and regularly contain technical deficiencies that require them to be dismissed and refiled, creating multiple records for the same set of facts. **Evictions are also regularly filed for reasons more reflective of our lack of affordable housing than whether the tenant is a good renter.** For example, if the rental property is foreclosed on, or the landlord passes away, or if the landlord just wants to remove the property from the rental market, a tenant could be forced to find new housing through no fault of their own and face an eviction if they are not able to find housing quickly enough.

From 2010-2019, there was an average of 110,842 eviction filings per year here in Ohio. During that same time, there was an average of **47,953 eviction cases dismissed per year.**¹ Every single one of those dismissals created an eviction record that makes it more difficult for an Ohioan to find housing. Despite the huge number of eviction filings each year, the Ohio Revised code is silent on eviction record sealing.

Local governments and courts have begun to recognize the need for eviction record sealing, but much more needs to be done. **Ohio has 159 courts that hear eviction cases, but only 29 have some form of eviction record sealing available.** These 29 courts utilize a wide range of procedures and have different forms of relief available. Some courts will seal the record in the same manner criminal records are sealed, some redact the tenant's name from the record, and some just remove the record from the online docket. Ohio needs a statewide standard. SB 245 is an encouraging start, but I would like to suggest two improvements:

1. **Simplify and automate wherever possible.** Few substantive areas of law have seen as much bipartisan support and advancement in Ohio over the past ten years as increasing eligibility for criminal record sealing. For Ohioans to realize the gains made, advocates and researchers in this field are now working on increasing *access to sealing*, through automation and simplification of procedures. This same approach should be taken with eviction records by amending SB 245 to require courts to seal eviction records automatically, without motion by a party, in cases where the judgment is in favor of the tenant or the case is dismissed. Furthermore, all eviction records should be expunged by courts no later than 7 years have passed since final disposition or satisfaction of any judgment to be consistent with the Fair Credit Reporting Act's 7-year rule.
2. **Limit public access at the time of filing.** The internet is a bell that record sealing often cannot unring. Limiting public access to eviction records, particularly by keeping them off online dockets, until a judgment is entered against the tenant is the most effective way to protect Ohio tenants from online screening databases that publish inaccurate or misleading records. Colorado's suppressed court record statute is an excellent model. It limits access to eviction records to judges, court staff, a party to the case and their attorneys, and anyone with a court order until a judgment is entered in favor of the plaintiff.

Thank you all for your work on this Committee over the past year and a half and thank you to Senator Reynolds and Senator Craig for this important legislation. I am happy to answer any questions.

Sincerely,
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¹ Filing numbers dipped in 2020 to 69,167 but returned to pre-pandemic levels in 2023 with 107,961 filings.