

Addressing Evictions Before, During, and After COVID-19

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Executive Summary

Item 105 of Chapter 854 Acts of Assembly also known as the budget bill directed the Department of Housing and Community Development (DHCD) to work with the Virginia Housing Commission to identify the impact of the 2019 legislation and recommend if any further action is necessary to complement these efforts. DHCD is directed to consider federal, state, and local resources, including but not limited to: (a) current counseling and social services provided by state agencies and authorities; (b) the potential needs of the cities of Richmond, Newport News, Hampton, Norfolk, and Chesapeake, as well as eviction prevention and diversion programs established in the cities of Arlington and Richmond; (c) data collected pursuant to Senate Bill 1450; and, (d) eviction prevention and diversion programs in other states. Furthermore, DHCD is directed to analyze and recommend how to better coordinate current public and private resources and programs to reduce eviction rates in Virginia, as well as how current prevention efforts can coordinate with existing and newly created eviction diversion laws and programs.

Governor Northam and the General Assembly made reducing evictions a policy priority for the Commonwealth of Virginia. Following Governor Northam's Executive Order 25 issued in November of 2018 prioritizing reducing the rate of evictions, the General Assembly followed suit and passed a legislative package during the 2019 session that included several new measures to mitigate the effect of evictions on tenants and landlords.

In the initial report submitted by DHCD in response to this budget language, which was published in January of 2020, legislation that had been passed during the 2019 session had been in effect for 6 months, making it challenging to evaluate the effect of the legislation on evictions. As part of the first report submitted to the General Assembly, DHCD made the following recommendations to further advance solutions for helping to prevent and divert evictions in the commonwealth:

1. Design and Implement an Eviction Prevention and Diversion Pilot Program
2. Pilot Implementation of a Local Eviction Data Collection System

The 2020 Special Session budget signed in November of 2020 directed DHCD to establish a competitive Eviction Prevention and Diversion Pilot Program that will support local or regional eviction prevention and diversion programs that utilize a systems approach with linkages to local departments of social services and legal aid resources. As part of this report, an update will be provided on the pilot program.

Less than a year after the 2019 evictions legislation became effective, the first cases of the coronavirus pandemic were reported in the commonwealth. Within weeks, orders to shelter-in-place became effective and within a few short months, thousands of Virginians had become unemployed. To mitigate the spread, federal, state, and local entities issued eviction moratoria, provided financial assistance, and launched numerous other programs to ensure that low to moderate income Virginians could stay housed and stay healthy.

Given the initial report was submitted prior to the pandemic, the following report would be incomplete without discussing the impact of the COVID-19 pandemic on communities across the state to date. Thus, in order to fulfill the General Assembly's request within the context of COVID-19, DHCD conducted individual interviews, analyzed relevant studies and data, and assessed existing eviction prevention and diversion programs and policies. Using the above resources, DHCD has identified current eviction prevention and diversion efforts enacted before and as a result of the COVID-19 pandemic and analyzed the growing need for affordable housing. The report contains the following analysis:

- 1) Summarizes the prevalence of evictions and their effects;

- 2) Analyzes the impact of COVID-19 on housing insecurity,
- 3) Shares trends, resources, challenges, and needs of the localities with the highest eviction rates;
- 4) Outlines current state eviction prevention and diversion efforts, including an initial analysis of the 2019 legislation; and
- 5) Discusses the critical need for greater affordable housing.

Notably, the Virginia Department of Housing and Community Development (DHCD) had previously reported that nearly half of Virginia's renters are cost burdened, paying 30 percent or more of their income on rent, with nearly one in five severely cost burdened, paying more than 50 percent of their income on rent. Unfortunately, COVID-19, which has been particularly detrimental for renters, has only exacerbated the financial instability of households across the commonwealth.

In addition to this report, a statewide study per Chapter 482 Acts of Assembly directs DHCD in partnership with Virginia Housing to provide further recommendations to the General Assembly on how to incentivize the development of affordable housing. Such recommendations will be made available to the General Assembly in the fall of 2021 and will be complimentary to further recommendations and proposals related to eviction prevention and diversion.

Background

This section explains the eviction crisis facing the commonwealth and the consequences of evictions.

Virginia's Eviction Problem

In 2016, Princeton sociologist Matthew Desmond published *Evicted*, drawing widespread attention to the issue of evictions across the United States. Shortly following his book release, Desmond built The Princeton Eviction Lab, the first nationwide database of evictions, allowing the public to examine the rate of evictions on a state and local level. The Eviction Lab revealed an unsettling picture of evictions in the commonwealth: five of the top ten evicting large cities are located in Virginia. Those cities include Richmond, Hampton, Newport News, Norfolk, and Chesapeake. In Richmond, where the eviction rate was second in the nation (11.44 percent in 2016), roughly 1 in 9 renters faced eviction every year.¹ Additionally, some mid-size cities in Virginia, including Petersburg, Hopewell, and Portsmouth have eviction rates upward of 15 percent annually.² Among mid-sized cities, Petersburg has the second highest eviction rate in the country. A table depicting eviction rates, rental occupied units, and cost burdened renters for localities with the highest eviction rates is below.

Table 1: Statewide Eviction and Renter Data including Selected Localities

	Eviction Rate (2016)	% Rental Units (2017)	% Cost Burdened Renters (2017)+
Chesapeake	7.9%	27%	51%
Hampton	10.49%	45%	57%
Newport News	10.23%	50%	52%
Norfolk	8.66%	57%	50%
Richmond	11.44%	57%	52%
Petersburg*	17.56%	58%	55%
Danville*	7.2%	47%	43%
Virginia	5.12%	33%	44%

*ACS 1-Year Estimates 2017; used 5-Year Estimates 2013-2017 (DP04) since 1-Year Estimates were not available
+only includes households for which ACS calculated a gross rental adjusted percent income (GRAPI); cost burdened defined as paying 30 percent or more of income on rent

Eviction Consequences and Impacts

While the harm of an eviction may be felt most intimately by the household being evicted, evictions also negatively impact public institutions and result in increased costs to the public. For example, according to RVA Eviction Lab's Kathryn Howell, schools in Richmond neighborhoods with eviction rates higher than 20 percent also have significantly above average rates of chronic absenteeism, while schools with lower rates of absenteeism are also located in neighborhoods with lower eviction rates.³ Evictions can be costly to schools who may need to allocate resources to reroute buses to follow children who are displaced. Another study found that mothers who were evicted were more likely to suffer from

¹ The Eviction Lab. (2018). Top Evicting Large Cities in the United States. Retrieved from <https://evictionlab.org/rankings/#/evictions?r=United%20States&a=0&d=evictionRate&l=1>

² Desmond, M. (2018). "The Eviction Lab: Maps and Data" Retrieved from: <https://datadownloads.evictionlab.org/>

³ Howell, K. (2017). Eviction and Educational Instability in Richmond, Virginia. RVA Eviction Lab. Retrieved from <https://cura.vcu.edu/media/cura/pdfs/cura-documents/EvictionandEducationallInstabilityinRichmond.pdf>

depression and reported worse health for themselves and their children.⁴ Depression can interfere with a person's ability to work, take care of their families, and function daily.

Lastly, evictions can be costly to landlords and property managers who face expenses associated with finding a replacement and not receiving consistent rent payments. A public housing authority, which was estimated to be responsible for 9 percent of evictions locally, spent on average 50 days turning over apartments which cost agencies money and capacity to serve their residents in terms of lost rent.⁵ As multiple studies suggest, evictions can be damaging for families, landlords, and the greater community.

COVID-19 and Housing Insecurity

In March of 2020, the coronavirus pandemic abruptly disrupted life as we know it, resulting in closures, stay-at-home orders, and other measures to mitigate the spread of the virus and protect public health. The following section discusses the impact of the COVID-19 pandemic on renters.

Job Loss

As Virginia and other states saw rises in COVID-19 cases, there were simultaneously dramatic rises in unemployment. After nearly 20 consecutive months of growth, Virginia experienced a decline in the labor force in March 2020. Though the seasonally adjusted unemployment rate has improved since surpassing 10 percent in April, the commonwealth's unemployment rate as of October 2020 remains at twice that of what it was in October of 2019.⁶

According to data provided by the Virginia Employment Commission, the job losses have been primarily concentrated in a few sectors where workers are mostly renters. Among the hardest hit industries, 1 in 5 unemployed residents were in the accommodation and food services sector.⁷ Nationally, Hispanic and Latinx populations make up over 25 percent of the accommodation and food services labor force.⁸ As Lisa Sturtevant, chief economist for Virginia Realtors®, explained in her presentation to the Virginia Housing Commission, "The prolonged recovery will continue to hurt renters and landlords."

Cost Burden

As shared in the January 2020 Report to the General Assembly, cost burden is a significant contributor to eviction as a majority of eviction cases are for nonpayment of rent. Cost burden is defined as spending more than 30 percent of one's income on housing related expenses; those spending more than 50 percent of their income are severely cost burdened. Prior to the pandemic, statewide, one in three households were cost burdened and nearly one in two renters were cost burdened.⁹

Unfortunately, COVID-19 has exacerbated the financial instability of many renters across the nation and the commonwealth. Results from a nationwide Household Pulse Survey conducted in November 2020

⁴ Desmond, M. and Kimbro, R. (2015). Eviction's Fallout: Housing, Hardship, and Health. *Social Forces*. 94 (1). Pp. 295-324

⁵ Badger, E. & Bui, Q. (April 2018). In 83 Million Eviction Records, A Sweeping and Intimate New Look at Housing in America. *New York Times*. Retrieved from <https://www.nytimes.com/interactive/2018/04/07/upshot/millions-of-eviction-records-a-sweeping-new-look-at-housing-in-america.html>

⁶ Virginia Employment Commission. (December 2020). Seasonally-adjusted unemployment rate.

⁷ Sturtevant, Lisa. (October 2020). *Virginia's Housing Market Trends & Outlook* [PowerPoint Presentation]. Virginia Housing Commission October Meeting.

⁸ US Bureau of Labor Statistics. (2019). Labor Force Statistics from the Current Population Survey. Retrieved from <https://www.bls.gov/cps/cpsaat18.htm>

⁹ Virginia Coalition of Housing and Economic Development Researchers. (November 2017). Addressing the Impact of Housing for Virginia's Economy.

showed that an estimated 12.4 million adults living in rental housing were not caught up on rent. Put in other terms, an estimated 1 in 6 adult renters are behind on rent payments. Among renter respondents, renters of color were more likely to report that their household was not caught up on rent. Thirty-one percent of Black renters and 18 percent of Latinx renters reported not being caught up on rent compared to 13 percent of Asian and 12 percent of white renters. Additionally, renters with children were also more likely to respond that they were not caught up on rent compared to single adults. Though Virginia fairs slightly better than the national estimations, an alarming 14 percent of Virginia respondents out of the 265,000 persons surveyed indicated they were overdue on rent.¹⁰ Notably, due to the change in the wording of the rent payment question as well as nonresponse being higher among participants of color, the numbers reported are likely to be under calculated. With COVID-19 continuing to threaten the public health and weakening the economy, the extent of the pandemic's impact on housing insecurity may yet to be fully realized.

COVID-19 Housing Response

Research has continued to illustrate the intimate connection between housing and health. One study published in American Journal of Preventative Medicine found that the financial strain of unaffordable housing is associated with trade-offs that may harm health.¹¹ The COVID-19 pandemic has only further exposed the protections that safe and stable housing provide to a person's health and well-being.

Recognizing this connection, federal and state leaders implemented policies and programs to prevent the spread of the COVID-19 through housing security. Governor Northam worked with the Supreme Court of Virginia to prevent evictions throughout the pandemic and worked with the General Assembly during the reconvened session of the General Assembly in April 2020 and the special session in November 2020 to enact additional protections for tenants to avoid evictions while keeping landlords whole with rental relief. On September 4, 2020, the Center for Disease Control (CDC) issued an unprecedented nationwide eviction moratorium protecting renters who meet certain criteria from eviction due to failure to pay rent, which was extended by President Biden through March 31, 2021. The moratorium, while temporarily preventing evictions, has not prevented back rent and other fees from accruing.

Governor Northam and the General Assembly made significant investments during the pandemic to implement and continue the statewide Rent and Mortgage Relief Program (RMRP) through the Department of Housing and Community Development. Virginia was likely the first state in the nation to utilize CARES Act funding to implement a statewide rental and mortgage assistance program. The application process was originally designed for use by tenants and homeowners. However, beginning in September 2020, the Governor worked with DHCD and Virginia Housing to launch a landlord-initiated application process as well, which expanded capacity to deliver this needed relief statewide. Since its launch in June, RMRP has processed over 16,000 rent payments and almost 530 mortgage payments. Among those households served, over 44 percent identify as Black or African American whereas they only constitute 19.9 percent of the total Virginia population. With the use of additional federal funding and Virginia Housing Trust Fund dollars, the Rent and Mortgage Relief Program will continue to offer assistance in 2021 as resources allow.

¹⁰ Center on Budget and Policy Priorities. (December 2020). Tracking the COVID-19 Recession's Effects on Food, Housing, and Employment Hardships. Retrieved from <https://www.cbpp.org/research/poverty-and-inequality/tracking-the-covid-19-recessions-effects-on-food-housing-and>

¹¹ Pollack, C. Griffin, B. & Lynch, J. (December 2010). Housing Affordability and Health among Homeowners and Renters. American Journal of Preventive Medicine, 39(6), 515-521.

Governor Northam and the General Assembly have made significant investments during the pandemic to provide resources to support Virginians who are struggling to maintain their housing during the public health crisis. The Governor and General Assembly had also made reducing the rate of evictions a priority before the pandemic with legislative changes and historic investments in affordable housing through the Virginia Housing Trust Fund and other affordable housing efforts as the issue of cost-burden and other underlying causes of eviction must be addressed systematically during and after the pandemic.

Localities with Highest Eviction Rates

DHCD reached out to the localities with the highest eviction rates to learn more about eviction trends, existing resources to address evictions in their community, the impact of COVID-19, and outstanding needs. This section will recap the major themes from those interviews.

Examining Eviction Trends

Stakeholder input coupled with recent research provides insight into the following questions of interest: 1) who is being evicted and 2) who is doing the evicting. As shared by stakeholders and confirmed by numerous studies, evictions are not experienced evenly across varying populations. Virginia Commonwealth University professor and RVA Eviction Lab researcher, Benjamin Teresa, found that, in Richmond, as the share of the African American population increases in a neighborhood, the eviction rate also increases holding other variables constant. Even after controlling for income, property value, and other characteristics, RVA Eviction Lab researchers still concluded that neighborhood racial composition was a significant factor in higher eviction rates.¹² Though the analysis referenced is specific to Richmond, studies examining evictions nationally have made similar conclusions: tenants of color disproportionately face evictions. Black women, and more specifically Black women with children, bear the greatest burden. Utilizing data from The Eviction Lab, the ACLU found that Black female renters were filed against for eviction at double the rate of white renters in 17 of the 36 states examined.¹³

Interviewees who work with vulnerable Virginians were able to paint a more intimate picture of who, prior to the pandemic, were being evicted in their communities. A housing specialist from Chesapeake shared that the majority of clients she served who were facing evictions were families whose head of households earned hourly wages and, due to reasons beyond their control, had missed time from work. One of the most commonly cited reasons for missing work was dealing with an illness or taking care of a sick child.¹⁴ A respondent from the United Way of the Virginia Peninsula shared that those facing evictions were often members of the ALICE population, an acronym coined by United Way that stands for Asset Limited, Income Constrained, and Employed.¹⁵ These are individuals who are making above the Federal Poverty Level but less than the basic cost of living. For families living paycheck to paycheck, any reduction in wages can mean going from being housed one day to facing an eviction notice the next.

Though significant data gaps exist in eviction filings, the empirical evidence available from court filings indicates that larger landlords with more properties evict at much higher rates than smaller or “mom and pop” landlords. In a memorandum sent to DHCD by the UVA Law State and Local Government Policy

¹² Teresa, B. (2018). The Geography of Eviction in Richmond: Beyond Poverty. *RVA Eviction Lab*. Retrieved from <https://cura.vcu.edu/media/cura/pdfs/cura-documents/GeographiesofEviction.pdf>

¹³ ACLU. (January 2020). Clearing the Record: How Eviction Sealing Laws Can Advance Housing Access for Women of Color. Retrieved from <https://www.aclu.org/news/racial-justice/clearing-the-record-how-eviction-sealing-laws-can-advance-housing-access-for-women-of-color/>

¹⁴ Interview with Christina Drake, Housing Specialist for the City of Chesapeake. (December 2020).

¹⁵ Interview with Charvalla West, Chief Operating Officer and Director of Community Impact at the United Way of the Virginia Peninsula. (December 2020).

Clinic, the authors explain that while a consistent definition of “large landlord” does not exist, they are “best defined by a very large volume of property holdings and are corporatized such that the property owner and the person who manages the properties are different people.”¹⁶

While there are several reasons for why larger landlords may evict at higher rates, two of the most prevalent reasons discussed amongst stakeholders included: 1) the lack of relationship between a tenant and landlord and 2) the automated processing of evictions. Unlike tenants renting with a “mom and pop” landlord, tenants renting with a large corporate entity are unlikely to know or have any substantial relationship with their landlord. The second reason noted in conversations, as well as in the UVA memorandum, was that most large landlords process evictions using an automated system which essentially prevents opportunities for negotiation. Many large landlords, in fact, use specialized law firms to process evictions en masse, making evicting a tenant a relatively efficient undertaking.¹⁷

Though interviewees had seen evictions filed by both smaller and larger landlords, consistent with what the data shows, the majority of evictions they witnessed in their communities were filed by owners of multi-family properties, property management companies who owned anywhere from 20-30 units, and/or the local housing authority.

Existing Local Resources to Address Evictions in the Communities

Prior to and during the pandemic, some of Virginia’s localities with the highest eviction rates had implemented local measures to reduce evictions in their cities. Local eviction prevention and diversion resources vary greatly depending on local capacity. Resources highlighted in this section of the report include those unique to that locality and do not include statewide programs implemented at the local level.

Richmond

In October 2019, the City of Richmond took bold steps to work to reduce evictions with local resources. The city in conjunction with the Central Virginia Legal Aid Society (CVLAS) and Housing Opportunities Made Equal (HOME) launched its voluntary Eviction Diversion Pilot Program. The goals of the program are three-fold: 1) reduce the number of evictions of low-income individuals and families from their residential dwelling units for failure to pay rent, 2) minimize the displacement of families from their homes and the resulting adverse consequences related to social inequities and chronic school absenteeism, and 3) diminish the financial impact on families, landlords, and communities who must deal with the aftermath of an eviction. This voluntary program provides eligible tenants with legal aid assistance, financial assistance and counseling, and supportive services. The program was funded with an initial \$400,000 in emergency rental assistance and a payment plan option to those facing evictions in the city (this was before and in addition to millions in city resources spent on eviction prevention during the pandemic with CARES funds). Tenants are also provided in-court mediators who provide pro-bono legal services and refer clients to support services. CVLAS provides legal assistance and mediation while HOME manages the financial assistance screening and financial literacy education.

The Director of Research and Policy at HOME shared notable program outcomes as well as major lessons learned from HOME’s experience in managing the program. Notably, the voluntary diversion program which is intended for tenants who have received an unlawful detainer (UD), was only able to operate

¹⁶ Vaughn, R. & Jones, E. (October 2020). Memorandum: Research and Recommendations Regarding Evictions in Virginia. *UVA Law State and Local Government Policy Clinic*.

¹⁷ Vaughn, R. & Jones, E. (October 2020). Memorandum: Research and Recommendations Regarding Evictions in Virginia. *UVA Law State and Local Government Policy Clinic*.

under normal circumstances for five months until the start of the COVID-19 pandemic which resulted in subsequent eviction moratoria. Despite the presence of eviction moratoria in much of the program's first year of implementation, the Richmond Eviction Diversion Program (EDP) still diverted a total of 413 evictions. Those households who completed the Eviction Diversion Program were no longer at risk of an eviction lawsuit and landlords were willing to forgo or drop eviction lawsuits. Among the EDP participants, over 90 percent of the head of households identified as Black or African American and nearly 75 percent were female. Given that persons of color, and specifically Black women, experience evictions at some of the highest rates, the participant demographics were not necessarily surprising. To address the minimal participation by the Hispanic and Latinx community who data shows are also disproportionately evicted compared to their white counterparts, HOME plans to increase engagement with stakeholders in the Latinx and Hispanic community and provide targeted outreach to increase participation amongst Hispanic households. HOME's Director of Research and Policy emphasized that a longitudinal study of at least three years is necessary to further understand the effectiveness of the program on long-term housing stability.¹⁸

Hampton and Newport News

In both Hampton and Newport News, local nonprofits and faith-based organizations have played a pivotal role in addressing housing insecurities, including evictions, prior to and during the COVID-19 pandemic.¹⁹ Throughout Hampton, Newport News, and other communities among the peninsula, the United Way of the Virginia Peninsula worked with nonprofits and faith-based organizations to mobilize resources to pay rent and other expenses to keep families housed and prevent eviction. A director from United Way shared how the majority of the work to prevent evictions in these communities, prior to the pandemic, was being provided by the nonprofit and faith-based community given the absence of city or county funded rental assistance or eviction programming.²⁰

Prior to the distribution of CARES Act funding, the Virginia Rent and Mortgage Relief Program (RMRP) and the eviction moratoria, the United Way of the Virginia Peninsula immediately upon the COVID-19 stay-at-home orders opened an emergency fund to meet the greatest needs as they emerged from the virus outbreak. Among those greatest needs was (and is) to shelter-in-place. To ensure that residents could shelter-in-place, the United Way provided emergency grants to frontline organizations, including nonprofits and some government agencies, who were helping people find shelter. The United Way also provided emergency financial assistance grants to between six to seven nonprofits who had systems and processes in place to pay landlords and vendors for families struggling to pay their rent or utilities. As public funds through the CARES Act became available, the United Way transitioned to helping administer such funding on behalf of the regions cities and counties, who invested locally controlled CARES funds into eviction prevention. In addition to the RMRP, the United Way has helped stand up an Eviction Prevention Program in the City of Hampton during the COVID-19 pandemic.

[The Impact of COVID-19 on Localities](#)

Consistent with what survey data suggests, the interviewees for this report expressed how COVID-19 has significantly exacerbated the difficulties facing low and moderate income tenants, many of whom are Black and Brown. In one conversation, a housing specialist shared that in her city, most of the individuals and families seeking assistance had experienced a reduction in wages or job loss as a result

¹⁸ Interview with Mariah Williams, Director of Policy and Research at Housing Opportunities Made Equal. (December 2020).

¹⁹ Interview with Michelle Handy, Owner of Heaven Sent Management. (November 2020).

²⁰ Interview with Charvalla West, Chief Operating Officer and Director of Community Impact at the United Way of the Virginia Peninsula. (December 2020).

of COVID-19. Among those seeking assistance, many had held contract positions or were small business owners. While the housing specialist explained how the CDC moratorium and the Rent and Mortgage Relief Program have provided substantial protection for tenants who may have been evicted due to nonpayment of rent, there is still great concern of how families will stay housed once those protections and assistance expire.²¹ Notably, landlords have also felt financial constraints. A rental property manager based in Hampton shared that, due to the eviction moratorium, some landlords are finding it difficult to afford their mortgage payments and are eager for additional assistance.²² Across all interviews, there was a shared fear of what may come when the currently available COVID-19 rent relief is no longer available. These fears are not unfounded as nationwide renters and landlords face a crisis. The recently signed federal stimulus package includes over \$25 billion in rent relief nationwide which is critically needed. It is estimated Virginia's total allocation will be \$569 million.

In addition to the impacts on tenants and landlords, the COVID-19 pandemic has been particularly devastating for faith communities and smaller nonprofits in terms of dollars and contributions. Given that many of the eviction prevention resources, particularly in the localities outside of Richmond, relied on private funding from nonprofit and faith communities, there is a concern over the long-term sustainability of these pivotal resources. Prior to the pandemic, the financial resources of faith communities was not plentiful and unfortunately the economic impacts of COVID-19 has made these scarce resources scarcer. The COVID-19 pandemic has highlighted the vulnerability of those prevention efforts that do not benefit from more robust and consistent financial supports from the public sector.

Outstanding Needs

Across all communities interviewed, affordable housing emerged as the most critical need. One story was shared of a client who even selected to stay in a motel rather than move outside of the city where they had no social networks. Though tenants working hourly jobs making less than \$15/hour find it particularly difficult to find an affordable rental in their city, the same holds true for college-educated clients who are employed in professions such as teachers, police officers, and social workers. The interviewee shared how some of the social workers she works with must work two jobs in order to cover their housing and other living expenses.²³ A director from HOME in Richmond echoed the need for greater affordable housing, citing that in the City of Richmond alone 51 percent of households are cost burdened. As she explained, making housing more affordable, whether that be accomplished through increasing wages or increasing affordable housing stock, is necessary to effectively get at the symptom of the larger problem evictions present.²⁴ A director from United Way of the Virginia Peninsula shared that the localities she serves simply do not provide housing opportunities that match the level of income of those wage-earning and service positions – people who keep the economy running and our communities strong.²⁵

When the demand for affordable housing supersedes the supply, fierce competition arises. One interviewee in Hampton explained how voucher holders are often more competitive applicants than those with minimal earnings. As she explained it, "if a Section 8 applicant can pay \$825, the other applicant who can pay \$700 is going to be left out."²⁶ Outside of income-restricted properties which can

²¹ Interview with Christina Drake, Housing Specialist for the City of Chesapeake. (December 2020).

²² Interview with Michelle Handy, Owner of Heaven Sent Management. (November 2020).

²³ Interview with Christina Drake, Housing Specialist for the City of Chesapeake. (December 2020).

²⁴ Interview with Mariah Williams, Director of Policy and Research at Housing Opportunities Made Equal. (December 2020).

²⁵ Interview with Charvalla West, Chief Operating Officer and Director of Community Impact at the United Way of the Virginia Peninsula. (December 2020).

²⁶ Interview with Michelle Handy, Owner of Heaven Sent Management. (November 2020).

be especially hard to secure, that applicant who can pay \$700 has very few options and the options they may have are often substandard. Across localities among the peninsula which have a large military population, interviewees also described how military families may be preferred as renters than civilians. Another population that was discussed as influencing the availability of affordable housing was college students. One interviewee explained how in Newport News, home to Christopher Newport University, college students were more enticing tenants to landlords partially due to the perception that college students who can afford rental properties have familial or other supports which would prevent them from falling short on a rent payment.²⁷ Across the various stories, the same theme emerged: more affordable housing is necessary to meet the need.

Existing State Resources and Policies to Address Evictions

The following sections provide an overview of state policies and programs to address evictions. Although still in its beginning phases of implementation, this section provides an initial analysis of the 2019 legislative package.

2019 Legislative Package

The General Assembly tasked DHCD and the Virginia Housing Commission to “identify the impact of legislation that passed the 2019 session of the General Assembly.” As referenced in the General Assembly’s request, the General Assembly passed and the Governor signed a legislative package during the 2019 session to mitigate the effects of evictions on tenants and landlords. The bills enacted offered several new tenant protections intended to mitigate evictions. These include requiring landlords to provide written leases, extending the time tenants can pay their rent, limiting the actions a landlord can take against a tenant, removing writ of eviction from a tenant’s record for those who reach an agreement with a landlord, and allowing attorneys representing tenants to recoup attorney fees in certain cases.

Notably, the legislative package that passed during the 2019 General Assembly Session is in the early stages of implementation and was only implemented for 8 months until the onset of the COVID-19 pandemic complicating DHCD’s ability to evaluate the legislations effectiveness given the new context brought upon by the public health crisis. Additional temporary protections from both the state and federal level are stronger than the protections put in place during the 2019 General Assembly session. Therefore, DHCD is unable to provide empirical evidence of the impacts of the 2019 legislation.

The following table below summarizes the changes made by several of the pieces of legislation passed in 2019. A full analysis of the impacts is not possible due to temporary eviction protections added by the federal and state government to respond to the public health emergency. DHCD will continue to work with stakeholders, including those from the tenant and landlord community, to gather data and other information to evaluate the effects of the legislation on evictions as well as provide further recommendations that complement these efforts.

²⁷ See 25.

Table 2: Initial Analysis of the 2019 Legislative Package

Virginia Code	Effective Date	Summary of Statute	Current Status
§55-248.7 – Written Lease Required	July 1, 2019	The following statute requires that landlords must offer a written lease. If a written lease is not offered, the law sets out a statutory default lease.	Implemented
§8.01-126 – One Case at a Time and Required Evidence	July 1, 2019	The statute allows a landlord to make an amendment to an original unlawful detainer to avoid multiple of these from being filed. The code was also amended to ensure a hearing is scheduled as soon as practical but no later than 30 days after the summons for an unlawful detainer has been filed.	Implemented and further data collection needed as multiple lawsuits are still possible.
§§55-248.40:1, 55-248.40:2 - Pilot Eviction Diversion Program	July 1, 2020	The statute implemented a mandatory pilot Eviction Diversion Program (EDP) for eligible tenants in the cities of Richmond, Petersburg, Hampton, and Danville. Participating tenants must pay at least 25% of the amount due on the return date agreed to by the landlord and tenant. If the tenant makes all payments as required, the lawsuit will be dismissed.	More time is needed to evaluate as new emergency rental assistance and public health emergency protections are much stronger than this pilot.
§ 55.1-1250-Extended Right of Redemption	July 1, 2019	The amended code provides more time for tenants to pay back rent and potentially avoid an eviction. Tenants are permitted to pay the amount owed and due up to two business days prior to the date scheduled by the officer who receives a writ of eviction.	Implemented
§§8.01-470 & 8.01-471 – Use Writ or Lose Writ 180 days	July 1, 2019	The timeframe for when a landlord could use a judgment of possession before getting a writ of eviction was shortened from 12 months to 180 days.	Implemented and further data is needed to determine if any positive impacts have been achieved.
§16.1-107 – Access to Appeal	July 1, 2019	The code amended the requirements for a tenant wishing to appeal an eviction judgment based on nonpayment of rent. A tenant is now required to pay ongoing rent as it became due rather than an appeal bond for up to 12 months future rent in advance.	Implemented

COVID-19 Specific Resources

Virginia and the rest of the country face high levels of housing insecurity due to the COVID pandemic. As mentioned previously, Virginia has responded to this crisis, in part, by providing rent and mortgage assistance through the Virginia Rent and Mortgage Relief Program (RMRP). Since its launch in June 2020, the RMRP has served as a critical resource for individuals and families who are struggling to afford their housing payments due to COVID-19 financial hardship. The RMRP will continue to be offered to tenants and homeowners in 2021.

Though the CDC eviction moratorium is set to expire on March 31, 2021, Virginia landlords must follow certain steps, as directed by the 2020 Special Session budget language, prior to evicting for reason of nonpayment of rent. The budget language encourages use of the RMRP and offers certain protections for tenants behind on rent through December 31, 2020 and beginning on January 1, 2021. Specifically, beginning January 1, 2021, a landlord cannot evict for unpaid rent unless a tenant 1) refuses to apply for RMRP, 2) a tenant's application is denied, 3) RMRP has run out of money, or 4) a tenant's RMRP application was not approved within 45 days after submission. The following additional conditions were mandated for landlords owning five or more rentals:

- Landlord cannot evict unless tenant refuses to enter into payment plan or misses a payment
- Landlord only has to enter into a payment plan one time per lease period
- Tenant can enter payment plan and apply for rent relief
- Tenant must agree to payment plan in writing and give landlord signed statement of lost income and/or increased expenses due to COVID-19

As the RMRP continues to be offered, DHCD will engage stakeholders to assess the budget language's effectiveness in supporting landlord and tenants during the public health emergency.

Virginia Eviction Reduction Pilot

During the 2020 special session, the General Assembly passed, and the Governor signed a budget allocating \$3.3 million to implement the Virginia Eviction Reduction Pilot (VERP). DHCD was directed to design and implement the pilot. The purpose of this pilot program is to create a local/regional coordinated systems approach to effectively prevent evictions. When evictions cannot be prevented, the system must also include how to divert evictions once the household has received an unlawful detainer. The systems approach will include creating a collective impact model where organizations that serve as a safety-net within the community collaborate to ensure households have early access to resources to stabilize their housing situations.

VERP will focus primarily on how best to *prevent* evictions as opposed to *diverting* evictions. The provision of eviction prevention services occurs prior to a household being issued an unlawful detainer (UD) which results in the tenant having to appear in court as well as the tenant having an UD on their record. Records indicate having an UD negatively impacts households' ability to secure affordable, quality housing in the future either as a renter or a homeowner. Eviction diversion services are provided once the tenant and landlord appear in court to address the unpaid rent. By the time a tenant appears in court they are most likely already significantly in debt. Therefore, the earlier a tenant is provided assistance, the easier and less costly it is to assist them in getting back on a path of financial and housing stability.

A request for proposals was released on Friday, December 4, 2020. DHCD accepted applications until January 8, 2021. Notably, the pilot was originally included in the 2020 regular session budget but due to COVID-19 and the pilot being new spending, the funding for the pilot required a reassessment during

the special session. Thus, the start date for the pilot was delayed as the 2020 budget was being finalized. DHCD will promptly review applications upon submission and hopes to announce grantees by February 1, 2021. Grantees will have the duration of 2021 to utilize their funds as a VERP participant. DHCD will work closely with grantees to evaluate their pilot programs and provide an update of the evaluation results to the General Assembly following the conclusion of the pilot.

In the January 2020 DHCD report to the General Assembly, “Initial Analysis and Recommendations to Reduce Evictions in Virginia,” DHCD proposed conducting a *local eviction data collection system* pilot. DHCD will incorporate the local eviction data collection system effort into each of the localities that will be chosen as a part of the Virginia Eviction Reduction Pilot. DHCD will work directly with the pilot programs to develop and implement a local or regional process to collect eviction data and will propose how the local/regional data can be integrated which will serve as the foundation of a possible statewide eviction data collection system. Therefore, the Governor and General Assembly’s investment in the Virginia Eviction Reduction Pilot (VERP) will allow the commonwealth to implement the two main recommendations of the 2020 report to the General Assembly.

Northam Administration Response to the Eviction Crisis

As described earlier in this report, one of the first steps Governor Northam took to address the eviction crisis in the commonwealth was issuing Executive Order 25 that called for the reduction of evictions across the commonwealth. Since that time the Northam Administration provided additional leadership to address evictions prior to and since the onset of the COVID-19 pandemic.

- Historic investments in the Virginia Housing Trust Fund in partnership with the General Assembly (\$55 million funded in 2021 Special Session for FY 21 and \$70.7 million proposed for FY 21 and \$55 million for FY 22 in Governor’s proposed budget)
- During the 2020 General Assembly Session, the General Assembly and Governor Northam passed several measures to protect tenants and foster a positive relationship between landlords and tenants throughout different stages of the rental-lease agreement or evictions case. Some details can be found from a press releases from the Office of Governor Northam on May 19, 2020: <https://www.governor.virginia.gov/newsroom/all-releases/2020/may/headline-856878-en.html>
- Launching the Virginia Rent and Mortgage Relief Program for assistance with rent and mortgages during the COVID-19 pandemic: <https://www.governor.virginia.gov/newsroom/all-releases/2020/june/headline-858911-en.html>
- The Commonwealth of Virginia in a public-private partnership invested \$4 million to expand legal aid services for Virginians facing eviction in August of 2020: <https://www.governor.virginia.gov/newsroom/all-releases/2020/august/headline-860162-en.html>
- A series of evictions related legislation was signed into law during the 2019 General Assembly Session that met the Governor’s E.O. 25 priorities and are mentioned in this report: <https://www.governor.virginia.gov/newsroom/all-releases/2019/february/headline-838915-en.html>

Addressing Root Causes of Evictions – Affordable Housing

The lack of affordable housing is a major cause of evictions in the Commonwealth of Virginia. As briefly described earlier in this report, with stagnant wages failing to keep up with rising housing prices, many

Virginians have fallen into the category of “cost burdened”²⁸. According to data published by the Harvard Joint Center for Housing Studies, of the nearly 34 percent of Virginians who rent their home, over 46 percent of those renters are cost burdened.²⁹ Alarming, over 20 percent of Virginia renters are severely rent burdened, meaning they spend over half of their income on housing.³⁰ For renters who are severely cost-burdened, any change in expenses, including an unexpected medical bill or vehicle repair bill or loss of wages, can quickly result in a missed rent payment. Studies have shown that localities with higher than average eviction rates tend to have more cost burdened renters and a higher percentage of rental units compared to the rest of the state. Cost-burden renters, who have little financial flexibility, may lack the necessary resources to make rent and avoid eviction when faced with financial hardship.

Availability of Affordable Housing

The availability of affordable housing in the commonwealth varies greatly dependent on one’s income bracket. For Virginians making over 80 percent of Area Median Income (AMI), the availability of affordable rental homes is generally sufficient. However, the story dramatically changes for populations making 50 percent of AMI or below. According to the National Low Income Housing Coalition, for every 100 renter households at 50 percent of AMI, there are 57 affordable and available homes. The availability of affordable homes becomes significantly scarcer for extremely low income Virginians, with there being only 36 affordable and available homes per 100 renter households. The data suggests affordable housing needs are most dire for extremely low income Virginians. Nearly a quarter (23 percent) of Virginian renters are extremely low income (ELI). Among those ELI renters, an estimated 43 percent are seniors or disabled.³¹

Methods to Increasing Housing Affordability

Increasing availability of affordable housing will likely require both supply-side and demand-side interventions. Currently, the Virginia Housing Trust Fund, administered by DHCD, serves as the primary state funded mechanism to preserve and build affordable housing properties across the commonwealth. Prior to COVID-19 and the implementation of the Virginia Rent and Mortgage Relief Program (RMRP), the primary demand-side intervention available to Virginians was through Section 8 Housing Vouchers that have especially long wait-lists and local rent assistance programs which are sporadically available around the state. RMRP, which provides rental assistance to families, is an example of a demand-side intervention that aims to prevent evictions and keep families housed.

Future Recommendations to Addressing Housing Affordability

As directed by the House Bill 854, legislation passed during the 2020 session of the General Assembly, Virginia Housing and the Department of Housing and Community Development are currently conducting a study of state policies and programs which influence the creation and preservation of affordable housing. HousingForward Virginia is providing consulting services to the effort and has been working closely with DHCD and Virginia Housing to solicit feedback from stakeholders across the commonwealth. This includes distributing a statewide provider survey. As mandated by the bill, a Stakeholder Advisory Group composed of housing experts from across the commonwealth has been formed to provide DHCD and Virginia Housing feedback on final recommendations to the General Assembly based on the results

²⁸ Vaughn, R. & Jones, E. (October 2020). Memorandum: Research and Recommendations Regarding Evictions in Virginia. *UVA Law State and Local Government Policy Clinic*.

²⁹ Harvard Joint Center for Housing Studies. (2020). Renter Cost Burden, States. Retrieved from https://www.jchs.harvard.edu/ARH_2017_cost_burdens_by_state_total

³⁰ *Id.*

³¹ National Low Income Housing Coalition. (2020). Housing Needs by State: Virginia. Retrieved from <https://nlihc.org/housing-needs-by-state/virginia>

of the study. A final report will be produced and distributed by the start of the 2022 session. The report will provide an assessment of the following five specific program areas:

1. A Virginia rent subsidy program to work in conjunction with the federal Housing Choice Voucher Program
2. Utility rate reduction for qualified affordable housing
3. Real property tax reduction for qualified affordable housing for localities that desire to provide such an incentive
4. Bond financing options for qualified affordable housing
5. Existing programs to increase supply of qualified affordable housing

Also, two additional topics were added by DHCD and VH with support from the Governor's office to assess and incorporate into the study. Those include:

1. Covid-19 – impact of COVID-19 on housing providers and households
2. Racial equity – scope of racial disparities in housing conditions, in programs and policies and strategies to reduce inequalities

While this report, *Addressing Evictions Before, During and After COVID-19*, provides the initial recommendation of increased investment in affordable housing to reduce evictions, the housing study report to be provided in the fall of 2021 will offer more specific recommendations as to how to achieve greater affordability.

Conclusion

While this report partially seeks to contextualize the evictions issues during the COVID-19 pandemic, it is worth emphasizing that housing insecurity is not new to the Commonwealth of Virginia. Though the economic impacts brought forth by the COVID-19 pandemic has widened the numbers of Virginians needing assistance to remain housed, the data strongly suggests that an alarming number of Virginians were cost-burdened prior to the pandemic and hence were vulnerable to personal, community wide and national financial crises that could lead to housing insecurity. As described by one interviewee, this vulnerability to financial crisis was many Virginians "normal pre-COVID state-of-being."³²

Prior to the pandemic and as the available data began to cast an unfortunate picture of evictions in several of Virginia's cities, state and local leaders responded by implementing policies and programs to mitigate evictions. These measures included new state legislation regarding the relationship between the tenant and the landlord, local eviction diversion programs, and more. Though these measures are still in the beginning phases of implementation and require additional analysis, stakeholders tended to agree that these measures were generally helpful in serving as a beginning step to addressing the complex issue that is evictions.

While various interventions, including those that have been implemented, are likely needed to reduce the rate of evictions in the commonwealth, national and local experts consistently point to greater affordable housing as a critical component of addressing evictions and more generally housing insecurity. The additional investments in the Housing Trust Fund are critical to this effort and DHCD will continue to report on best practices that emerge nationally and within the state as a result of the Virginia Eviction Reduction Pilot.

³² Interview with Charvalla West, Chief Operating Officer and Director of Community Impact at the United Way of the Virginia Peninsula. (December 2020).