

LEVEL THE PLAYING FIELD IN EVICTION CASES

SUPPORT HB1923 (Bourne)

The Problem:

Virginia's statewide eviction rate is twice the national average; in some places it's more than five times as high.¹ Stakeholders have worked hard to develop policy proposals that are very likely to lower the eviction rate across Virginia, but this change will not happen overnight. In the meantime, thousands of Virginia renters will face their landlords in eviction cases in court, most of them without an attorney. **According to a 2017 National Center on State Courts study:**

- **Tenants who aren't represented by attorneys lose eviction cases approximately 56% of the time, while tenants with attorneys lose these cases only 41% of the time, even when the landlord has an attorney.**
- **When only the tenant has an attorney, they lose eviction cases less than 30% of the time.**

Residential tenants facing eviction very rarely have the money to hire attorneys. And the legal aid programs across the state do not have the funding to hire attorneys to represent most of these tenants. In fact, over 80% of legal aid clients with landlord/tenant issues get only advice and must go to court without a lawyer.

How HB1923 Fixes the Problem:

- Most residential leases contain provisions requiring tenants to pay their landlord's attorney's fees if the landlord brings a successful unlawful detainer (i.e. eviction) case against them. The attorney's fees provisions in residential leases are usually NOT reciprocal; if a tenant successfully defends or brings a counterclaim against a landlord in an unlawful detainer case, that tenant has no right to recoup his attorney's fees from the landlord.
- **HB1923 allows tenants to recoup their attorney's fees from landlords when an unlawful detainer action is dismissed or judgment is entered in favor of the tenant's counterclaim.**
- **By allowing tenants to recoup attorney's fees from landlords, HB1923 will encourage attorneys to take meritorious cases for tenants.**

For more information, contact Christie Marra, christie@vplc.org, (804) 615-8150.

¹ Eviction Lab, www.evictionlab.org, reported that eight of Virginia's localities have eviction rates above 7%. The national average is slightly over 2%.