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The Washington LEGAL CLINIC for the Homeless
A Voice for Housing and Justice

Testimony before DC Council Committee on Human Services
Public hearing on Bill 22-293 – "Homeless Services Reform Amendment Act of 2017"
Presented by Max Tipping
June 14, 2017

Good morning Councilmember Nadeau and members of the Human Services Committee. My name is Max Tipping and I am an Equal Justice Works fellow at the Washington Legal Clinic for the Homeless. The Legal Clinic envisions – and since 1987 has worked towards – a just and inclusive community for all residents of the District of Columbia, where housing is a human right and where every individual and family has equal access to the resources they need to thrive. My testimony today will focus on the proposed changes to the Homeless Services Reform Act (HSRA) that would impact families in the District's rapid re-housing program.

As you know, the Legal Clinic recently released a report highlighting many of the problems with the DC rapid re-housing program, which is currently the District's primary answer to the family homelessness crisis. That report is attached to my testimony. In addition, the Legal Aid Society of DC, Bread for the City, Children's Law Center, DC Law Students in Court, and the Legal Clinic submitted a letter, also attached, that among other things called for the Council to set a "standard for when, or whether, families should be sent over the rapid re-housing cliff." With the Administration's bill before this Committee, now is the time to establish a reasonable standard for when it is appropriate to end rapid re-housing subsidies. As currently written, the proposed bill does not provide such a standard, but rather seeks to formalize the current failing policies of the DC rapid re-housing program. There are three issues in the current bill that relate to rapid re-housing that I would like to highlight today, while other people will testify on what changes could be made to the HSRA to actually improve rapid re-housing.

Time Limits

First, the bill adds a "Program Exits" section to the HSRA that, among other things, would allow DHS and their contractors to end families' rapid re-housing rental subsidies if they exceed a time limit imposed by the rules for the program. § 4-754.36b. There is no need to speculate on the impact of this change since this is already how DHS runs this program.

This part of the bill would simply authorize the current unlawful practice of sending families over the rapid re-housing cliff based on time limits. While it appears that no concern was given to the issues raised in the attached report or letter prior to introducing this bill, the testimony you will hear today will make it clear that the current system of terminating families based on arbitrary time limits is not working.

Rather than allowing DHS to double down on terminations based on arbitrary time limits, this Committee should use this opportunity to establish a reasonable standard for when it is appropriate to end a family's rapid re-housing subsidy. The specific language and structure of this statutory standard will be crucial to how rapid re-housing functions and will require further in-depth discussions.

A useful starting point for that discussion would be to consider when families should *not* be cut off from the program. For example, I would hope that there could be some consensus around the idea that families should not be cut off simply because they exceeded an arbitrary time limit that does not account for their individual circumstances. DC has recognized that families receiving TANF face a host of barriers to finding stable employment, and therefore imposing an arbitrary time limit on TANF assistance is not sound public policy. The families in rapid re-housing are no different. In fact, most of the families in rapid re-housing are receiving TANF themselves. Just as a time-based TANF cliff would have caused serious harm to DC's families with children, a time-based rapid re-housing cliff has resulted in significant suffering for many District families. In addition, I would hope for some agreement that families should not be cut off when their income is so low that it is mathematically impossible for them to afford the rent on their own (e.g. a family with $400 in monthly income and $1200 in monthly rent). As DHS recognized as recently as February 2016, it does not make sense to set up these families to go right back into shelter and start again from square one.[1] Finally, it seems reasonable that no family should be terminated from rapid re-housing unless they have been evaluated for other long-term housing programs such as Targeted Affordable Housing (TAH) and Permanent Supportive Housing (PSH).

Assuming that there is some agreement around these baseline issues, I am confident that the Committee will be able to craft a reasonable standard for when it is appropriate to terminate assistance to families in rapid re-housing. Over the next few weeks, several of the people testifying today will be working on developing specific language to provide to this Committee.

Due Process

The second issue with the current bill is that the new "Program Exits" section would remove many of the due process rights that families currently have when their rapid re-

[1] Responses to Fiscal Year 2015-2016 Performance Oversight Questions, DC Department of Human Services, February 2016, page 35, available at http://dccouncil.us/files/user_uploads/budget_responses/DHSResponsestoFY1516PerformanceOversightQuestions.pdf.

housing subsidies end. § 4-754.36b. Most importantly, rather than being able to appeal the loss of the subsidy to the Office of Administrative Hearings (OAH), as is currently possible for any adverse action taken under the HSRA, the "Program Exits" section creates a new appeal process that only goes to the Director of DHS.

I will not go into detail on the problems with this proposed change as I do not believe such a proposal merits serious discussion.[2] Putting aside the fact that this change would allow DHS to escape any review of these decisions by OAH, as currently exists for all the other public benefits DHS administers, I simply do not think it is open to debate whether families that lose crucial assistance such as housing subsidies are entitled to basic due process through an impartial review of that action.

Rulemaking

Finally, the bill would allow rules for rapid re-housing and other housing programs such as TAH and PSH to be written via contract or non-public agency protocols that are subject to revision by the agency without any input from the public or the Council. § 4-753.01(b)(4). Section 4-756.02 of the HSRA already provides a process and authority for DHS to implement the programs authorized by the HSRA through public rulemakings that comply with the DC Administrative Procedures Act and are submitted to the Council for review. DHS is already operating a number of programs based on rules that were not published in accordance with this provision of the HSRA or the DC Administrative Procedures Act, including the rapid re-housing program for single adults as well as TAH. The rules for these programs, such as eligibility criteria and standards for termination, are not easily available to the public and are subject to continuous revision by the agency. The proposed bill would allow DHS to further evade meaningful oversight of how it runs these programs, including by avoiding Council review of its rulemakings as currently required by the HSRA.

It is time to bring these programs out of the shadows. The District needs transparent, public standards on the key elements of its homeless services programs. Rather than formalizing DHS's current practice of avoiding public rulemakings for the homeless services programs it manages, the law should specifically require that the agency issue public rules in the manner prescribed by the DC Administrative Procedures Act and § 4-756.02 of the HSRA.

The Administration may wish to suggest that everything is fine in rapid re-housing and there is no need for any additional protections in the law. That of course families won't be terminated without being evaluated for other programs. That of course rapid re-housing families won't be left to return to shelter with no support. But things are not fine. I'm not

[2] In fact, in 2015 DHS supported having the appeal process for the newly proposed Interim Eligibility program "aligned with other parts of the Homeless Services Reform Act, which includes filing the initial request for review with OAH, rather than DHS as the trigger of DHS's administrative review." Testimony of Laura Green Zeilinger regarding B21-352, October 2015, page 7, available at http://lims.dccouncil.us/Download/34470/B21-0352-HearingRecord1.pdf.

speaking of some speculative future harm if this bill is passed; I am speaking of the suffering of families in this program that is happening right now. We've gotten to a point where the time limits are being applied so strictly that families are facing termination from the program even though their case managers are advocating for an extension. And even though the changes proposed in the bill would do close to nothing to improve rapid re-housing, they would certainly succeed at entrenching DHS practices that are harming the many hundreds of families in this program.

To conclude, I would like to echo the concerns of others testifying today, including representatives from the Legal Aid Society of DC, Bread for the City, Children's Law Center, Neighborhood Legal Services, and the Fair Budget Coalition. We believe every person in DC who has no safe place to sleep at night should have access to safe, humane shelter, unfettered by bureaucratic hurdles; that clients in shelter and housing programs deserve due process and fair, transparent policies; and that the root cause of homelessness, lack of affordable housing, cannot be solved by narrowing the front door to shelter or by imposing arbitrary time limits on housing.

Thank you for the opportunity to testify today.