

**Committee on Human Services, Chairman Jim Graham
Public Hearing on
The Homeless Services Reform Amendment Act of 2013
June 3, 2013, 11:00 a.m.
Testimony of Marta Beresin**

Good morning Chairman Graham and members of the Human Services Committee. My testimony will address three major changes contained in the Homeless Services Reform Amendment Act of 2013: Provisional Placements, Rapid Rehousing, and Mandatory Escrow.

Before getting into the specifics of these sections, however, I want to raise some overarching concerns about the direction in which these amendments would take the District. From 2008 to 2012, Washington, DC witnessed a 73% increase in family homelessness.¹ Due to this overwhelming increase and the District's lack of a concomitant increase in shelter or affordable housing resources, beginning in the spring of 2011, DHS stopped sheltering newly homeless families 7 months out of the year. For the past three years, from April through October, DC has only sheltered families when legally mandated to do so – on hypothermic nights. This has meant that even “Priority 1” families—those staying in cars, abandoned buildings, at metro stations, laundromats, or other unsafe settings—are not admitted.

No one disagrees that we have a crisis on our hands. What we do disagree on is the best public policy response. While the Gray Administration has stated it embraces a “right to shelter philosophy,” its solution to this crisis is paternalistic, compromises due process, and ultimately results in families *losing* shelter. The Mayor’s “government knows best approach” allows DHS to terminate or transfer provisionally placed families with only 24 hours notice and no right to a prior hearing; forces families to accept housing placements with no opportunity to raise objections to the appropriateness of the unit; and subjects destitute DC residents to termination from emergency shelter for failing to save the amount of money the government deems appropriate while residing in shelter.

We believe that a better solution is to shore up the public safety net by returning to a right to shelter or housing year-round. If families knew they could re-access shelter year-round when a placement with a relative, friend, or in housing with a short-term subsidy fell through, they would take the risk and accept those placements, moving out of shelter more quickly.

¹ As of May 28th, 391 families, including 747 children, were residing in emergency shelters or hotel rooms. (This does not include the 150+ apartment-style shelter units.) In addition, as of April 30th, 206 families were on the Family Resource Center (“FRC”) wait list for emergency shelter, up from 113 a month earlier.

I will now address the three aforementioned sets of provisions, with an emphasis on provisional placements – our greatest concern.

Provisional Placements:

The amendments would allow DHS to place a family in shelter or housing “provisionally” for 14 days (or longer for good cause, to be determined in the sole discretion of DHS) while the agency determines eligibility and priority, assesses the family, or identifies a placement other than shelter. Sounds good, right? Not when you read the details: provisionally placed families would lose a host of important rights.

First, provisionally placed families could be transferred to an “alternate housing arrangement” (which presumably could include a relative or friend’s home, but the term is not defined) with only 24 hours notice and no right to appeal and remain sheltered. Second, the bases for termination (again, with only 24 hours notice and no benefits pending appeal) would be expanded to include failing to cooperate with FRC staff. Third, provisionally placed families could be terminated for any reason contained in the HSRA with only 24 hours as opposed to 15 days notice and again, no right to appeal and remain sheltered. And fourth, their rights while provisionally placed would be downgraded to the status of clients in low barrier shelters, despite that it is highly unlikely that provisional placements will be “low barrier”, i.e. easy to access. DHS has given absolutely no rationale for removing these four essential rights from provisionally placed family shelter recipients. Finally, clients could be terminated with 24 hours notice because it’s determined they didn’t meet the initial eligibility requirements for shelter.²

These changes represent significant infringements on the Constitutional due process rights of families. The Supreme Court held in Goldberg v. Kelly, 397 U.S. 254 (1970) that “due process requires an adequate hearing *before* termination of welfare benefits, and the fact that there is a later... proceeding does not alter the result.” Id. at 262 (*emphasis added*). Due process is not simply an esoteric legal doctrine; it’s what ensures that when mistakes are made they do not take a human toll. As the Supreme Court stated in Goldberg, citing the lower court, “[t]o cut off a welfare recipient in the face of... ‘brutal need’ without a prior hearing of some sort is unconscionable, unless overwhelming considerations justify it.” Id. at 262 (city Kelly v. Wyoming, 294 F. Supp. 893, 89, 900 (1968)).

Mistakes are quite common in shelter termination and transfer matters, and if mistakes are made without immediate recourse for the family, the wrongful deprivation of shelter assistance could have life or death consequences. For example, a domestic violence survivor could be forced to choose between returning to a placement with an abuser or the

² We do not necessarily oppose this because we believe it actually will help DHS achieve its stated goal by allowing DHS to place families temporarily and prior to completing the eligibility process without the risk of having to maintain the family in shelter pending the termination process.

streets. We assisted dozens of clients this past winter who were denied a shelter placement due to FRC's mistaken belief that the family had a safe "alternate housing" arrangement. After our intervention, however, it was quickly discovered that the housing was unsafe, a child would be at risk from a former abuser in the home, or there was a misunderstanding and the family member never agreed to shelter the family—just to name a few examples. This bill would not offer such families any opportunity for even an expedited review of the transfer or termination decision prior to being put out.

Solution: 1) Allow terminations without due process only for eligibility denials, not for regular terminations. 2) Ensure that provisionally placed families have all the rights of regularly sheltered families. 3) Do not add new bases for terminating families from shelter. (Current law already requires clients to follow program rules, and program rules already require cooperation with case management services.)

Rapid Rehousing:

The amendments would require families in shelter to accept a short-term housing subsidy even if the particular unit was not appropriate for their family. Under current law a provider can terminate a shelter resident for turning down two offers of "appropriate" housing. By equating an offer of Rapid Rehousing with an offer of "appropriate permanent housing", the proposed language would make an offer of a unit through the Rapid Rehousing program per se appropriate. In other words, a family could not reject such an offer on the basis that it was not appropriate, e.g. because it had egregious housing code violations, was not the right size for their family, or would be too expensive to afford at the end of the subsidy period. Best practices nationally in Rapid Rehousing Programs include unit choice so that clients have buy in to the program. This removes the right to turn a unit down for valid reasons – a right that clients have when selecting a permanent supportive housing unit and even a public housing unit. There's no rationale for Rapid Rehousing clients have less rights in this regard and we do not think this is what DHS intended to do.

Solution: 1) Remove the word "appropriate" from the language of this section so that an offer of Rapid Rehousing is the equivalent of an offer of permanent housing, but clients maintain the right they currently have to turn a housing offer down because it is not "appropriate" for their family. (We believe that this is what DHS intended to do.)

Mandatory Escrow:

Finally, the proposed amendments would revive mandatory escrow, a program that was rejected by the workgroup that drafted the HSRA of 2005 because of its negative impact on staff and resident relationships and the inability of many shelter residents to contribute to escrow and still meet the basic needs of their children. Many providers support a voluntary escrow system, which current law permits. In fact, under current law, shelter providers are required to offer escrow accounts to all clients, but few do. An additional concern is the rules governing TANF and SSI, which disqualify recipients from benefits if they accumulate more than \$2,000 in assets.

Solution: 1) DHS should enforce the law's current mandate that shelters offer escrow accounts to every client. 2) DHS should encourage providers to make escrow contribution a part of every client's individualized case management plan; 3) DHS should build the capacity of shelter providers to connect their clients to asset building strategies. There are many ways to encourage clients to save money and build their financial literacy skills without setting clients up for terminations from shelter when they can't make a standard monthly payment for valid reasons.

In conclusion, the proposed changes will do little to ensure more families have access to life-saving shelter during a crisis and will turn back the clock on the due process rights of families, placing children at risk. We ask this committee to strike these provisions and work with the community to come up with the best public policy approach to achieving the legitimate goals of serving more families and reducing shelter stays, such as a right to shelter/housing for vulnerable populations, including families with minor children.