Detailed Summary of SB 799, Eviction Reform and Reduction Bill

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"We must listen to the voices of tenants on the power imbalance & hardship so many tenants face and incorporate those realities into the policies we make." - Gene Sperling, White House American Rescue Plan Coordinator and Senior Advisor to President Biden, describing why eviction reform is urgent at the White House Eviction Reform Summit, August 2, 2022.

2023 Proposed Homelessness Prevention thru Eviction Reform Bill

Brief summary: This bill is designed to implement lessons learned from the pandemic experience. There is no scenario in which it's acceptable to move back to pre-pandemic eviction policies that inevitably result in displacement before tenants can access legal assistance, rent assistance, or wrap around services. In this housing market and economy, it is clear that displacement results in homelessness and the attendant severe hardship. We have learned what works and what doesn't work to prevent displacement, ensure fairness, and reduce harm implemented by the eviction process. Moving forward we have an obligation to our communities to ensure that displacement is a last resort, rather than 1st resort of the eviction process. This bill is designed to ensure that homelessness prevention, as well as fairness, are foundational goals of our systemic interventions.

If we do not take steps to prevent eviction and displacement, more and more people will become homeless as we try to re-house people who are currently living outside. Since expiration of protections, there have been more than 2,000 eviction filings every month, a 43% increase over pre-pandemic levels.

The bill proposes several critical eviction process interventions designed to facilitate access to fairness, services, and assistance rather than displacement and eviction.

- o **Continuation of the Successful COVID Protections that are Expiring or Have Expired**
    - **Safe Harbor** from eviction for non-payment for Tenants who have applied for assistance and shown Landlord documentation of their application. Limited safe harbor for 60 days while an application for assistance is being processed.
    - **10-day nonpayment termination notice period**. 10 days allows tenants time to seek information and assistance and can help avoid the need for an eviction filing. After expiration of protections, the current law is 72 hours, which is not early enough time for tenants to seek help in understanding or addressing their rights or obligations.
    - **Right of redemption** (aka "pay to stay") allows households to avoid eviction for nonpayment if they make payment before judgment. Under current law, Tenants must pay in full before the expiration of their 72 hour notice in order to avoid displacement. If they cannot do that, they have no legal defense to eviction even if they have proffer all amounts owed.
    - **Language access** – The requirement to provide access to eviction notice information in the 6 most common languages expired 10/1/22. Under current law, Tenants who do not speak English are on their own in seeking translation of important legal information that can impact their housing stability.
    - **Information about where to seek legal assistance** – The requirement that the court Summons include information about where to find legal assistance expired 7/1/23. Tenants are on their own in finding legal help.
    - **Guest occupancy** – The protection for tenants who had to double up due to the pandemic or housing cost crises expired 3/1/22. The protection should be preserved during this housing crisis to allow tenants to have guests and share housing costs so long as conduct is appropriate and there is code compliance.
- **Timing of eviction proceedings –** These should be paced to ensure adequate time to access assistance and explore resolution options at key intervention points. During the pandemic, Chief Justice Orders required that first appearances be scheduled 21 days after the filing of an eviction action, and trial scheduled between 20-30 days after the first appearance. Those time frames allowed tenants to seek assistance before the deadlines, and

to explore the possibility of resolution and preservation of stability. The CJOs expired in June 2022, leaving the statutory requirements that first appearances be scheduled within 7 days of filing, and trials scheduled no later than 15 days from the first appearance. In some courts, trials are now being scheduled as fast as w/in 2 days of the first appearance. Under current law, tenants are predictably unlikely to be able to appear to defend themselves, resulting in significant rates of default judgments and summary displacement without defense.

- o **Additional protections implementing lessons learned:**
  - **Default Judgment process** - If a Tenant misses the 1st appearance in an eviction, the case is lost and a default judgment is entered. This is true regardless of whether the landlord had legal grounds for the eviction, and regardless of whether the tenant has already vacated the premises. Tenants often miss first appearances because they are under the impression that if they move out, they will avoid a negative judgment on their record. Tenants also miss first appearances due to inability to access assistance before-hand, language barriers, transportation or child care difficulties, and more. A fair eviction process ensures standards around fair entry and set aside of default judgments of eviction.
  - **Implementation of eviction expungment protections** – Under current law, eviction judgments from the pandemic period, judgments that are older than 5 years, and proceedings that did not result in a judgment against the Tenant may not be considered when evaluating an applicant for housing. However, we have learned that the process of getting a file removed or expunged from the record is arduous, expensive, and confusing for tenants. These judgments are prohibited from consideration and ought not be a barrier to housing access, and we ought to automate expungment of these prohibited records in order to implement this important access policy.