



TZEDEK DC

Legal Help for People in Debt



Joint Testimony by Ariel Levinson-Waldman, Founding President and Director-Counsel, Tzedek DC, on behalf of Tzedek DC and the Jewish Community Relations Council of Greater Washington, to the Special Committee on COVID-19 Pandemic Recovery Regarding An Equitable End to Safety Net Protections Put in Place During the Pandemic

May 21, 2021

Chairpersons Gray and Allen, Councilmembers, and staff:

I'm Ariel Levinson-Waldman, Founding Director of Tzedek DC. On behalf of Tzedek DC and the Jewish Community Relations Council of Greater Washington, thank you for holding this essential hearing, and for providing a platform to discuss necessary Council action related to housing and utilities, public benefits, access to justice, and so many other issues critical to an equitable transition from emergency COVID-related provisions into the post-pandemic period.¹ Urgent reforms are also needed to protect residents who will otherwise suffer spiraling consequences from unpaid debts which, as has been discussed in prior panels today, have metastasized as a result of the pandemic and its detrimental impact on the economy and labor markets. The financial insecurity of households across the District is vividly illustrated by the 203,731 or more unemployment claims filed with the Department of Employment Services since the public health emergency was officially recognized in D.C.²

In order to design policies best-suited to helping D.C. residents through an equitable recovery, it is imperative for policymakers to continue to recognize that we do not start with a remotely level playing field. After centuries of structural racism and inequity—as well as more modern barriers to equal opportunity—the net worth of an average White household in D.C. is *eighty-one times* greater than the wealth of

¹ Tzedek DC is submitting this testimony jointly with our Strategic Partner the Jewish Community Relations Council of Greater Washington (JCRC), which serves as the public affairs and community relations arm of the Jewish Federation of Greater Washington, representing over 100 organizations and synagogues throughout DC, Maryland, and Virginia. The JCRC focuses on government relations, Israel advocacy, inter-group relations, and social justice.

² As of May 27, 2021. *Unemployment Compensation Claims Data (Recalculated and Updated Daily)*, D.C. DEP'T OF EMP. SERVS., <https://does.dc.gov/publication/unemployment-compensation-claims-data> (last updated/visited May 28, 2021).



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an average Black household;³ a similarly distressing wealth gap exists for the Latino community.⁴ Racial disparities are evident in debt collection rates as well, where D.C. residents of color face debt collection at more than *five times* the rate experienced by White residents.⁵ The Council should in this regard include in its priorities legislation tackling three major sources of structural inequity in DC: (i) fines and fees, (ii) debt collection, and (iii) consumer records.

A first point of focus for reform is our fines and fees system. Of all major U.S. cities, D.C. collects far more fees per capita than any other.⁶ And in a study published this spring by the National Center for Access to Justice comparing the ethical and practical implications of each state’s policies on monetary penalties, the District ranked as the 10th worst state-level jurisdiction in the country.⁷

An immediate legislative fix proposed by Tzedek DC, the JCRC, and dozens of allied public interest organizations is already on the table: amending the Clean Hands Act so unpaid fines no longer result in the withholding of driver’s licenses.⁸ Under current law, residents who owe the District more than \$100 in outstanding fines, penalties, or interest are disqualified from obtaining or renewing a driver’s license

³ *The Color of Wealth in the Nation’s Capital*, URBAN INST. (Nov. 2016), https://www.urban.org/sites/default/files/publication/85341/2000986-2-the-color-of-wealth-in-the-nations-capital_0.pdf, at vii.

⁴ *Id.* at 58.

⁵ Share of White D.C. households with debt in collections is 7%; share of Black D.C. households with debt in collections is 36%. *Debt in America: An Interactive Map*, URBAN INST. (last updated Mar. 31, 2021), https://apps.urban.org/features/debt-interactive-map/?type=overall&variable=pct_debt_collections&state=11 (last visited June 1, 2021).

⁶ Dan Kopf & Justin Rohrlich, *No US City Fines People Like Washington Fines People*, QUARTZ (Jan. 29, 2020), <https://qz.com/1789851/no-us-city-fines-people-like-washington-dc>; *Driving DC to Opportunity: Wealth Should Not Determine Who Gets to Keep Their Driver’s License*, TZEDEK DC (Spring 2021), <https://www.tzedekdc.org/s/Driving-DC-to-Opportunity-Tzedek-DC.pdf>.

⁷ *Justice Index 2021: Fines and Fees*, NATIONAL CENTER FOR ACCESS TO JUSTICE (Apr. 2021), <https://ncaj.org/state-rankings/2020/fines-and-fees> (last visited June 1, 2021).

The National Center for Access to Justice (NCAJ) employed a “rights-respecting approach” to its evaluation of state policies for imposing fines and fees on individuals, identifying benchmarks that would curb abusive penalties without posing an undue burden on the states themselves. The criteria used by NCAJ to score each state broke down into five focus areas: abolition of harmful practices; meaningful consideration of ability to pay; abolition of abusive collateral consequences for nonpayment; data transparency; and COVID-related mitigation efforts.

⁸ D.C. Code § 47-2862(a).



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and, thus, from driving lawfully.⁹ Good public policy does not simultaneously undermine financial stability while criminalizing poverty.

And, as Councilmember Silverman has noted,¹⁰ reforming this law should also be prioritized as a workforce issue. A valid driver's license is often required by employers in industries including construction, manufacturing, and security.¹¹ Additionally, denial of a driver's license makes it more difficult to sustain employment when over 60% of commutes in the D.C. metro region take at least 90 minutes via public transportation.¹² With the service economy opening back up, restaurants and others in the industry will need robust onsite and delivery staff to survive—an efficient and equitable pandemic recovery plan should aim to reduce bureaucratic barriers to employment such as those in the Clean Hands Act. In the last three weeks the Council has introduced two important bills¹³ that would tackle this issue. These bills should be heard in Committee and moved forward.

A second area in need of structural change is debt collection. The emergency protections passed during the pandemic must be made permanent before (or very shortly after) those temporary measures lapse.¹⁴ Once the emergency legislation expires, we project a tsunami of new debt collection lawsuits, attempts to garnish wages or attach bank accounts, and harassing debt collection communications with debtors.¹⁵ As discussed above, the jobs and wages lost to the pandemic have

⁹ *Id.*; *Driving DC to Opportunity*, supra note 4, Part II(B).

¹⁰ Councilmember Elissa Silverman (@CM_Silverman), TWITTER (Apr. 27, 2021, 2:58pm), https://twitter.com/CM_Silverman/status/1387119036455137286.

¹¹ Alana Samuels, *No Driver's License No Job*, THE ATLANTIC (June 15, 2016), <https://www.theatlantic.com/business/archive/2016/06/no-drivers-license-no-job/486653>; *Driving DC to Opportunity*, supra note 4, Part II(E).

¹² Adie Tomer et al., *Missed Opportunity: Transit and Jobs in Metropolitan America*, THE BROOKINGS INST. (May 12, 2011), https://www.brookings.edu/wp-content/uploads/2016/06/0512_jobs_transit.pdf at 16, 46.

¹³ D.C. Driving to Opportunity Amendment Act of 2021, B24-0230, <https://lims.dccouncil.us/Legislation/B24-0230> (last visited June 1, 2021); Clean Hands Certification Equity Amendment Act of 2021, B24-0237, <https://lims.dccouncil.us/Legislation/B24-0237> (last visited June 1, 2021).

¹⁴ Office of the Attorney General of the District of Columbia, *Guidance on the Debt Collection Provisions of the COVID-19 Response Supplemental Emergency Amendment Act of 2020*, Apr. 24, 2020, <https://oag.dc.gov/sites/default/files/2020-04/20-04-24-Debt-Collection-FAQs-FINAL.pdf>.

¹⁵ See, e.g., Paul Kiel, *Debt Collectors Have Made a Fortune This Year. Now They're Coming for More*. PRO PUBLICA (Oct. 5, 2020), <https://www.propublica.org/article/debt-collectors-have-made-a-fortune-this-year-now-theyre-coming-for-more>.



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exacerbated household debt; if debt collectors are unconstrained, residents face a deluge of past due accounts. This is not a theoretical problem: debt collectors have informed the D.C. Superior Court leadership of their plan to file thousands of debt collection lawsuits in D.C. courts as soon as the moratorium is lifted.

Best practices from other jurisdictions suggest that common sense reforms could go a long way. D.C.'s debt collection rules—which were written before Home Rule—should be expanded to include credit card and medical debts. They should also account for the particular equitable needs of the post-pandemic period, such as protecting low-income D.C. residents' federal tax credit payments from bank account seizure by debt collectors.

Finally, the Council should adopt key consumer record reforms. Consumer record reviews often make the difference when applying for rental housing approval, mortgages and other types of loans, or in many cases, even a job. As Tzedek DC, the JCRC, and coalition allies have previously urged, three such priorities should be advanced. First, this should include making permanent the important emergency COVID-19 measures around the sealing of eviction records.¹⁶ Second, the Council should enact law making the tenant screening process more transparent and ensure that rental applications are reviewed based on information that is not only accurate, but relevant to a prospective tenant's ability to pay rent.¹⁷ Finally, as we have urged previously, the Council should make permanent credit report protections for residents whose pandemic-related financial hardships led to late or missed payments.¹⁸ Unless the emergency protection is made permanent, pandemic-era financial ills will plague D.C. residents' credit reports for the next seven years—through the year 2028!

The District can take these and other common sense steps to make the transition to the new normal as equitable as possible. Thank you.

¹⁶ Eviction Record Sealing Authority Amendment Act of 2021, B24-0096, <https://lims.dccouncil.us/Legislation/B24-0096> (last visited June 1, 2021); D.C. Code § 28-3871.

¹⁷ Fair Tenant Screening Act of 2021, B24-0106, <https://lims.dccouncil.us/Legislation/B24-0106> (last visited June 1, 2021); *See also* Testimony of John Blake, Staff Attorney, Tzedek DC, to the Comm. on Hous. and Exec. Admin., TZEDEK DC (May 20, 2021).

¹⁸ *See supra* note 16.