

# **Creating a Post-COVID-19 Eviction Prevention and Diversion Strategy: Lessons Learned from the Pandemic**

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## Executive Summary

Item 105 of Chapter 854 Acts of Assembly, also known as the budget bill, directed the Department of Housing and Community Development (DHCD) to work with the Virginia Housing Commission to identify the impact of evictions legislation passed in 2019 and recommend if any further action is necessary to complement these efforts. DHCD is directed to consider federal, state, and local resources, including but not limited to (a) current counseling and social services provided by state agencies and authorities; (b) the potential needs of the cities of Newport News, Hampton, Norfolk and Chesapeake, as well as eviction prevention and diversion programs established in the cities of Arlington and Richmond; (c) data collected pursuant to Senate Bill 1450; and, (d) eviction prevention and diversion programs in other states. Furthermore, DHCD is directed to analyze and recommend how to better coordinate current public and private resources and programs to reduce eviction rates in Virginia, as well as how current prevention efforts can coordinate with existing and newly created eviction diversion laws and programs.

The Executive and Legislative branches of state government in partnership with localities have made reducing evictions a policy priority for the Commonwealth of Virginia. Following Executive Order 25 in November of 2018, the General Assembly passed a legislative package during the 2019 session that included several new measures to mitigate the effect of evictions on tenants and landlords.

The initial report, published in January of 2020, recommended that DHCD implement an Eviction Diversion Pilot Program and pilot Local Eviction Data Collection System to mitigate evictions in the commonwealth. The 2020 Special session budget, signed in November 2020 directed DHCD to establish a competitive Eviction Prevention and Diversion Program to support local or regional eviction protection and diversion programs that utilize a systems approach. The program launched in April 2021 and the first round of projects will continue until February 2022. A mid-year analysis of success to date is included in this report.

Since March 2020, the commonwealth has continued to respond to the COVID-19 pandemic. Within weeks after the first cases were reported, shelter-in-place became effective and many Virginians became unemployed over the course of the next several months. To mitigate the spread of COVID-19, federal, state, and local entities issued eviction moratoria, provided financial assistance, and launched several programs to keep low and moderate income Virginians safe and housed. The Virginia Rent Relief Program (RRP), formerly the Virginia Rent and Mortgage Relief Program, continues to provide rental assistance to families impacted by COVID-19 and has served as a national model for other programs. The 2020 and 2021 sessions included many COVID-19 protections.

The commonwealth continues to live in a COVID-19 environment with many emergency programs and policies still operating in Virginia. In order to analyze the impact of the 2019 legislation in light of the ongoing pandemic, DHCD conducted interviews within its programs, analyzed relevant studies and data, and assessed existing prevention and diversion programs and policies. Using the above resources, DHCD has identified current eviction prevention and diversion efforts enacted before and as a result of the COVID-19 pandemic. The report contains the following:

- 1) Summary of the prevalence of eviction and their effects, including how COVID-19 has impacted eviction rates in Virginia;

- 2) Analysis of the impact COVID-19 has had on housing security and the eviction prevention policies used throughout the COVID-19 pandemic
- 3) Summary of current state eviction and diversion efforts, including an initial analysis of the 2019 legislation and Virginia's two eviction prevention and diversion programs and their successes to date
- 4) A summary of the gaps and barriers to reducing eviction in the commonwealth

In addition to this report, a statewide study per Chapter 482 Acts of Assembly (HB854) directs DHCD, in partnership with Virginia Housing, to provide further recommendations to the General Assembly on how to incentivize the development of affordable housing. While this report focuses on analyzing eviction prevention and diversion practices, there still remains a need to focus on expanding affordable housing options in the Commonwealth. Such recommendations will be made available to the General Assembly in January of 2022 and will be complimentary to further recommendations and proposals related to eviction prevention and diversion.

## Background

*This section explains the eviction crisis facing the commonwealth and the consequences of evictions. It also examines the number of households at risk of eviction statewide.*

There still remained many temporary eviction protections and rent relief during 2021. Virginia's eviction prevention and diversion strategy is still operating from a mostly pandemic perspective. Many of the federal coronavirus relief programs, like the Virginia Rent Relief Program (RRP), received funding that will remain for much of 2022. Rather than shifting to a pre-pandemic approach, DHCD is navigating a new normal in the eviction prevention space as the commonwealth transitions gradually to a post-COVID policy strategy.

## Overcoming Virginia's High Eviction Rates

Prior to the pandemic, Virginia's eviction rate was approximately 5 percent with some localities seeing rates above 10 percent. Some jurisdictions, however, experienced eviction rates upwards of 25 to 30 percent prior to the pandemic. Richmond, Hampton, Newport News, Norfolk and Chesapeake made up five of the top ten evicting large cities in the country for 2016. In Richmond, where the eviction rate was second in the nation (11.44 percent in 2016), roughly 1 in 9 renters faced eviction every year.<sup>1</sup> Additionally, some mid-size cities in Virginia, including Petersburg, Hopewell and Portsmouth have had eviction rates upwards of 15 percent annually. Among mid-size cities, Petersburg had the second highest eviction rate in the country.<sup>2</sup> A table depicting pre-pandemic eviction rates, rental occupied units, and cost burdened renters for localities with the highest eviction rates is below.

**Table 1: Pre-Pandemic Statewide Eviction and Renter Data including Selected Localities**

	<b>Eviction Rate (2016)</b>	<b>% Rental Units (2017)</b>	<b>% Cost Burdened Renters (2017)+</b>
Chesapeake	7.9%	27%	51%
Hampton	10.49%	45%	57%
Newport News	10.23%	50%	52%
Norfolk	8.66%	57%	50%
Richmond	11.44%	57%	52%
Petersburg*	17.56%	58%	55%
Danville*	7.2%	47%	43%
Virginia	5.12%	33%	44%

\*ACS 1-Year Estimates 2017; used 5-Year Estimates 2013-2017 (DP04) since 1-Year Estimates were not available +only includes households for which ACS calculated a gross rental adjusted percent income (GRAPI); cost burdened defined as paying 30 percent or more of income on rent

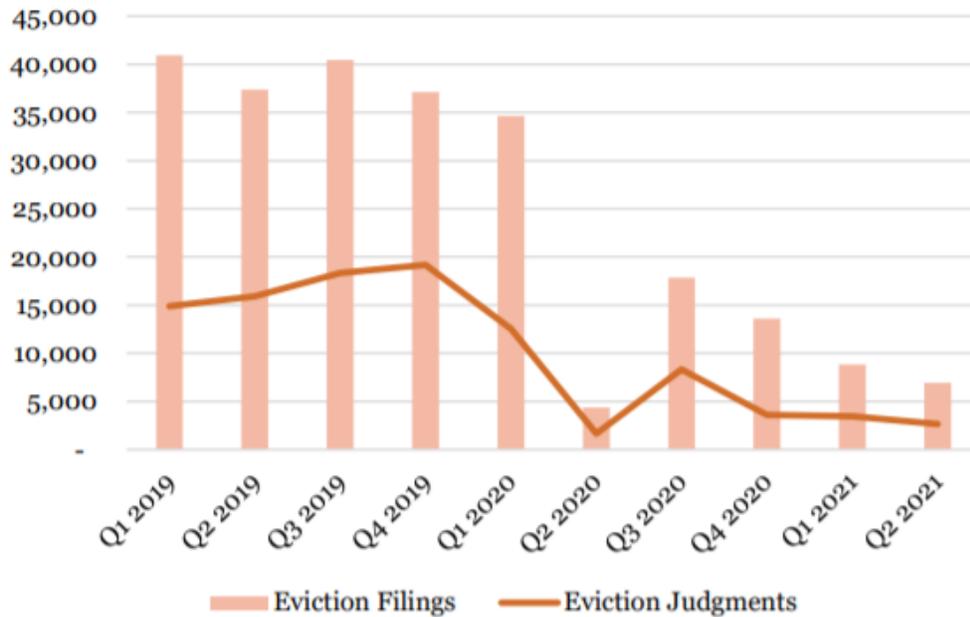
Current eviction filings and judgements remain below pre-COVID-19 levels. Eviction filings are when a landlord files an unlawful detainer to the courthouse and a judgement is when a tenant receives a writ of possession or default judgement for not showing up in court. As of June 2021, the statewide eviction rate for the second quarter of 2021 was 0.25%. This number is likely an underestimate since both eviction filings and judgements will likely shift upward as researchers such as the RVA Eviction Lab

<sup>1</sup> The Eviction Lab. (2018) Top Evicting Large Cities in the United States. Retrieved from <https://evictionlab.org/rankings/#/evictions?r=United%20States&a=0&d=evictionRate&l=1&lang=en>

<sup>2</sup> Desmond, M. (2018). "The Eviction Lab: Maps and Data." Retrieved from: <https://datadownloads.evictionlab.org/>

captures more up-to-date reporting.<sup>3</sup> Virginia’s eviction protections throughout the pandemic have contributed to dramatically lower eviction rates during the pandemic. A full overview of eviction protections and moratorium throughout the pandemic can be found in the “Ongoing COVID-19 Response” section of this report. As of December 2021, Virginia is still operating under budget language from the 2021 Special Session that prevents eviction for nonpayment of rent by requiring landlords to cooperate with their tenants’ applications to the Rent Relief Program. This legislation will remain in place until July 1, 2022 or when rent relief funds are exhausted and is likely driving lower eviction filing and judgement numbers across the state.

Figure 1: Eviction filings and judgements by quarter in Virginia, Q1 2019-Q2 2021



Source: Virginia Courts, Ben Schoenfeld; Quarterly Data Report 2<sup>nd</sup> Quarter 2021, RVA Eviction Lab

### Eviction Consequences and Impacts

The negative impacts of eviction extend far beyond the individual household or eviction itself. Some studies estimate that the cost of eviction in Virginia in 2018 was somewhere between \$484 million and \$1.3 billion annually. When looked at from a household level, this represents between \$7,000 and \$18,000 per evicted household annually.<sup>4</sup> Outside of cost, according to RVA Eviction Lab’s Dr. Kathryn Howell, higher eviction rates are correlated with above average chronic absenteeism in schools.<sup>5</sup> Mothers are also more likely to suffer from depression and worse health outcomes for their children in

<sup>3</sup> RVA Eviction Lab (July 29, 2021). Quarterly Data Report 2<sup>nd</sup> Quarter 2021: March through June. Retrieved from [https://rampages.us/rvaevictionlab/wp-content/uploads/sites/33937/2021/07/RVAEL\\_2021-Q2-report\\_FINAL.pdf](https://rampages.us/rvaevictionlab/wp-content/uploads/sites/33937/2021/07/RVAEL_2021-Q2-report_FINAL.pdf)

<sup>4</sup> DeLeon, C., Howell, K, and Teresa, B. (2021). The Public Cost of Eviction in Richmond and Virginia: Response versus Prevention. RVA Eviction Lab. Retrieved from [https://rampages.us/rvaevictionlab/wp-content/uploads/sites/33937/2021/07/CostofEvictions\\_Final.pdf](https://rampages.us/rvaevictionlab/wp-content/uploads/sites/33937/2021/07/CostofEvictions_Final.pdf)

<sup>5</sup> Howell, K. (2017). Eviction and Educational Instability in Richmond, Virginia. RVA Eviction Lab. Retrieved from <https://cura.vcu.edu/media/cura/pdfs/cura-documents/EvictionandEducationalInstabilityinRichmond.pdf>

the aftermath of an eviction.<sup>6</sup> Landlords are also impacted financially by evictions, including expenses associated with finding replacement renters and not receiving consistent rental payments. As these studies indicate, the negative effects of eviction transcend far beyond the court date, individual household or the landlord.

## Households At-Risk for Eviction

Many households are still experiencing financial instability from the COVID-19 pandemic. The U.S. Census Household Pulse Survey has been measuring the social and economic effects of the coronavirus since April 2020 through weekly and bi-weekly surveys. The most recent U.S. Census Household Pulse Survey (September 30-October 12, 2021) shows that 8.4 million renters (15 percent) nationally were not caught up on their rent. Among renter respondents, renters of color were more likely to report that their household was not caught up on rent. Twenty-seven percent of Black renters and 17 percent of Latinx renters reported not being caught up on rent compared to 19 percent of Asian and 11 percent of white renters. Renters with children were also twice as likely to be behind on rent payments compared to single adults. In Virginia, the percentage of renters surveyed behind on their rent mirrors national trends. Almost 182,000 Virginians (14 percent) were not currently caught up on rent payments during the beginning of October 2021. Seventeen percent of black and 16 percent of Latinx renter respondents were behind on rent in Virginia compared to 8 percent of Asian and 9 percent of white renters.<sup>7</sup> As of November 31, 2021, 77,058 households received rental assistance through the Virginia Rent Relief Program which prevented housing instability numbers from increasing.

Virginia’s renter housing instability has remained relatively the same since a year ago. The estimated number of renters who have not paid last month’s rent continues to hover between 170,000 and 185,000 renters.<sup>8</sup> One in four renters still have no or only slight confidence in their ability to pay next month’s rent. Renters are, however, less likely to report being somewhat or very likely to leave their house in the next two months due to eviction than a year ago. This research indicates that while the Virginia Rent Relief Program has prevented housing instability from increasing during the pandemic, continued need for rent relief and eviction prevention and diversion supports remain.

*Table 2: Household Pulse Survey responses of Virginia renters.*

<b>Description</b>	<b>2020</b>	<b>2021</b>
<b>Renters who have not paid last month’s rent</b>	11%	14%
<b>Renters with no or slight confidence in ability to pay next month’s rent</b>	23%	24%
<b>Renters who are somewhat or very likely to leave their house in the next two months due to eviction*</b>	45%	37%

*US Census Bureau, 2020, Week 16 Household Pulse Survey (September 30-October 12, 2020)*

*US Census Bureau, 2021, Week 39 Household Pulse Survey (September 29-October 11, 2021)*

*\*Sample size is 171,810 compared to 1,542,214 for 2020 survey and 181,788 compared to 1,303,010 for the preceding survey responses for 2021*

<sup>6</sup> Desmond, M. and Kimbro, R. (2015). Eviction’s Fallout: Housing, Hardship, and Health. *Social Forces*. 94 (1). Pp. 295-324

<sup>7</sup> *US Census Bureau, 2021, Week 39 Household Pulse Survey (September 29-October 11, 2021)*

<sup>8</sup> *US Census Bureau, 2021, Week 16 (September 30 – October 1, 2020) and 39 (September 29 – October 11, 2021) Household Pulse Survey*

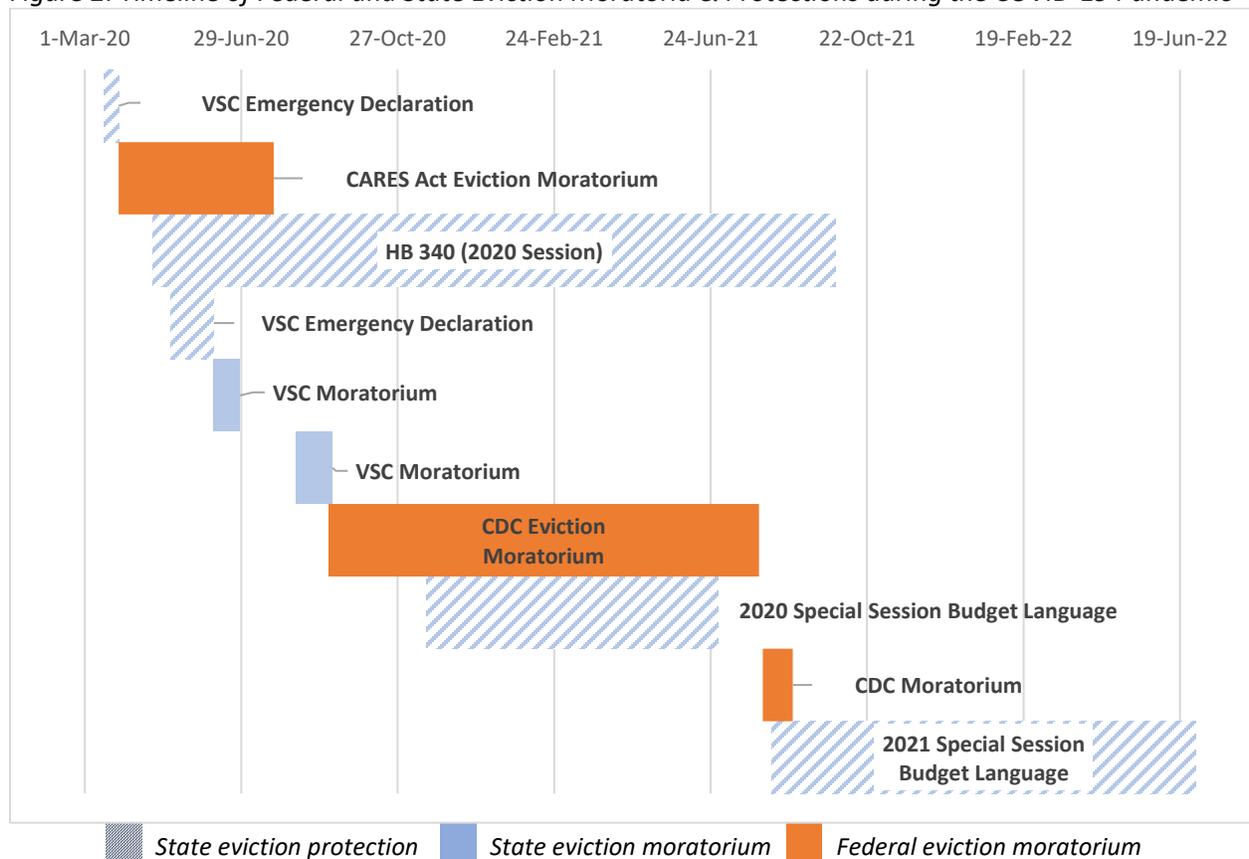
## Ongoing COVID-19 Housing Response

Eviction moratoria have played a key role in limiting the amount of eviction filings and judgements to maintain housing stability during the COVID-19 pandemic. This section summarizes the different state and federal moratoria that have been in effect since the start of the pandemic.

Eviction moratoria were a major factor in preventing evictions during the COVID-19 pandemic. Research indicates that places with expired or no moratoria saw eviction filings return to pre-pandemic levels.<sup>9</sup> In Virginia, eviction prevention policies for nonpayment of rent have more or less been in effect since March 16, 2020 through a combination of federal and state court moratoria and the current state law requirement for landlords and tenants to cooperate on rental assistance applications before an eviction for nonpayment is possible as illustrated in Figure 2. The most recent eviction prevention legislation, passed during the 2021 Special Session, extends eviction protections for nonpayment of rent through July 1, 2022 or until rent relief funds are exhausted. While some evictions are still occurring in the commonwealth, the existence of these policies and Virginia’s quick work to deploy rent relief explain why current eviction rates are lower than pre-COVID rates.

Below is a summary of the eviction prevention policies enacted as of December 2021:

Figure 2: Timeline of Federal and State Eviction Moratoria & Protections during the COVID-19 Pandemic



<sup>9</sup> Trekson, M. et. al. (2021). "Eviction Prevention and Diversion Programs: Early Lessons from the Pandemic." Retrieved from <https://www.urban.org/sites/default/files/publication/104148/eviction-prevention-and-diversion-programs-early-lessons-from-the-pandemic.pdf>

### *Virginia Supreme Court (VSC) Emergency Declaration*

The Virginia Supreme Court issued an emergency declaration on March 16, 2020 which suspended nonemergency, nonessential proceedings for 21 days to protect health and safety due to the coronavirus pandemic.<sup>10</sup> The court did not specifically prohibit eviction proceedings, but they were not included in the list of essential proceedings. On March 27<sup>th</sup>, 2020 the court specifically included writs of eviction in their list of allowable proceedings.<sup>11</sup> Emergency declarations from May 6, 2020 to June 8, 2020 did not specifically prevent writs of eviction, but did remove writs of eviction from the cases that must continue.<sup>12</sup>

### *HB 340 (2020 Special Session)*

During the 2020 Special Session, the General Assembly created and Governor Northam passed HB 340 which granted a 60 day stay on an eviction hearing from the initial court date. Tenants were eligible for this stay if they showed up in court with written proof that they were affected by the COVID-19 pandemic. The protection ended on September 28, 2021, ninety days after the public health emergency order expired.<sup>13</sup>

### *Federal CARES Act*

The Coronavirus Aid, Relief and Economic Security (CARES) Act included prohibitions on landlord's ability to evict for nonpayment of rent in most federally assisted or financed housing. Covered tenants could not be forced to vacate and landlords could not file notices to vacate due to nonpayment of rent. Landlords could also not charge fees or penalties for unpaid rent. Between 28 and 46 percent of all occupied housing units nationally were covered under the CARES Act moratorium. The CARES Act moratorium protections expired 30 days after the expiration of the moratorium (August 23, 2020).<sup>14</sup>

### *Virginia Supreme Court Eviction Moratorium*

The Virginia Supreme Court issued an eviction moratorium on June 8, 2020 which suspended and issued a temporary stay on all residential unlawful detainer actions and writs of eviction through June 28, 2020.<sup>15</sup> The court amended the moratorium on June 22 stating that courts could hear residential unlawful detainer actions and issue writs of eviction for cases unrelated to the failure to pay rent.<sup>16</sup> On

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<sup>10</sup> Virginia Supreme Court (March 16, 2020), "In Re: Order Declaring a Judicial Emergency in Response to COVID-19 Emergency." Retrieved from:

[https://www.vacourts.gov/news/items/covid/2020\\_0317\\_supreme\\_court\\_of\\_virginia.pdf](https://www.vacourts.gov/news/items/covid/2020_0317_supreme_court_of_virginia.pdf)

<sup>11</sup> Virginia Supreme Court (March 27, 2020). "In Re: Order Extending Declaration of Judicial Emergency in Response to COVID-19 Emergency." Retrieved from

[https://www.vacourts.gov/news/items/2020\\_0327\\_scv\\_order\\_extending\\_declaration\\_of\\_judicial\\_emergency.pdf](https://www.vacourts.gov/news/items/2020_0327_scv_order_extending_declaration_of_judicial_emergency.pdf)

<sup>12</sup> Virginia Supreme Court (May 6, 2020). "In Re: Fourth Order Modifying and Extending Declaration of Judicial Emergency in Response to COVID-19 Emergency." Retrieved from

[https://www.vacourts.gov/news/items/covid/2020\\_0506\\_scv\\_order.pdf](https://www.vacourts.gov/news/items/covid/2020_0506_scv_order.pdf)

<sup>13</sup> Code of Virginia (April 22, 2020). "Chapter 1201 (HB 340)." Retrieved from <https://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+CHAP1202>

<sup>14</sup> McCart, M., Perl, L. (2021). "Federal Eviction Moratoriums in Response to the COVID-19 Pandemic."

Congressional Research Service. Retrieved from <https://crsreports.congress.gov/product/pdf/IN/IN11516>

<sup>15</sup> Virginia Supreme Court (June 8, 2020). "In Re: Fifth Order Modifying and Extending Declaration of Judicial Emergency in Response to COVID-19 Emergency." Retrieved from

[https://www.vacourts.gov/news/items/covid/2020\\_0608\\_scv\\_amendment\\_to\\_fifth\\_order.pdf](https://www.vacourts.gov/news/items/covid/2020_0608_scv_amendment_to_fifth_order.pdf)

<sup>16</sup> Virginia Supreme Court (June 22, 2020). "In Re: Fifth Order Further Modifying and Extending Declaration of Judicial Emergency in Response to COVID-19 Emergency." Retrieved from

[https://www.vacourts.gov/news/items/covid/2020\\_0622\\_scv\\_second\\_amended\\_fifth\\_order.pdf](https://www.vacourts.gov/news/items/covid/2020_0622_scv_second_amended_fifth_order.pdf)

August 7, 2020, the court issued an order stating that writs of eviction would be suspended and continued for nonpayment of rent cases from August 10 – September 7, 2020.<sup>17</sup>

#### *CDC Eviction Moratorium 1.0 and 2.0*

Soon after the CARES Act moratorium expired, the Center for Disease Control (CDC) created an eviction moratorium on September 4, 2020 that protected *public and private* tenants from eviction if they were unable to pay their rent due to job loss, income loss, or medical expenses. The moratorium was not automatic like the CARES Act, and renters needed to fill out a Declaration document and give it to their landlord to get the protection. Landlords were able to charge fees, but penalties existed for landlords that violated the order.<sup>18</sup> The moratorium was extended several times until expiring on July 31, 2021.<sup>19</sup>

After the CDC eviction moratorium expired on July 31, 2021, the CDC released a new moratorium on August 3, 2021 which temporarily prevented residential evictions in counties with high or substantial transmission. If a county dropped below high or substantial transmission for 14 days, they were no longer covered by the moratorium. The second CDC moratorium ended on August 26, 2021 after the U.S. Supreme Court ruled it unconstitutional.

#### *2020 Special Session Budget Language*

As part of the 2020 Special Session, the General Assembly and Governor amended the budget to create eviction prevention legislation for nonpayment of rent cases. Starting November 18, 2020 landlords needed to a) inform tenants of the Rent Relief Program (RRP) and provide information on how to reach 2-1-1 VIRGINIA and b) apply to RRP on behalf tenants unless the tenant stated they had applied for RRP funds prior to proceeding with an eviction for nonpayment of rent. Landlords owning more than four units needed to offer a payment plan prior to applying to RRP and could use RRP if the payment plan is unpaid when due. A landlord could only file an unlawful detainer for nonpayment of rent if the tenant refused to apply for rental assistance or refuses to assist the landlord with their application. This legislation expired on June 30, 2021 coinciding with the end of the COVID-19 Emergency Declaration.<sup>20</sup>

#### *2021 Special Session Budget Language*

In response to the expiration of the federal CDC moratorium and initial state moratorium, the General Assembly reinstated the eviction prevention legislation as part of the 2021 Special Session budget language on August 10, 2021. Similar to the legislation passed in the 2020 Special Session Budget Language, landlords must cooperate with the RRP program. If a tenant has qualified for unemployment benefits or experienced a financial hardship, directly or indirectly related to the coronavirus pandemic, has a total household at or below 80% Area Median Income and rent at or below 150% of Fair Market Rent, they are eligible. The current eviction prevention legislation for nonpayment of rent expires on July 1, 2022 or when rent relief funds are exhausted.<sup>21</sup>

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<sup>17</sup> Virginia Supreme Court (August 7, 2020). "In Re: Amendment of Eighth Order Extending Declaration of Judicial Emergency in Response to COVID-19 Emergency." Retrieved from

[https://www.vacourts.gov/news/items/covid/2020\\_0807\\_scv\\_amendment\\_to\\_eighth\\_order.pdf](https://www.vacourts.gov/news/items/covid/2020_0807_scv_amendment_to_eighth_order.pdf)

<sup>18</sup> McCart and Perl (2021). "Federal Eviction Moratoriums."

<sup>19</sup> (June 24, 2021). "CDC Director Extends the Eviction Moratorium for 30 days." Centers for Disease Control and Prevention. Retrieved from <https://www.cdc.gov/media/releases/2021/s0624-eviction-moratorium.html>

<sup>20</sup> Commonwealth of Virginia (2020). "Eviction Moratorium Language" Retrieved from [https://www.vbso.net/\\_assets/Eviction-Moratorium-Language.pdf](https://www.vbso.net/_assets/Eviction-Moratorium-Language.pdf)

<sup>21</sup> Virginia Acts of Assembly (2021). Retrieved from <https://lis.virginia.gov/cgi-bin/legp604.exe?213+ful+HB7001ER+pdf>

## Existing State Resources and Policies

The two primary eviction prevention and diversion programs in the commonwealth are the Virginia Rent Relief Program (RRP) and the Virginia Eviction Reduction Pilot (VERP) Program. During the past few sessions, the General Assembly passed eviction prevention measures including protections for mobile park home owners, expanding the right of redemption, additional requirements for larger landlords (those who own four or more units) and COVID-19 specific protections.

### 2019 Legislative Package

The following table below summarizes the changes made by several pieces of legislation passed in 2019. Similar to our previous report, a full analysis of the impacts is not yet possible due to the several COVID-19 federal and state protections that still exist. DHCD will continue to work with stakeholders, including those from the tenant and landlord communities, to gather data and the effects of the legislation on evictions as well as provide further recommendations that compliment these efforts.

Table 3: Analysis of the 2019 Legislative Package

Virginia Code	Effective Date	Summary of Statute	Current Status
<a href="#">§ 55.1-1204(B)(C)</a> - Written lease required	July 1, 2019	The statute requires that landlords must offer a written lease. If a written lease is not offered, the law sets out a statutory default lease.	Implemented
<a href="#">§ 8.01-471</a> One Case at a Time	July 1, 2019	The statute allows a landlord to make an amendment to an original unlawful detainer to avoid multiple of these from being filed. The code was also amended to ensure a hearing is scheduled as soon as practical but no later than 30 days after the summons for an unlawful detainer has been filed.	Implemented and further data collection needed
<a href="#">§ 55.1-1250</a> - Extended Right of Redemption	July 1, 2019	The amended code provides more time for tenants to pay back rent and potentially avoid an eviction. Tenants are permitted to pay the amount owed and due up to two business days prior to the date scheduled by the officer who receives a writ of eviction.	Implemented
<a href="#">§8.01-470</a> & <a href="#">§8.01-471</a> - Use Writ or Lose Writ 180 days	July 1, 2019	The timeframe for when a landlord could use a judgment of possession before getting a writ of eviction was shortened from 12 months to 180 days .	Implemented and further data needed to determine impacts
<a href="#">§16.1-107</a> -Access to Appeal	July 1, 2019	The code amended the requirements for a tenant wishing to appeal an eviction judgment based on nonpayment of rent. A tenant is now required to pay ongoing rent as it became due rather than an appeal bond for up to 12 months future rent in advance.	Implemented

<a href="#">§55.1-1241</a> , <a href="#">§55.1-1244</a> – Tenant Attorney’s Fees in Poor Housing Cases	July 1, 2019	The statute allows tenant attorney fees to be ordered in two types of cases involving poor housing conditions in which the court deems the tenant is entitled to relief and enters judgment for the tenant.	Implemented
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### 2020-2021 Legislative Package

The 2020 and 2021 legislative packages included additional policy changes. Limits on late fees means that landlords cannot charge more than ten percent of the remaining balance owed. Landlords also cannot discriminate between tenants based on source of income. New tenant protections became available for tenants experiencing poor living conditions, living in mobile home parks and seeking an expungement of their eviction record. Tenants can now use repair and deduct in certain situations to hire their own contractor and conduct repairs as long as they give the landlord notice and the cost does not exceed one month’s rent (\$1,500 if rent is less than that). Tenants living in mobile homes now receive a notice if the owner is selling the park and receive up to \$2,500 for moving expenses. Starting January 1, 2022, tenants can petition to have their unlawful detainer removed from their record if the judge dismissed their case in court. A full list of changes during the 2020 and 2021 legislative session can be found in Table 4 below.

*Table 4: Analysis of the 2020-2021 Legislative Package*

Virginia Code	Effective Date	Summary of Statute	Current Status
<a href="#">§551.-1204(E)</a> -Limit on Late Fees	April 22, 2020	The statute limits the amount of late fees a landlord may charge to 10% of the periodic (monthly or weekly) rent or 10% of the remaining balance due and owed, whichever is smaller.	Implemented
<a href="#">§44-209</a> – Relief for Furloughed Employees and Contractors	April 22, 2020	The statute provides civil relief for federal employees, contractors for federal government, and employees of a contractor for the federal government in cases of a federal government shutdown that occur 14 or more days. In such cases, the statute provides a 60-day state of an unlawful detainer for nonpayment of rent for tenants who provide written proof and appear on their designated court date.	Implemented
<a href="#">§36-96.1:1</a> , <a href="#">36-96.3</a> – Source of Funds added to fair housing law	July 1, 2020	The statute forbids discrimination in housing based on one’s source of income defined as “any source that lawfully provides funds to or on behalf of a renter or buyer of housing, including any assistance, benefit, or subsidy program, whether such program is administered by a governmental or nongovernmental entity.”	Implemented
<a href="#">§36-96.2</a> , <a href="#">55.1-1203(D)</a> , <a href="#">55.1-1209(B)</a> -Special provisions for domestic abuse survivors	July 1, 2020	Landlords must consider status as a domestic abuse survivor when reviewing a credit score in a rental application	Implemented

<a href="#">§36-139(26)</a> , <a href="#">55.1-1204(B)</a> , <a href="#">55.1-1204(G)</a> - Notice to Tenants about Legal Rights	July 1, 2020	The statute requires landlords to provide tenants entering new or renewed leases a statement of tenant rights posted on the website of the Department of Housing and Community Development. The statement must be signed by both landlord and tenants.	Implemented
<a href="#">§55.1-1202(D)</a> – Notice to Subsidized Tenants about Legal Aid	July 1, 2020	The statute requires all notices of termination of tenancy served upon a tenant by a public housing authority to include the contact information of a legal aid program serving the jurisdiction.	Implemented
<a href="#">§36-7.2</a> – Notice to Public Housing Tenants of Intent to Demolish	July 1, 2020	Any housing authority required to submit an application to demolish or dispose of public housing to HUD must give 12 months advance notice to DHCD, any agency responsible for administering tenant-based rental assistance and each tenant residing in the housing project. (does not apply to owners of four or fewer rental units)	Implemented
<a href="#">§55.1-1204</a> , <a href="#">55.1-1226</a> – Security Deposit Insurance	July 1, 2020	The statute allows tenants to provide security deposit insurance for all or part of the security deposit requirement.	Implemented
<a href="#">§55.1-1244.1</a> Repair and Deduct	July 1, 2020	The statute permits a tenant, under certain circumstances, to secure a contractor to fix the issues and deduct the costs of repairs from the rent. Prior to proceeding with a contractor, the tenant must first give the landlord written notice and up to 14 days to begin repairs. The costs of the repairs must be no more than \$1500 or the cost of one month’s rent, whichever is higher.	Implemented
<a href="#">§55.1-1308.1</a> – Relocation Expenses	July 1, 2020	Mobile park owners who wish to convert their park to non-residential must provide each resident \$2,500 in relocation expenses within a 180-day period. This amount is \$3,500 for Planning District 8.	Implemented
<a href="#">§55.1-1309</a> , <a href="#">§55.1-1308.1</a> , <a href="#">§55.1-1316(B)</a> – Notice of Sale to Mobile Home Park Residents	July 1, 2020	Mobile home park owners who wish to sell a mobile home park must provide a 90 day’s advance notice to each resident and to DHCD. The owner must consider offers from park residents.	Implemented
<a href="#">§55.1-1316</a> Rent of Mobile Home after Eviction	July 1, 2020	Mobile home residents who have been evicted have 90 days from the judgement to rent the manufactured home to a subtenant contingent on subtenant approval from the park owner.	Implemented
<a href="#">§ 55.1-1250-</a> Landlord’s Acceptance of Rent and Right of Redemption	July 1, 2021	The code was amended to expand and clarify protections passed in 2019.  The amended code removes the condition that a tenant can only evoke right of redemption once in a 12-month period (landlords with four or less units are	Implemented

		<p>not required to comply). The amended code modified the time tenants have to pay back rent from two business days to 48 hours.</p> <p>Further, the statute prohibits a landlord from accepting full payment of rent and proceeding with an eviction in cases of nonpayment of rent.</p> <p>The statute also requires that a landlord provide a tenant with a termination notice that explains their rights and clarifies what payments will cancel an eviction. DHCD has been tasked with developing a sample termination notice to be kept on the DHCD website.</p>	
<p><a href="#">§55.1-1243.1</a> – Tenant Remedies for Exclusion from Dwelling Unit</p>	<p>July 1, 2021</p>	<p>The amended code directs a general district court to issue an order upon petition by a tenant when a landlord has, without court permission, taken actions to evict a tenant unlawfully. The statute further allows a tenant to obtain possession of the unit, requires the landlord to resume any interrupted services, and requires the landlords to make any necessary fixes to make the unit safe. A tenant with sufficient evidence can recoup damages and attorney fees.</p>	<p>Implemented</p>
<p><a href="#">§55.1-1209</a> – Service members and Lease Agreements</p>	<p>July 1, 2021</p>	<p>The amended code prohibits terms in a rental agreement in which the tenant agrees to waive remedies or rights under the federal Service members Civil Relief Act prior to the occurrence of a dispute between the landlord and the tenant. The amended code further allows service members to terminate a lease early if given orders to move.</p>	<p>Implemented</p>
<p><a href="#">§8.01-130.01</a>- Expunging Dismissed Eviction Lawsuits in Court</p>	<p>January 1, 2022</p>	<p>Tenant can file a petition to have their court record expunged relating to the unlawful detainer if their unlawful detainer filed in General District Court was dismissed/nonsuited. The Supreme Court of Virginia will create a form for tenants to use.</p>	<p>Implementation pending</p>
<p><a href="#">§55.1-1229</a> – Access to Dwelling Units during Certain Emergencies</p>	<p>*applies only when certain states of emergency are in place</p>	<p>The amended code details specific rights for landlords and tenants during a declared public health emergency in regards to entering the dwelling unit. The code permits tenants to refuse to permit a landlord or management agent inside their unit to show the unit to a prospective tenant if the tenant has health concerns under the condition that the tenants providers a virtual tour or some equivalent accommodation. The code outlines requirements around conducting nonemergency repairs, including requiring a landlord, or agent, to wear the necessary personal protective equipment.</p>	<p>Implemented</p>

## Temporary and COVID-19 Related Protections

In addition to the above tenant protections, many temporary protections related to the COVID-19 pandemic passed during the 2020 and 2021 sessions. Budget language passed during the 2021 Special Session in August prevents landlords from evicting tenants for nonpayment of rent without first applying for the Rent Relief Program through July 1, 2022. A full list of temporary COVID-19 protections is below.

Table 5: Temporary and COVID-Related Protections

Virginia Code	Effective Date	Expiration Date	Summary of Statute
<a href="#">Emergency Relief to Tenants and Homeowners Affected by COVID-19</a>	March 12, 2020	September 30, 2021	The act provides civil relief to citizens furloughed or otherwise receiving reduced wages or payments due to the state of emergency declared by the Governor in response to the COVID-19 pandemic. The act provides a 60-day stay of an unlawful detainer for nonpayment of rent for tenants and a 30-day stay of foreclosure proceedings for owners of any residential dwelling unit and for homeowners of a one-family to four-family residential dwelling unit who request a stay and provide written proof that they are affected by the COVID-19 pandemic during the declared state of emergency.
<a href="#">§55.1-1245</a> – Extended Time to Pay and Payment Plan	November 9, 2020	July 1, 2022	The amended code extended the amount of time from 5 to 14 days that a landlord who owns four or fewer rental dwelling units must wait after serving written notice on a tenant notifying the tenant of their nonpayment of rent and the landlord’s intention to terminate the rental agreement if rent is not paid.
<a href="#">§55-248.40:1, 55-248.40:2</a> Eviction Diversion Pilot Program	July 1, 2020	July 1, 2023	The statute implemented a mandatory pilot Eviction Diversion Program (EDP) for eligible tenants in the cities of <i>Richmond, Petersburg, Hampton, and Danville</i> . Participating tenants must pay at least 25% of the amount due on the return date agreed to by the landlord and tenant. If the tenant makes all payments as required by the payment plan, the lawsuit will be dismissed.  Administrative oversight of the implementation of the Program and training for judges who preside over general district courts participating in the Program shall be conducted by the Executive Secretary of the Supreme Court of Virginia (Executive Secretary)
<a href="#">Budget Language</a>	August 10, 2021	July 1, 2022	No landlord shall terminate a tenancy for nonpayment of rent if the eligible tenant has qualified for unemployment benefits or experienced a reduction in household income, incurred significant costs, or experienced other financial hardship during or due directly or indirectly, to the coronavirus pandemic unless certain exceptions are met with the main requirement being landlord and tenant cooperation on rental assistance applications.

			<p>Landlord should mark account as “current” to a consumer reporting agency or debt collector if tenant is participating in a federal, state, or local relief payment plan</p> <p>If tenant is complying with a written payment plan or has resolved any non-payment of rent, the landlord cannot take any action to obtain possession of the dwelling unit for nonpayment of rent</p>
<a href="#">§55.1-1245</a> Adverse Actions against Tenancy Application	July 1, 2022	July 1, 2028	<p>Landlords cannot take any adverse action against an applicant for tenancy based solely on payment history or an eviction for nonpayment of rent that occurred during the period beginning on March 12, 2020, and ending 30 days after the expiration or revocation of any state of emergency declared by the Governor related to the COVID-19 pandemic. (March 12, 2020 through July 30, 2021)</p> <p>Landlords must provide tenants with a written notice of a denial for residential tenancy. Code details what the notice must include.</p>
<a href="#">§55.1-1245</a> – Extended Time to Pay and Payment Plan	November 9, 2020	July 1, 2022	<p>Extends the amount of time from 5 to 14 days that a landlord must wait after serving a written notice to terminate the rental agreement. (this section applies to all landlords)</p> <p>Landlords who own four or more units must provide tenant a written notice informing them the total amount due and owed and offer a one-time payment plan prior to terminating a rental agreement due to nonpayment of rent</p>

### COVID-19 Rent Relief Program (RRP) and Emergency Relief

Using a combination of federal COVID-19 relief and state funds, DHCD launched the Virginia Rent and Mortgage Relief Program (RMRP) in June 2020. As of December 2020, DHCD stopped providing mortgage assistance and began to focus exclusively on rent relief. At this point the program was renamed the Rent Relief Program (RRP) which provides financial assistance to eligible households based on both eligibility and household need. Fairfax County and Chesterfield County are administering their own rent relief programs separate from the statewide program.

Table 6: Rent Relief Program (RRP) Funding

Rent Relief Program (RRP) Funding (formerly Rent Relief and Mortgage Program)		
Name	Source	Amount
Coronavirus Aid, Relief and Economic Security Act (CARES)	Federal- Department of Treasury	\$62,000,000.00
Emergency Rental Assistance (ERA 1.0)	Federal- Department of Treasury	\$524,601,619.00
Emergency Rental Assistance (ERA 2.0)	Federal- Department of Treasury	\$415,092,709.20
Virginia Housing Trust Fund	State General Funds	\$28,200,000.00
	<b>TOTAL</b>	<b>\$1,029,894,328.20</b>

Since launching in June 2020, RRP has processed and disbursed \$522,882,935.11 in payments to 77,058 unique households including 76,534 rent and 524 mortgage relief payments as of November 31, 2021. Virginia continues to lead the nation in allocating its federal rent relief funding and is frequently cited as a national model. A summary of payment demographic data is below:

- 65,920 payments went to households with children including 34,899 for children under eight
- Payments to Black households accounted for 59 percent of total payments, and white households accounted for 21 percent based on those that identified their race
- 79 percent of payments to date went to households at or below 30 percent Area Median Income (AMI)

### RRP Outreach and Engagement Grant

The COVID-19 pandemic has disproportionately impacted people of color who also have more rent burdened households. In June 2021, DHCD launched the Outreach and Engagement Grant as part of the Rent Relief Program to increase the number of applications from historically economically disadvantaged communities (HEDC) statewide. Per § 56-576 Code of Virginia, historically economically disadvantaged communities are a “(i) community in which a majority of the population are people of color or (ii) a low-income geographic area.”<sup>22</sup> The purpose of the program is to assist households with limited access to the Internet who are not able to complete the online RRP application due to accessibility and language barriers. Grantees work with tenants and landlords to promote the program in HEDC communities and assist applicants with completing applications. Outreach to marginalized communities and increasing access continues to be a goal of the Rent Relief Program. As of October 31, 2021, the Outreach and Engagement Grant marketed RRP to 3.7 million Virginians and assisted over 7,000 applicants with their applications. Eighty two percent of applicants who submitted their application with Outreach and Engagement assistance and received payment through RRP were from HEDC communities.

### Virginia Eviction Reduction Pilot (VERP)

Table 7: Virginia Eviction Reduction Pilot Funding Levels

Virginia Eviction Reduction Pilot (VERP) Funding			
Name	Year	Source	Amount
Virginia Eviction Reduction Pilot	FY2021	State General Funds	\$3,300,000
Virginia Eviction Reduction Pilot	FY2022	State General Funds	\$3,300,000
<b>TOTAL</b>			<b>\$6,600,000</b>

The Department of Housing and Community Development launched the first round of the Virginia Eviction Reduction Pilot (VERP) on April 1, 2021. The goal of the VERP program is to make evictions rare, their impacts brief and the experience humane. Grantees use a local/regional coordinated systems approach to effectively prevent evictions. When evictions cannot be prevented, the system diverts evictions once a household has received an unlawful detainer. The first VERP funding cycle includes four grantees from both rural and urban communities serving Southwest Virginia (Lee, Scott and Wise Counties and the City of Norton), Central Virginia (City of Richmond), Hampton Roads (cities of Norfolk, Hampton and Newport News) and the Peninsula (Gloucester, James City, Mathews and York counties and the cities of Poquoson and Williamsburg).

<sup>22</sup> <https://law.lis.virginia.gov/vacode/title56/chapter23/section56-576/>

DHCD opened the second round of funding for applications this fall. Rather than focusing on individual households, VERP 2022 will focus more systemically on eviction prevention. The goal is to demonstrate effective approaches to reducing evictions through systems changes that also provide flexible financial assistance to those at risk of eviction. VERP 2022 programs must include financial assistance, initiatives to promote systems change, legal aid and mediation between landlords and tenants and coordination with stakeholders. This includes a \$250,000 set-aside for grantees to pilot a court navigator program as part of their VERP grant award. The court navigator program will increase communication between judges and eviction prevention and diversion staff, assist tenants with navigating the court system, inform tenants about their rights and encourage mediation between landlords and tenants. VERP 2022 programs will be administered from January 1, 2022 through December 31, 2022.<sup>23</sup>

## VERP Planning Grant

In order to build capacity in high evicting areas, DHCD created the VERP Planning Grant program which launched June 15, 2021 to build eviction prevention capacity and prepare for a future VERP application. This grant opportunity funds needs analyses, preliminary program designs and capacity building activities that align with the VERP program. Grantees must coordinate Planning Grant activities with other eviction prevention resources in their communities. Each Grantee is required to have significant local coordination through a local advisory committee including a variety of community partners such as local government leadership, Continuum of Care (CoC), Public Housing Authority representatives, Legal Aid and tenant advocacy groups.<sup>24</sup>

## VERP 2021 Success and Takeaways to Date

### *Households and Individuals Served*

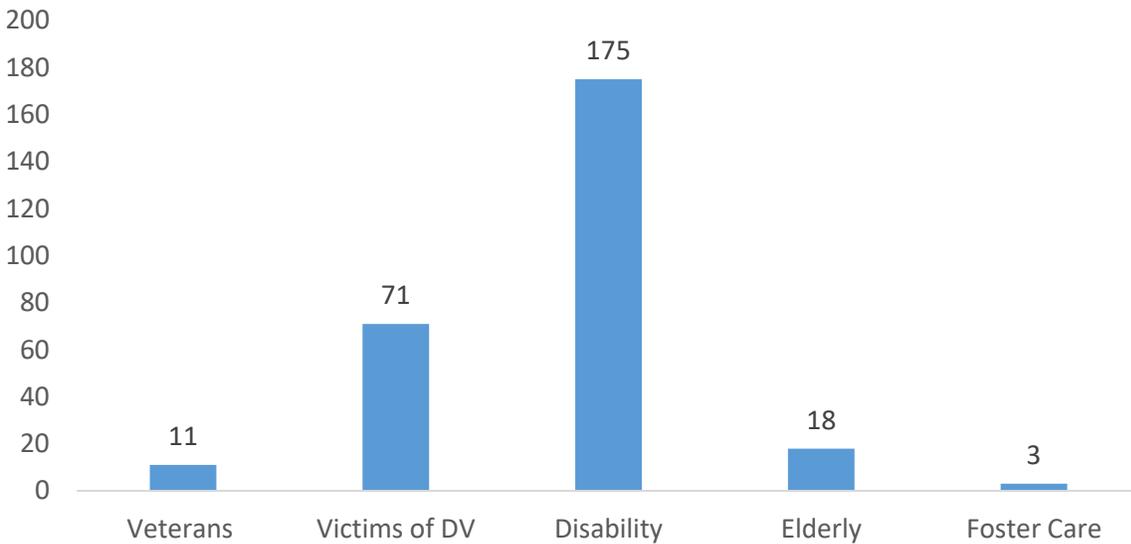
The VERP program served 219 households from April 1 – September 30, 2021 including 493 individuals (200 children and 293 adults). The households VERP served thus far mirror those most at risk of eviction including single mothers and households of color. A little less than half (45 percent) of households included children, 43 percent were headed by a person of color and one in three were headed by a single female with children. Fifty nine percent of individuals served were in at least one of the subpopulations illustrated in Figure 3.

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<sup>23</sup> VERP 2022 Program Guidelines

<sup>24</sup> VERP Planning Grant Program Guidelines

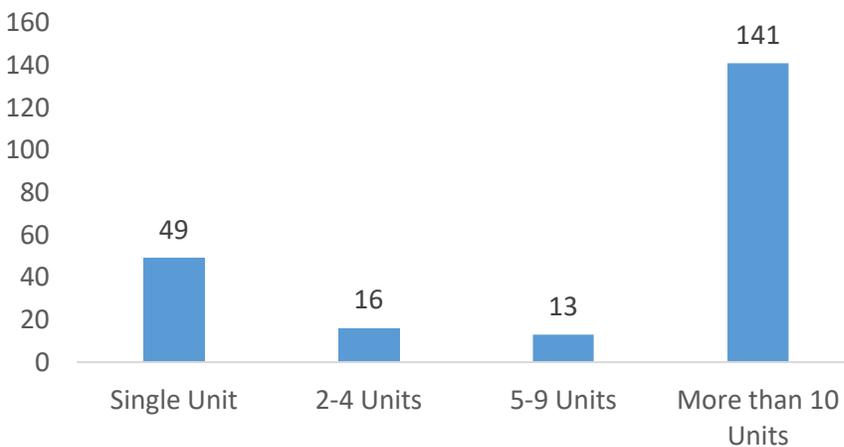
Figure 3: Subpopulations Served (Individuals) from April 1 – September 30, 2021



Source: DHCD Central Application Management System (CAMS)

While women and children continue to be the primary users of VERP, an interim evaluation by the RVA Eviction Lab indicated that many VERP users had been unconnected to services previously. Many participants engaged with social services for the first time through their eviction. These tended to be older, single-person, university student and moderate income households. Access to transportation remains a concern for many households with some grantees having to travel frequently to get tenants the services they need.

Figure 4: VERP Households Served by Property Type (April 1 – September 30, 2021)



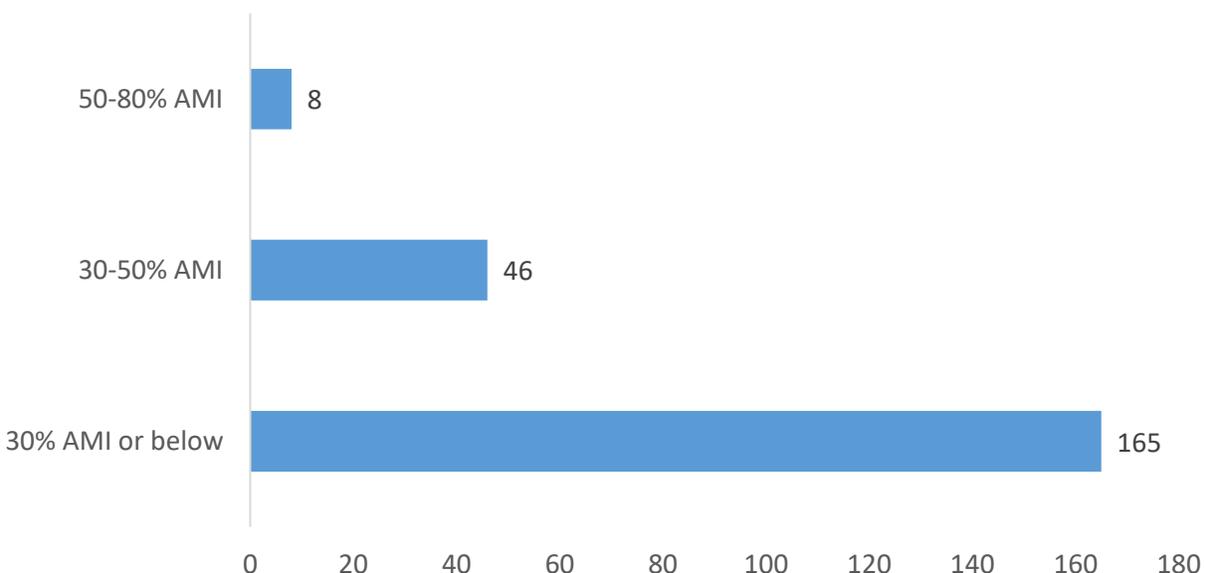
Source: DHCD Central Application Management System (CAMS)

In terms of property type, roughly 1 in 4 households served are single family homes and 1 in 3 have more than 10 units. Southwest Virginia had the highest percentage of buildings with 10 or more units (86 percent) than any of the other VERP regions. It remains to be seen whether this trend will continue as the VERP 2020 program continues into February 2021.

### Housing Stability

Research indicates that households facing eviction are more likely to experience housing instability and poor housing conditions post-eviction.<sup>25</sup> Eighty-five percent of those served in the first six months of the VERP program had no recent moves (defined as a move within 12 months of applying to the program). Eleven percent experienced two moves and four percent experienced three or more moves prior to receiving VERP assistance. Since some form of eviction moratorium has mostly been in place since April 2020, it is likely that more renters experienced housing stability prior to receiving VERP assistance than in a non-COVID year. DHCD will continue to track recent moves as the VERP program progresses.

Figure 5: Area Median Income by Households Served April 1 – September 30, 2021



Source: DHCD Central Application Management System (CAMS)

In terms of household income, VERP primarily served households at or below 30 percent Area Median Income (AMI). Seventy-five percent of households served were 30 percent AMI with 21 percent being 50% AMI and four percent 80% AMI. Applicants over 80% AMI are not eligible for VERP. Almost all households served were cost burdened which contributes to housing instability. Forty-four percent were moderately cost burdened (more than 30 percent of income spent on housing) and 53 percent were severely cost burdened (more than 50 percent of income spent on housing). Only three percent of households served experienced no housing cost burden.

### Service Delivery

VERP often served as a way to screen and refer eligible tenants to RRP. In the first six months of the program, Grantees referred 560 applicants to RRP for financial assistance. It does not appear that VERP applicants are currently using VERP to supplement expiring RRP benefits. Only one household received

<sup>25</sup> Desmond, M., Gershenson, C., & Kiviat, B. (2015). "Forced Relocation and Residential Instability among Urban Renters." *Social Service Review*, June 2015. 0037-7961/2015/8902-0001\$10.00

financial assistance through RRP and two previously applied to the RRP program prior to receiving VERP assistance. The first round of tenants reaching their 18-month limit on RRP rent assistance began in September 2021. DHCD will continue to monitor whether more VERP applicants are turning to the program after exhausting RRP funds. Running concurrently with the Rent Relief Program, interviews with Grantees showed that VERP also served as a way to fill gaps when other sources were not available for funding. Since RRP will continue to operate for some portion of 2022, the second VERP program will focus more on stabilization services (child care, legal expenses, medical bills, etc.) and case management which RRP does not cover.

## Gaps, Barriers and Recommendations

*There are several opportunities for improvement in Virginia's eviction prevention and diversion system including greater connection with the court system, reducing barriers to services and the importance of affordable housing.*

### Connecting Services with the Court System

It is clear from RVA Eviction Lab's interim VERP findings that many tenants and landlords are not aware of their rights and responsibilities. Many other eviction prevention and diversion programs across the country have found success linking the courts and legal aid with eviction prevention and diversion programs directly. In Nashville, the court system created the Eviction Diversion Court to streamline all pending eviction cases to the Housing Resource Diversionary Court & Program. This program staffs housing court navigators to go into eviction courts to get landlords and tenants to participate in the diversionary court. Landlords and tenants meet with the navigators and link tenants to rental assistance funds prior to the court date.<sup>26</sup> In an effort to increase connectivity to services and courts in Virginia, the VERP 2022 program expanded its program guidelines to include more housing stability supports such as tenant rights education. A set aside of \$250,000 will help fund pilot court navigator programs in communities with high eviction rates.

### Minimizing Barriers to Services

As of November 31, 2021, The Virginia Rent Relief Program has administered over \$500 million in rental assistance since it began in June 2020. Part of what makes RRP so successful is its reduction of barriers by streamlining income documentation through fact-specific proxy and categorical eligibility. The program has also improved outreach in hard to reach communities through the Outreach and Engagement Grant. VERP similarly provides localities with an engagement budget to ensure more at-risk households know about the program. While these policies help give assistance to those that need it most, there are still several barriers that make it more difficult for a household to receive assistance. For households without formal lease agreements, the Rent Relief Program can be more difficult to use. VERP often filled the gaps in these situations to maintain housing stability. Legislation passed in 2019 requires a written lease but some landlords still do not provide one to their tenants.

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<sup>26</sup> L.E.G.A.C.Y. Housing Resource Diversionary Court and Program (2021). General Sessions Court Metropolitan Nashville and Davidson County. Retrieved from <https://gscourt.nashville.gov/about-us/judges/division-viii-judge-rachel-l-bell/l-e-g-a-c-y-housing-resource-diversionary-court-and-program/>

## Affordable Housing

Increasing the supply of affordable housing continues to be the primary policy solution for preventing evictions. More affordable housing production is needed to stabilize housing for low-income households resulting in lower rates of evictions long term in Virginia. Between February 1 and June 30, 2021, average household rent relief payments were more than five times the median gross rent, suggesting that many families owed several months of rent arrears.<sup>27</sup> Ninety-seven percent of VERP households were either severely or moderate cost burdened. This indicates that housing affordability remains a challenge for low and moderate income renters. As mentioned in the 2021 evictions report to the General Assembly, increasing affordable housing will require both supply-side and demand-side interventions. The Virginia Housing Trust Fund (VHTF), which DHCD administers, remains the primary state-funded mechanism to reserve and build affordable housing in the commonwealth. Other programs like RRP and VERP provide emergency rental assistance, but VERP is only a pilot in some communities. Other state and federal voucher programs also increase housing stability by increasing affordability for low income households. Continued investment in affordable housing production through tools such as the Virginia Housing Trust Fund, coupled with eviction prevention and diversion programs that include emergency rental assistance are necessary to ensure Virginia's success at decreasing eviction rates continues in 2022 and beyond.

## Conclusion

Almost two years after the COVID-19 pandemic began, Virginia's eviction prevention policies are still operating in a COVID-19 environment. Many protections, including legislative changes, unprecedented levels of federal rental assistance programs, and eviction moratoria have helped keep Virginia's eviction rate around 0.25 percent since the start of the pandemic. Executive and Legislative branch leaders acted swiftly in partnership with localities and unprecedented cooperation between housing providers and tenant advocates to work together to encourage rent relief as the key policy tool for preventing evictions. Virginia's efforts to maintain housing stability during the pandemic have received national recognition as a model.

Federal rent relief funds are projected to be fully spent in Virginia at some point in calendar year 2022. Policymakers must now determine the future of eviction prevention policy post federal emergency rental assistance. Some level of continued state emergency rental assistance through efforts similar to the Virginia Eviction Reduction Pilot have demonstrated they reduce eviction rates for households with one time income losses. Most importantly, the data demonstrates that the high cost burden of many Virginia renters is a major factor that contributes to high eviction rates. While rental assistance programs remain important in the year ahead for short-term housing stability, affordable housing remains a critical component of addressing both evictions and housing stability. Increasing the supply of affordable housing through tools such as the Virginia Housing Trust Fund will ensure more low-income households have housing stability in the long term.

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<sup>27</sup> RVA Eviction Lab (July 29, 2021). Quarterly Data Report 2<sup>nd</sup> Quarter 2021: March through June.