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Testimony Before the District of Columbia Council  
Committee of the Whole and Committee on Transportation and the Environment  
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Public Hearing:  
Bill 23-132: Indoor Mold Remediation Enforcement Amendment Act of 2019

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Good afternoon, Chairman Mendelson, Councilmember Cheh, members of the Committees, and staff. My name is Evan Cass. I am a resident of the District and a Supervising Attorney at Children's Law Center. I am testifying on behalf of Children's Law Center, which fights so every DC child can grow up with a loving family, good health, and a quality education. With almost 100 staff and hundreds of pro bono lawyers, Children's Law Center reaches 1 out of every 9 children in DC's poorest neighborhoods – more than 5,000 children and families each year.<sup>1</sup> We appreciate this opportunity to testify about the proposed Indoor Mold Remediation Enforcement Amendment Act of 2019.

Children's Law Center has a medical-legal partnership with Children's National, Mary's Center, and Unity Health Care that allows pediatricians to refer families with health-harming legal needs to us. Chief among these needs are poor housing conditions, including homes that are infested with mold. Mold is particularly dangerous for the 9.4% of DC adults<sup>2</sup> and the 14% of DC children who are diagnosed with asthma<sup>3</sup>. We know that diseases like asthma do not impact families equally throughout the city; children living in wards 7 and 8 are 20 times more likely to go to the hospital for asthma as children living in Ward 3.<sup>4</sup>

From my casework, I have seen how mold can impact not only a child's health, but an entire family system. For example, a child who visits the ER due to mold-exacerbated asthma misses school; her mother misses a day of wages and jeopardizes her job; the family expends their limited resources on transportation to and from the hospital. When homes have chronically poor conditions, this pattern repeats over and over again, and the harm is felt by the family as well as the wider community, including the health care system. Children's Law Center's research demonstrates home conditions like mold have a serious impact on children's

health, and by improving housing conditions, we can keep a child out of the hospital. In our multiyear study, we found that when we improve a family's housing, Medicaid saves over \$10,000 per year for each child with asthma<sup>5</sup>.

In addition to impacting health, mold is often the canary in the coal mine that can indicate other serious conditions in the home. To have mold, there must be a source of moisture, which is often a serious plumbing or roof leak. In addition to creating mold, these leaks can cause bubbling and peeling paint—which in DC rental housing that is largely built before 1978, means that we have to worry about lead paint hazards for children and pregnant women.

Families who are impacted by indoor mold have benefited from the Air Quality Amendment Act of 2014, but that law did not go far enough. Right now, when landlords refuse to inspect for and remediate mold, tenants have few options to hold them accountable. A tenant can contact DCRA for a housing code inspection, but DCRA is not licensed nor empowered to inspect for mold, nor is any other DC government agency. And because DCRA doesn't inspect for mold, DCRA may also overlook the underlying causes of mold, like a leaky roof or bathtub.

Instead of calling DCRA, tenants can hire a licensed mold inspector on their own – but at \$500 or more per inspection, this option is beyond the means of many. And, even if tenants hire an inspector, no government agency will enforce the findings and recommendations of that inspection, so tenants are left to attempt enforcement on their own.

As another alternative, tenants can file a case on the Housing Conditions Calendar in DC Superior Court. When they do this, a court-affiliated DCRA inspector visits their home to inspect for housing code violations, but because they are part of DCRA, this individual will also not inspect for mold. In a best-case scenario, the court inspector will cite the landlord for

something like “black spotty discoloration” and instruct the landlord to obtain a licensed mold assessment. When mold remediation is not done properly, it spreads mold spores throughout the home, exacerbating the problem. But under current law, a landlord has no obligation to provide a copy of the mold assessment to the tenant. This allows unscrupulous landlords to cut corners on remediation and remediate improperly which means the mold comes right back. Lastly, if the assessment conducted by the landlord’s inspector is insufficient, a tenant’s only option is to hire an inspector on her own, at the cost of hundreds of dollars. After all this, tenants frequently end up in litigation to prove which inspector is correct.

This bill would improve administrative and judicial efficiency, and it would provide tenants with more effective means to address household mold. By further professionalizing DCRA’s inspectors and licensing them to conduct mold assessments, tenants will have one agency to contact for thorough housing inspections.<sup>6</sup> DCRA will also be able to compile data on these inspections and utilize it to analyze where problem properties persist. And, when tenants bring cases in Housing Conditions Court, the court will benefit from a neutral, third-party mold inspector who can inform the parties of all their respective obligations under DC’s Housing Code while avoiding protracted litigation. Finally, by requiring landlords to provide tenants with a copy of the mold assessment, tenants will have the information they need to ensure that remediation is conducted properly.

The threat of treble damages, which is part of the current law, has not been sufficient to motivate landlords to uphold their obligations, so I applaud this bill’s increased sanctions for noncompliant landlords. The proposed bill states that DCRA will issue a Notice of Violation when it determines there is more than 10 square feet of mold<sup>7</sup> and the landlord has not

remediated within 30 days of the inspection. This does not go far enough. Any mold, regardless of the size of the impacted area, is a violation of the law. Allowing landlords to ignore their obligations to remediate smaller, but still illegal, amounts of mold harms children and families. Therefore, I propose that the bill be amended to require DCRA to issue a Notice of Violation for any mold found within the home that has not been remediated within 30 days following the inspection.

Mold can cause serious injuries, particularly to the young and elderly, those with respiratory conditions, and those with compromised immune systems. A tenant who lives with mold may have lost wages, their children may miss school, and the healthcare costs can run up into the thousands of dollars. Considering these costs, this bill does not impose high enough penalties on landlords who fail to meet their remediation obligations. The current proposal would make failure to remediate within 30 days a Class 4 infraction, which is only \$100 for the first offense, and up to \$800 for a fourth, fifth, etc. offense. To appropriately balance the injuries caused by mold and mold that has been remediated improperly, the penalty should be a Class 2 offense, which begins at \$1000.

In conclusion, this bill addresses many of the shortcomings of the Air Quality Amendment Act of 2014 – namely, by authorizing DCRA inspectors to conduct mold inspections and issue Notices of Violations, and by ensuring tenants receive a copy of the mold assessment prior to remediation. To truly hold landlords accountable, the bill should be amended so that DCRA will issue Notices of Violation for all indoor mold that violates DC law, and to increase the financial sanction to a level commensurate with the harm experienced by D.C.'s children and families.

Thank you for the opportunity to testify on this important issue which affects so many of my clients.

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<sup>1</sup> Children’s Law Center fights so every child in DC can grow up with a loving family, good health and a quality education. Judges, pediatricians and families turn to us to advocate for children who are abused or neglected, who aren’t learning in school, or who have health problems that can’t be solved by medicine alone. With almost 100 staff and hundreds of pro bono lawyers, we reach 1 out of every 9 children in DC’s poorest neighborhoods – more than 5,000 children and families each year. And, we multiply this impact by advocating for city-wide solutions that benefit all children.

<sup>2</sup> DC Health Matters. *Adults with Current Asthma* . (2017) Retrieved from

<http://www.dchealthmatters.org/indicators/index/view?indicatorId=79&localeId=130951>.

<sup>3</sup> See Morgan Baskin. *Doctors blame D.C.’s high asthma rates in part on poor housing*. Washington City Paper. (May 22, 2019) Retrieved from <https://www.washingtoncitypaper.com/news/housing-complex/article/21069963/doctors-blame-dcs-high-asthma-rates-in-part-on-poor-housing>.

<sup>4</sup> *Id.*

<sup>5</sup> See Sara Gilgore. *Mold in the walls could be triggering your child’s asthma attack. Heres what a new D.C. partnership is doing about it*. Washington Business Journal. (August 28, 2019) Retrieved from

<https://www.bizjournals.com/washington/news/2019/08/28/mold-in-the-wallscould-be-triggering-your-child-s.html?b=1566963755%5E21533096>)

<sup>6</sup> DCRA inspectors should also be licensed to inspect for lead-based paint so that one city agency is responsible for all types of housing code violations.

<sup>7</sup> Under current law, the amount of mold in an affected area dictates whether the mold must be remediated by a licensed mold remediator (for more than 10 ft<sup>2</sup>) or not (for less than 10 ft<sup>2</sup>). Regardless of the amount, however, all mold remediation must be conducted in accordance with the International Property Maintenance Code.