



April 5, 2021

Arkansas Advocates for Children and Families supports HB1798, which repeals our current “failure to vacate” statute.

As it currently stands, Arkansas is the only state that makes failure to pay rent a criminal offense. The law does not allow the tenant to cure the termination by late payment of rent. The landlord can give the tenant a 10-day notice to vacate. If the tenant isn’t gone within 10 days, the landlord can then file an affidavit with the prosecutor or city attorney. The law treats the landlord as the victim of a “crime.” A tenant who fails to leave has committed a misdemeanor, according to the statute.

This means families can become entangled in the criminal justice system simply because of an inability to pay rent on time. That criminalizes poverty. Since families with children are more likely to rent than families without children, this means parents and kids are especially vulnerable. Parental involvement in the justice system is a huge disadvantage for kids, but it has big social costs for everyone.

A lease is a contract. In nearly no other case is a breach of a contract a crime. Breach is a civil matter, handled in civil proceedings. Under HB1798, if a tenant doesn’t appear in a civil proceeding, the tenant could be evicted or have a judgment entered against her, but she won’t be subject to arrest and a criminal fine and won’t be guilty of a crime.

Many courts in Arkansas no longer hear failure to vacate cases, but a few still do, and families pay the consequences. This legislation would change that so that eviction proceedings are handled in civil courts everywhere in Arkansas, like they are in every other state. We implore you to pass this common-sense legislation to bring us in line with the rest of the country.