

Community Law

METROPOLITAN PUBLIC DEFENDER

**REDUCING LEGAL BARRIERS TO INCREASE
HOUSING AND STABILITY**

AND EVICTION DEFENSE OVERVIEW

STEPHANIE BACK

ADRIENNE DEL MONTE HOXHA

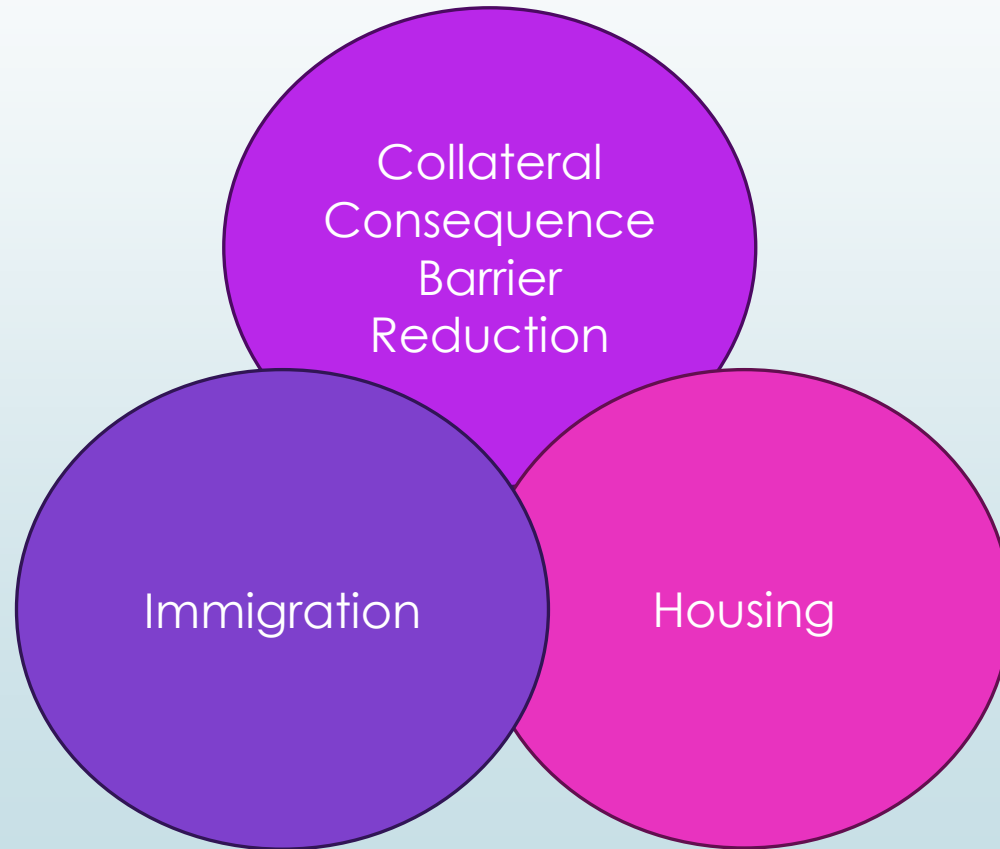
Community Law

The image features two large, dark puzzle pieces interlocking to form the word "Partnership" in white, bold, sans-serif font. The puzzle pieces are set against a vibrant background of a sunset or sunrise over a world map, with warm orange and yellow light rays breaking through the clouds. The puzzle pieces have a slight 3D effect with shadows.

Partnership

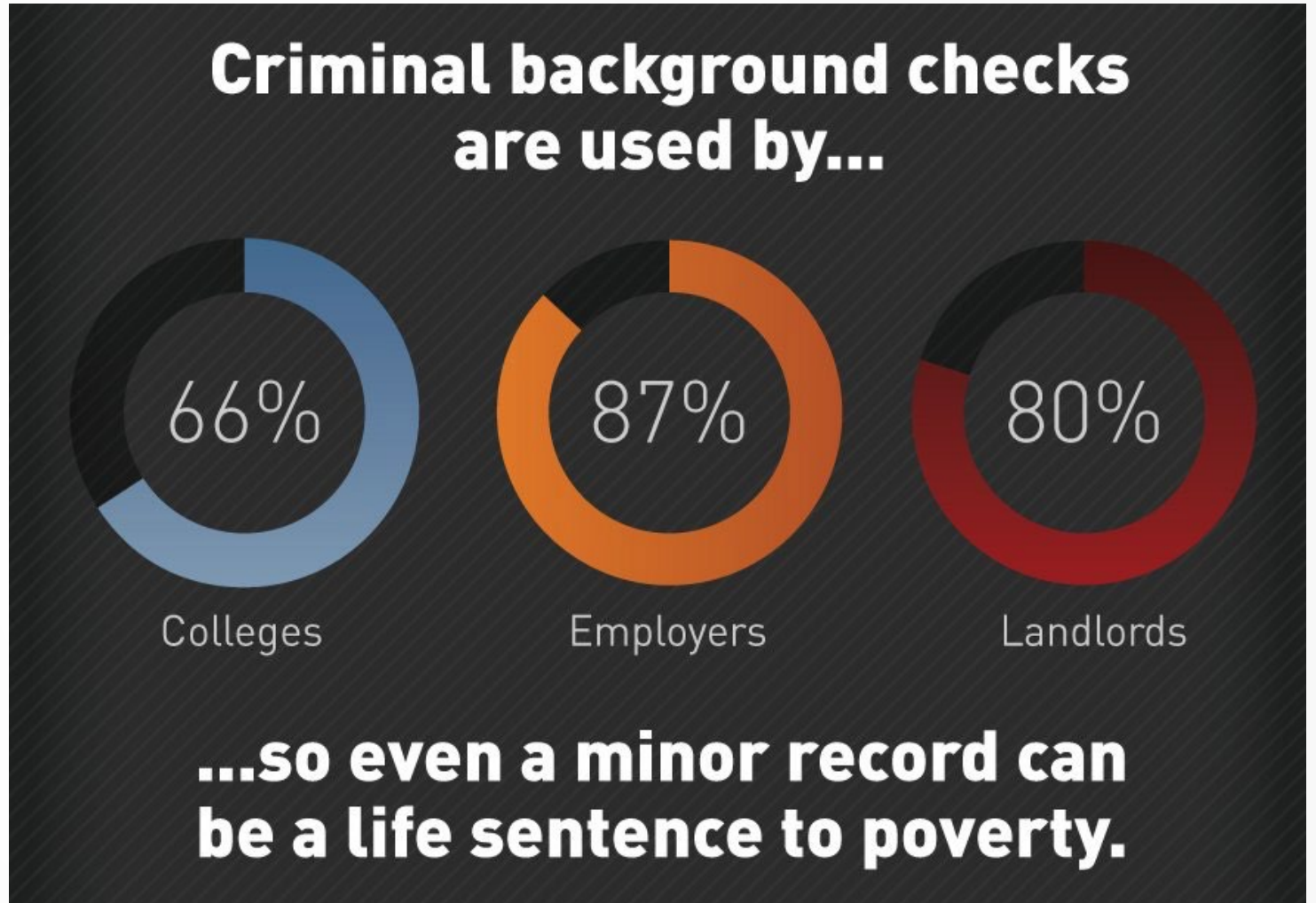
- Community Law (CL) launched as a civil legal division of Metropolitan Public Defenders in 2016, with a focus on barrier reduction work for people involved in, or at risk of involvement in, the criminal legal system.
- We help undo the damage done by an imbalanced criminal legal system by reducing social stigma, increasing economic and housing opportunities, and stabilizing families.
- Our model is to partner with government agencies and community-based organizations to work together to help their participants navigate the legal system and remove barriers.

Community Law: 3 Teams



Legal Tools To Mitigate Criminal Records

- Expungement
- Felony Reduction
- Prostitution vacatur
- SB 819
- Sex Offender Registration Relief
- Warrant Lifts
- Correcting Legal Judgements
- Debt Relief



Housing Barriers For Those with Records

80% of Landlords Use Background Checks to Screen Tenants.



There are laws that can help to access housing even with a criminal record:

- I. Denial Appeal - *Ask for a copy of their policy*
 - I. Individual Assessment under SB 291
 - II. Reasonable Accommodation
 - III. Letters of Support
 - IV. Additional Documentation

SB 291 Screening Rules ([ORS 90.304](#))

- 2. Has the LL done an **INDIVIDUALIZED ASSESSMENT**?
- Before denying an application for housing on the basis of criminal history, a landlord must:
 - Provide an opportunity for the applicant to submit supplemental evidence to explain, justify or negate the relevance of potentially negative information.
 - Conduct an individualized assessment of the applicant, including any supplemental evidence, taking into consideration:
 1. The nature and severity of the incidents that would lead to a denial;
 2. The number and type of incidents;
 3. The time that has elapsed since the date the incidents occurred; and
 4. The age of the individual at the time the incidents occurred.
 - Landlords should ensure that they are using a forms that addressed the above changes or that all application and screening materials provided to applicants are updated, as well as their screening policies and procedures.

“Supplemental evidence”

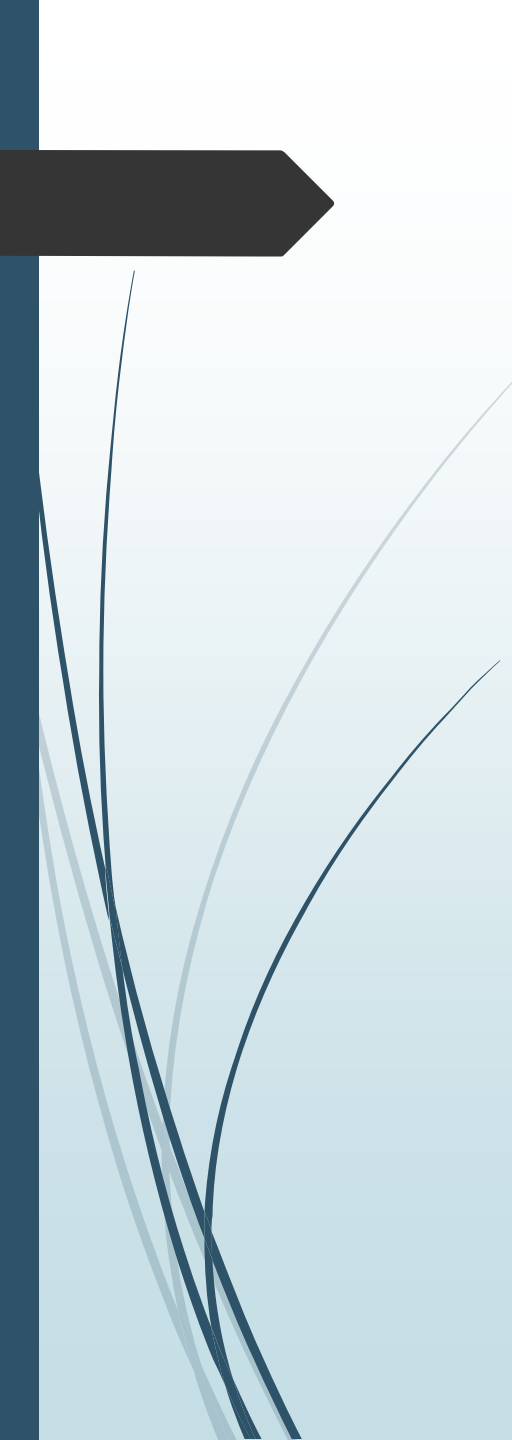
- ▶ Letters from probation officer
- ▶ Letter from CW/survivor advocate
- ▶ Support from employer/proof of employment
- ▶ Letter from lawyer
- ▶ Support from past LL
- ▶ Certificates (parenting, rent well, trainings, course completions)
- ▶ AA mentor





Reasonable Accommodation

- 3. Is there an opportunity to address the barrier through a request for a reasonable accommodation?
 - Under the law, a person with a disability can ask for a reasonable accommodation (can include adjusting the POLICY of denial).
 - Disability can include alcoholism or drug addiction if individual no longer actively using illegal substances.
 - LL CAN request verification of that disability – so please have that ready from doctor/specialist.
 - Connecting criminal activity to disability = must have NEXUS (PTSD from trauma)

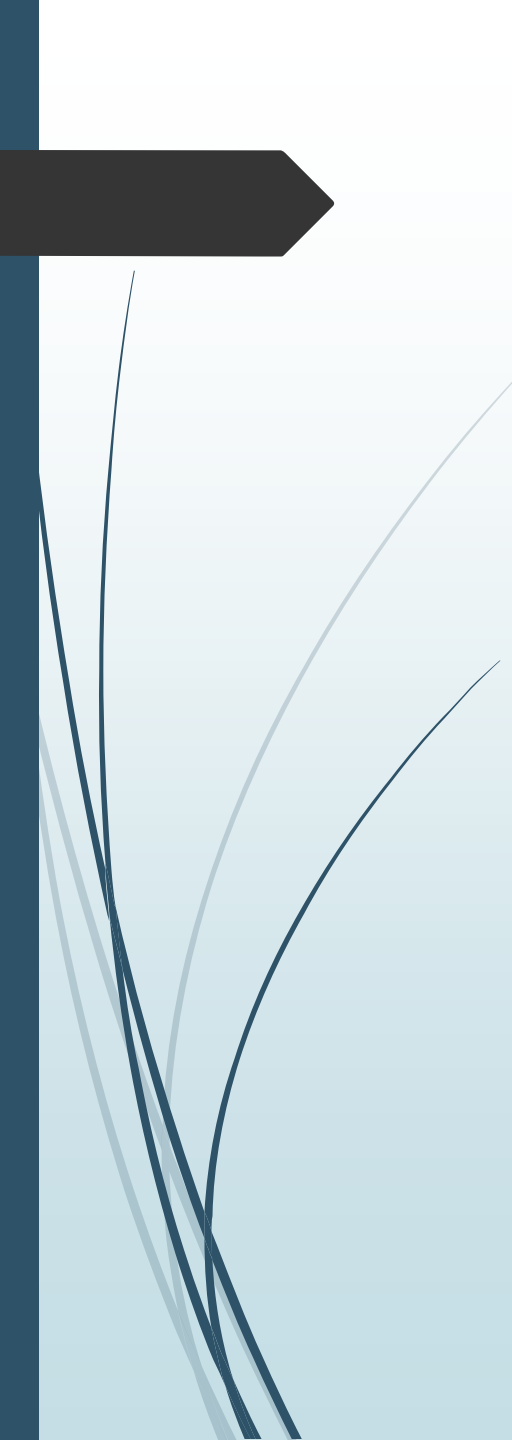


Eviction Defense Brief Overview

Types of notices issued in Oregon:

- ❖ Nonpayment of Rent – 10 day
- ❖ Outrageous or Dangerous Conduct – 24 hour
- ❖ 30 Day (for-cause or no-cause) – 30 days
- ❖ Qualifying Landlord Reason – 60 or 90 days
- ❖ Repeat Violation (in a six-month period) – 10 days

It is important to understand that the expiration of these periods only means the landlord can file an eviction case, it DOES NOT mean the tenant has to move out or is "evicted."



Complaint and Summons

Once a notice period runs without tenant resolving the issue causing the notice, a landlord files a case. The documents filed include:

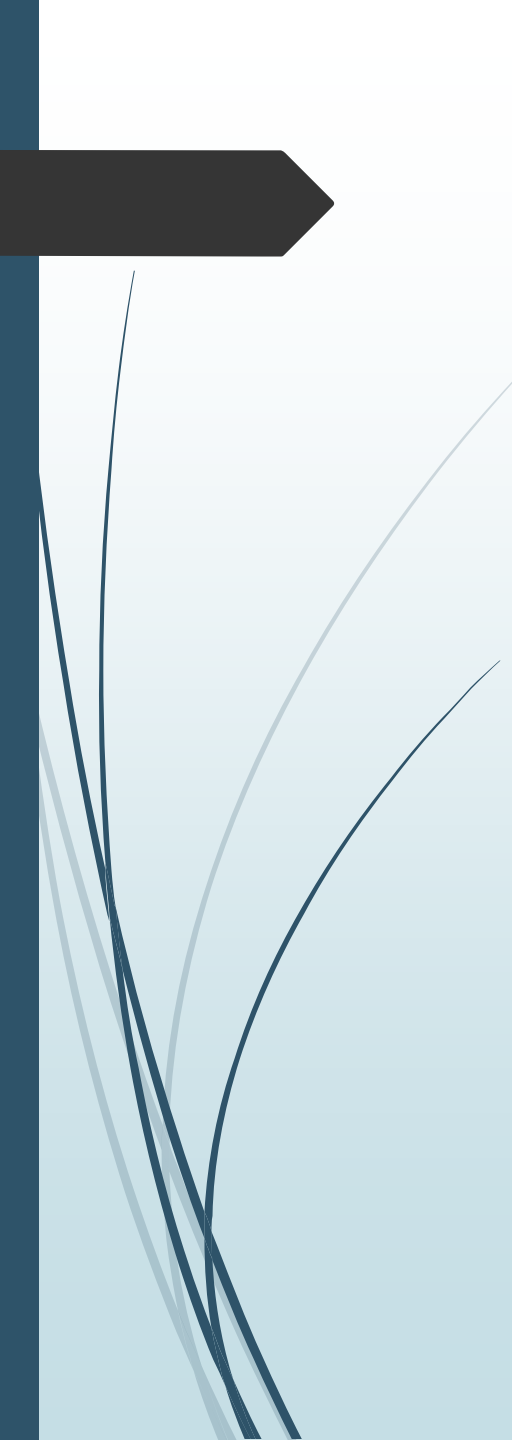
THE COMPLAINT:

- ❖ Filing: parties, identification of property, reason for the notice
- ❖ Copy of the notice

THE SUMMONS:

- ❖ Case information (case number, parties, address)
- ❖ Date, time, and location of court appearance, called first appearance
- ❖ Information for lawyer referral service

**These documents must be properly served to tenants.

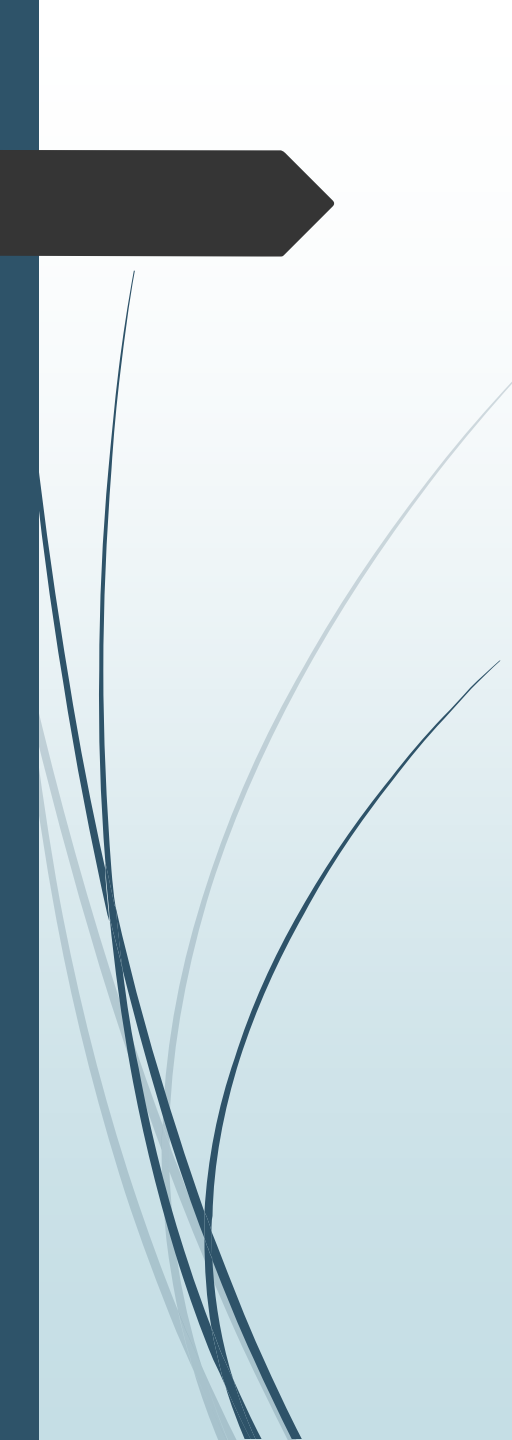


Stipulated Agreements aka Settlements

Tenants can negotiate settlement agreements (referred to as stipulated agreements) to settle their cases.

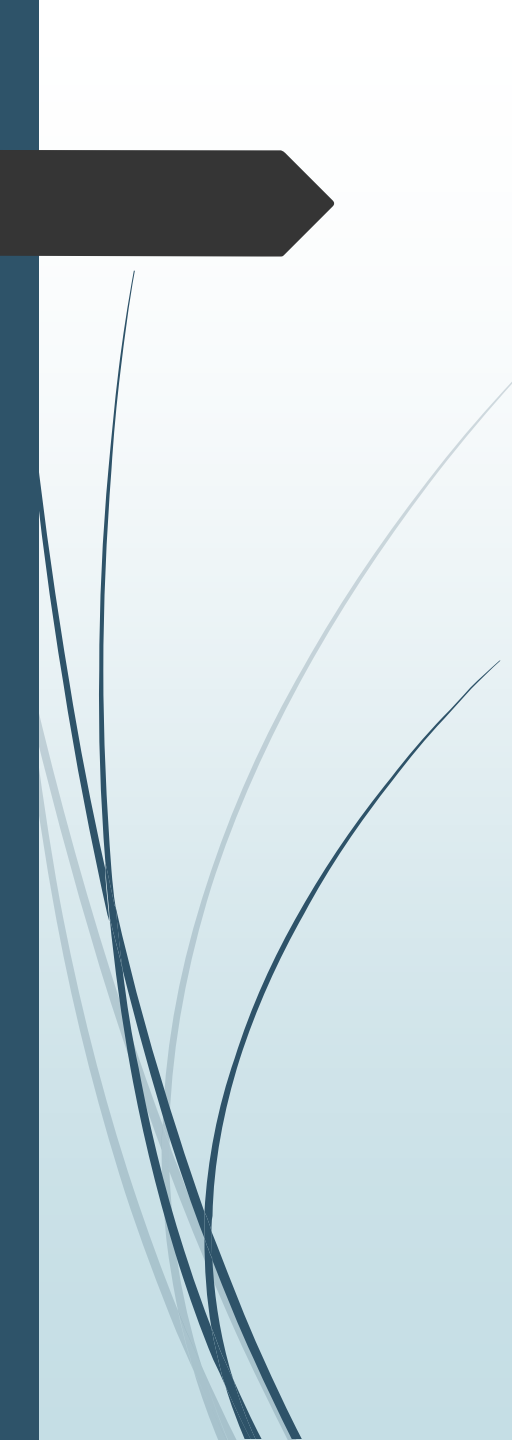
They are either:

- ❖ A "pay and stay" agreement
- ❖ A move out agreement
- ❖ A behavioral agreement
- ❖ When we negotiate these, we ask for "immediate dismissal with the right to reinstate" which means that the eviction case is immediately dismissed by the Judge, but if the tenant does not comply in any way with the agreement, the Plaintiff (landlord) can file a declaration of noncompliance which causes an automatic eviction judgment. Tenants can request a hearing on the noncompliance allegation.



Eviction Trials

- ❖ Trials are scheduled approximately 2 weeks – 5 weeks from the date that they are requested.
- ❖ They are more informal than what you might imagine when you think of a criminal or regular civil trial.
- ❖ Eviction cases move the fastest through the legal system, so there typically isn't time to do discovery (aka requests for production of documents, interrogatories, etc.) An attorney can ask the landlord's attorney for "informal discovery."
- ❖ Tenants who represent themselves at a trial will have a very difficult time and low chance of success.
- ❖ The landlord must prove that the tenant did whatever was alleged in the Notice. If the tenant didn't pay rent, it is almost impossible to win at a trial.
- ❖ HB 2001, now codified by ORS 90.395, allows that as long as the amount of rent listed on the Notice is paid to the landlord on or before a trial, the case must be dismissed.



Address the Eviction Record

Eviction Expungement ([ORS 105.163](#)):

- Dismissed Evictions
- Stipulated Agreement Evictions
- Judgement where NOR issued must wait 5 years and pay all \$ on judgement (on the Judgement, not what is owed to the LL due to damages etc...)
- COVID evictions – SB 282: “Housing providers are not allowed to consider eviction judgments rendered or cases pending during the Protected Period (April 1, 2020 – February 28, 2022). Housing providers are also prohibited from denying applicants based on debt owing from a prior tenancy that accrued during the Protected Period. These restrictions apply to any applicant through January 2, 2028.”

Addressing Housing Debt

- Debt negotiation and settlement with past LL.
- Vacating and dismissing evictions
- Eviction record expungement.
- Civil Debt
- Explaining rental debt and hx because of DV

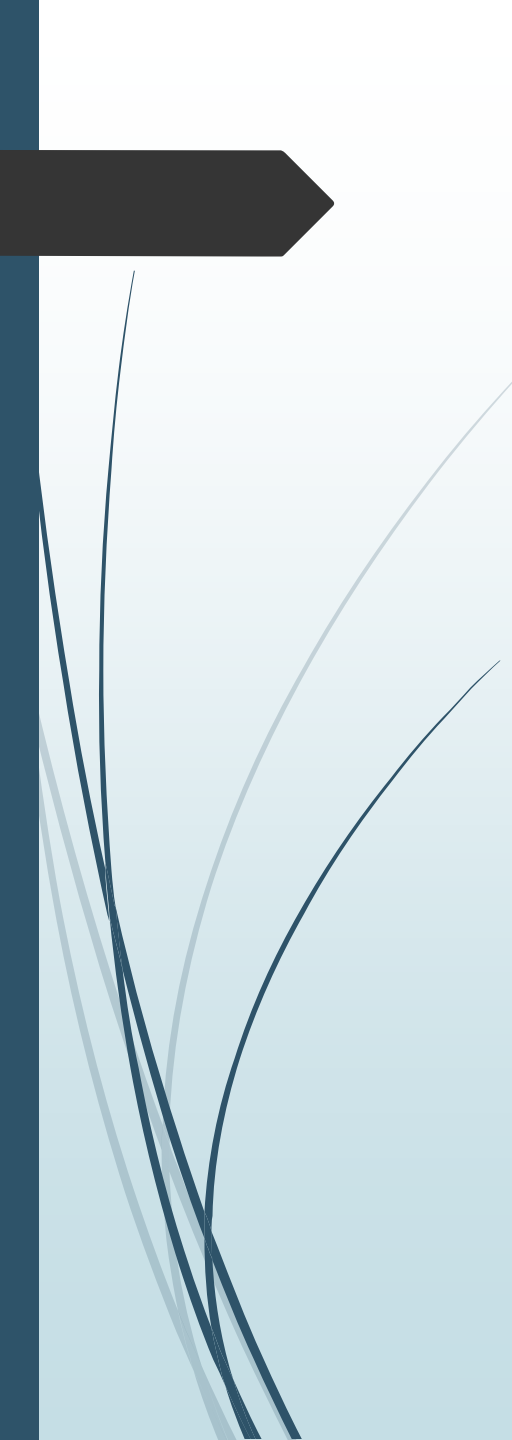


Disputing LLT Damage Debt

- “A tenant is not responsible for damage that results from...Conduct by a perpetrator relating to domestic violence, sexual assault, bias crime or stalking.”
- [ORS 90.325\(3\)\(b\)](#)

Additional charges/credits/payments after move-out

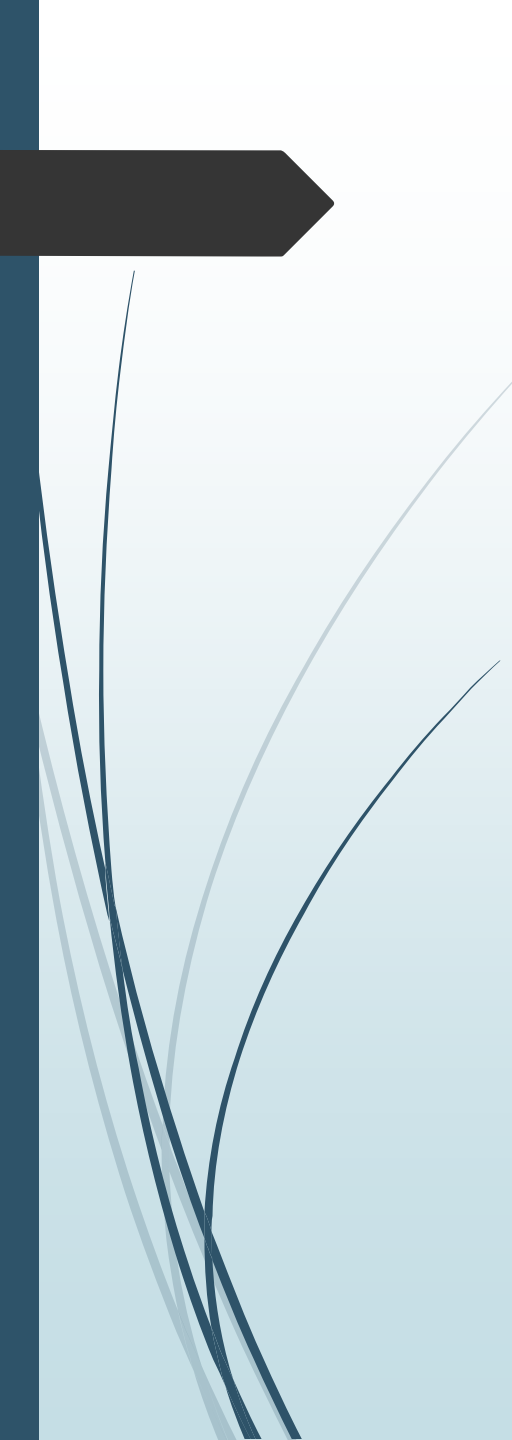
Countertop Repair- [REDACTED]	500.00
Damage Charges 1 set of blinds [REDACTED]	100.00
Damage Charges Tub Resurface x2 [REDACTED]	1,000.00
Damages - Carpet Replacement - [REDACTED]	808.25
Damages - Painting [REDACTED]	425.00
Damages - Trim and Drywall Repair - [REDACTED]	425.00
Excessive Cleaning Charges [REDACTED]	500.00
Vinyl Replacement- [REDACTED]	949.16
Total additional charges / credits / payments	4,707.41



LEGAL SERVICES PROVIDED TO HSD COORDINATED ACCESS PARTICIPANTS (Youth, Family, Adult and DV):

■ **Criminal Barrier Reduction Legal Services:**

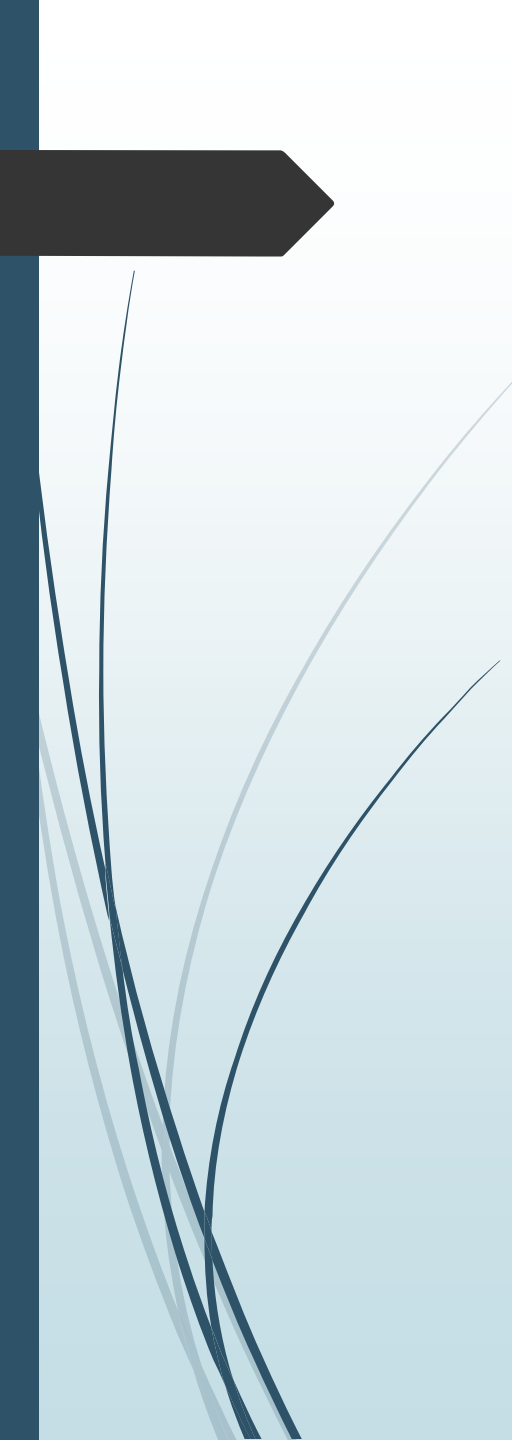
- • Criminal record expungement analyses and assistance with expungement if eligible.
- • SB 819 Petitions (reducing unexpungeable convictions so that they are expungeable).
- • Warrant lifts.
- • Reduction of felonies to misdemeanors.
- • Vacating prostitution convictions for victims of sex trafficking.
- • Vacating violation convictions.
- • Sex offender registry relief petition
- • Sex offender reclassification appeals.
- • Navigation of court orders and obligations for open/probation cases.
- • Correcting judgements



LEGAL SERVICES PROVIDED TO HSD COORDINATED ACCESS PARTICIPANTS (Youth, Family, Adult and DV):

- **Housing Legal Services:**

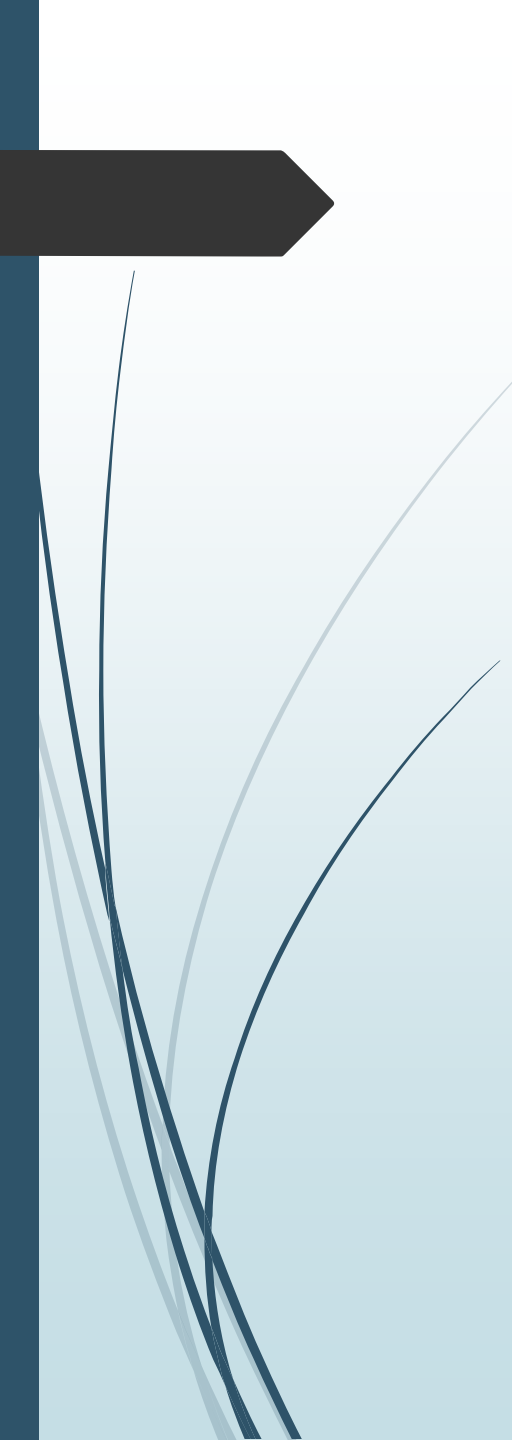
- • Eviction defense.
- • Eviction record expungement.
- • Landlord debt negotiation and settlement.
- • **please note we do not have client assistance funds this year, so we only negotiate the debt if you or
- client have funds**
- • Vacating eviction judgements (to convert them to dismissals).
- • Rental Denial Appeals
- • Reasonable Accommodation Requests



LEGAL SERVICES PROVIDED TO HSD COORDINATED ACCESS PARTICIPANTS (Youth, Family, Adult and DV):

➤ **Debt/Driver's License Legal Services:**

- • Driver's license restoration.
- • Reduction or waiver of fines and fees in Municipal, Justice, and Circuit Courts (traffic, parking, criminal related debt).
- • Restitution negotiation/reduction.
- • Civil debt negotiation/reduction.



LEGAL SERVICES PROVIDED TO HSD COORDINATED ACCESS PARTICIPANTS (Youth, Family, Adult and DV):

- **Other Civil Legal Services (only when causing a housing barrier)**
- • Restraining/Protective Orders
- • Name/Gender Marker Changes
- • Limited Scope custody/child support navigation

Immigration Legal Services

- Depends on our funding.





HOW TO REFER:

- ▶ ONLINE REFERRAL FORM FOR CASEWORKERS: bit.ly/communitylawintake
 - ▶ Questions? Email Sonja Good Stefani: sgstefani@mpdlaw.com
- 