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SB 154 - Landlord and Tenant – Eviction Action – Right to Counsel
Hearing before the Judicial Proceedings Committee on January 28, 2020

Position: Favorable

Even with COVID-19 legal protections, over 2,500 renter families were evicted in MD in the past 10 months. Legal protections are only as good as their enforcement. These protections have grown more complex in the wake of COVID – making enforcement through legal representation even more critical. While rental assistance and more affordable housing are necessary, the State should start by enforcing the current legal protections that support families seeking habitable, fair, accessible, affordable housing.

SB 154 will ensure that low-income tenants in Maryland facing eviction have the right to an attorney to enforce existing legal protections. SB 154’s language is based on the successful programs being instituted in 7 jurisdictions: Balt. City, Philadelphia, Boulder, New York City, San Francisco, Cleveland, and Newark. By passing this bill, Maryland will join these cities in recognizing that the right to counsel in eviction cases is a proven, cost-effective means of preventing the disruptive displacement of residents. Provisions include:

- Establishing a Coordinator in the Attorney General’s Office to contract with nonprofit legal services orgs to provide limited-income tenants with representation – Maryland Legal Services Corp. has agreed to administer the program in practice;
- Establishing a task force of stakeholders to advise on implementation;
- Implementing the right over a four-year period and requiring annual reports and hearings;
- Requiring Sheriff to post notice of right to counsel with eviction complaint and funding community-based organizations to conduct outreach and education with tenants.

COVID-19 has reinforced that housing security, particularly during a pandemic, is a matter of life and death. A [recent study](#) concluded: “Lifting [eviction] moratoriums translated to a total of 433,700 excess cases and 10,700 excess deaths between March 1 and September 3, 2020.” The cost of inaction in the current pandemic is far higher than providing for a right to counsel.

Right to Counsel is cost effective at preventing disruptive displacement in eviction cases. A recent [Stout report](#) shows that an annual investment of \$5.7 million in a right to counsel for tenants in one Md. jurisdiction would yield \$18.1 million in benefits/costs avoided to the State (and \$17.5 million to the locality). [Costs savings or benefits include costs related to homeless](#)

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[shelters, Medicaid spending in hospitals, homeless student transportation, and foster care costs.](#) According to Stout, **92% of represented tenants would avoid disruptive displacement** with a right to counsel in one Maryland jurisdiction, and [in areas of New York City where right to counsel was implemented, 84% of represented tenants stayed in their homes.](#)

Right to Counsel helps address the disparate racial/gender impact of eviction. Due to COVID, **36% of Black households in Maryland are likely facing an eviction action, compared to 14% of white households.** In Baltimore City, even prior to COVID-19 the number of Black women evicted was [3.9 times higher \(296% more\)](#) than the number of white men evicted. [Black and Latinx persons are also more likely to be infected and die from COVID-19.](#) In sum, due to centuries of institutionalized, systemic racism, Black and Latinx residents upon whom our state now relies for essential services during the pandemic are disproportionately subject to death and displacement from COVID-19. As one [recent study concluded:](#) “Protecting public health during the pandemic requires protecting those most likely to contract, spread, and die from COVID-19, especially people in poverty and people of color, who are more likely to be evicted and more likely to suffer severe harm during the pandemic.”

Right to counsel levels the scales of justice. 96% of landlords in the Stout study were represented in eviction cases, while only 1% of tenants were represented. This bill will level the field and ensure tenants are treated with respect and dignity.

Renters have rights and defenses in eviction cases, but those rights are often not enforced. [In one 2016 survey of Baltimore renters, 80% of respondents had a defense to their eviction case, but only 8% of renters without counsel successfully raised a defense based on conditions of disrepair.](#) In addition to conditions of severe disrepair, tenants have defenses depending on the type of eviction action including: retaliation, lack of landlord licensing/lead paint compliance, illegal/excessive fees or non-rent charges, payment already made, not a substantial breach of the lease, and others.

The price of inaction is far higher than an investment in right to counsel. We estimate full implementation of a right to counsel in evictions in Maryland after 4 years would require \$28.5 million annually to represent 34,750 families, but would result in \$90.5 million in annual State savings from reduced costs to Medicaid, foster care, and other social services for persons who are homeless. Like other jurisdictions, Maryland could pay for full implementation with general funds, federal pass-through funds, and the proposed eviction case filing fee increase legislation. COVID-19 and the eviction tsunami we face reinforces that the cost of inaction is far higher.

Right to Counsel in Eviction Cases is part of a larger package of Housing Justice bills necessary to support safe, healthy, fair, and affordable housing in Maryland. For more information visit www.rentersunitedmaryland.org #MDHousingJustice

Please issue a report of FAVORABLE on SB 154. If you have any questions, please contact Matt Hill, hillm@publicjustice.org, 410-625-9409, ext. 229.

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