



C. Matthew Hill, Attorney
Public Justice Center
201 North Charles Street, Suite 1200
Baltimore, Maryland 21201
410-625-9409, ext. 229
hillm@publicjustice.org

HB 18 - Landlord and Tenant – Eviction Action – Right to Counsel

Hearing before the Judiciary Committee on February 15, 2021

Position: Favorable

Even with COVID-19 legal protections, over 2,500 renter families were evicted in MD from March through Nov. 2020. 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 enforce the current legal protections that support families seeking habitable, fair, accessible, and affordable housing.

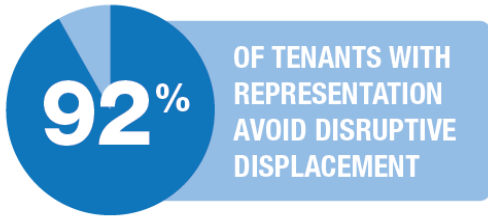
SB 154 will ensure that low-income tenants in Maryland facing eviction have the right to an attorney to enforce existing legal protections. SB 154's language is based on the successful programs being instituted in seven jurisdictions: Balt. City, Philadelphia, Boulder, New York City, San Francisco, Cleveland, 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 the Sheriff to post notice of the right to counsel with an 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). [Cost savings or benefits include costs related to homeless shelters, Medicaid spending in hospitals, homeless student transportation, and foster care costs.](#)

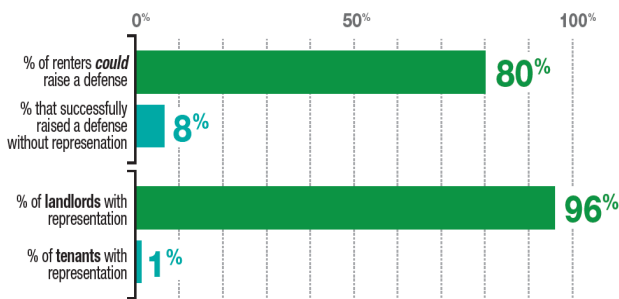
The Public Justice Center is a 501(c)(3) charitable organization and as such does not endorse or oppose any political party or candidate for elected office.



Legal counsel holds landlords accountable to comply with new laws around COVID to **protect renters.**

In one Md. jurisdiction, 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 are disproportionately subject to death and displacement from COVID-19.

REPRESENTATION MATTERS



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 also helps address the disparate racial/gender impact of eviction. Due to COVID-19, 36% of Black households in Maryland are likely facing an eviction action, compared to 14% of white households.

Report by Dr. Timothy Thomas at [evictions.study](#) finds:



Racial disparity makes eviction a **civil rights issue** linked to the legacy of segregation and housing practices directed against persons of color.

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.

Common Misperception 1: Aren't the vast majority of these cases simple and about failure to pay rent?
Answer: While most cases are file with the title “Failure to Pay Rent,” renters have rights and defenses in those cases that 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](#)

The Public Justice Center is a 501(c)(3) charitable organization and as such does not endorse or oppose any political party or candidate for elected office.

[conditions of disrepair that threatened their life, health or safety](#). In addition to conditions of severe disrepair, tenants have defenses in failure to pay rent cases including: lack of landlord licensing/lead paint compliance, illegal/excessive fees, seeking non-rent charges (such as repair charges) as “rent”, accounting error, retaliation, and wrongfully foreclosing the right to redeem.

- The question isn’t whether cases are complex, but whether Right to Counsel is effective.
 - Stout found in its Baltimore City study that 92% of tenants with attorneys avoided disruptive displacement.
 - In NYC, 84% of tenants represented in their right-to-counsel program avoided involuntary displacement.
 - [93% of tenants in Cleveland’s new right to counsel program avoided involuntary displacement](#) in eviction cases.
- This bill does not contemplate actual lawyer representation in all 660,000 eviction cases filed. The vast majority of these cases are dismissed by the landlord because the tenant paid prior to trial or result in default judgments – in part because landlords are using/abusing the housing court as the front line for debt collection. Based on Stout’s study, we estimate that 34,75000 income-qualified households will respond to an offer of counsel and want to contest the eviction. This bill will make for a slightly fairer fight.

Common Misperception 2: How could Maryland afford to pay for this?

- **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.** COVID-19 and the eviction tsunami we face reinforces that the cost of inaction is far higher.
- There is a four-year implementation period in the bill. The first year could be paid for by the \$3 million in the Senate’s RELIEF Act (SB 496) and/or part of the \$400 million in federal funds that is coming to the state for rental relief due to COVID-19.
- In subsequent years, the State should consider a variety of funding options including a general fund allocation, federal pass-through funds, or an increase in the surcharge on filing fees. Passing this bill makes right to counsel a priority and requires the State to create a plan for funding over the next four years.

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 HB 18. If you have any questions, please contact Matt Hill, hillm@publicjustice.org, 410-625-9409, ext. 229.