



## The Delivery of Legal Services Section Council

BILL NO: House Bill 18  
TITLE: Landlord and Tenant – Eviction Action – Right to counsel  
COMMITTEE: Judiciary  
HEARING DATE: February 17, 2021  
POSITION: **SUPPORT**

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The Delivery of Legal Services Section (DLS) is a section of the Maryland State Bar Association formed to promote the fair administration of justice in the State of Maryland. The Section supports and encourages free or low cost legal services for people of limited means through legal services programs for the indigent, public interest legal organizations, *pro bono publico*, reduced fee, and other alternatives to traditional fee-for-service representation to provide access to the courts, and court alternatives for the resolution of disputes. The areas include legal practice and legal reform for the indigent and persons of modest means, for example, civil rights, consumer advocacy, civil and criminal legal services, and lawyer referral services. The Section Council is comprised of a mix of practicing attorneys, including those working for civil legal aid organizations, private practitioners, and government attorneys, who all share a common goal: increasing access to justice.

This historic legislation would establish a mandate across Maryland to provide the right to an attorney to low-income tenants facing eviction. The bill enshrines the concept of “Civil Gideon” in the state’s highest volume docket – there were just under 670,000 evictions cases filed in 2019, equating to “roughly four eviction notices for every five of the state’s rental units, a ratio with few if any equals elsewhere.”<sup>1</sup> But, further, HB 18 adopts a proven, cost-effective means of preventing the disruptive displacement that plagues low-income Maryland families.

Based on a study of approximately 900 cases in which tenants were represented by Maryland legal service providers, a recent report projects that 92% of represented tenants would avoid disruptive displacement with a right to counsel in one of Maryland’s three high-volume-eviction jurisdictions<sup>2</sup>. The report also concludes that an annual investment of \$5.7 million in a right to counsel for tenants in would yield \$18.1 million in benefits/costs avoided to the State (and \$17.5 million to the locality).<sup>3</sup> Costs savings or benefits include costs related to homeless shelters, Medicaid spending in hospitals, homeless student transportation, and foster care costs.

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<sup>1</sup> Editorial Board, “Maryland’s laws skew mercilessly in landlords’ favor, and evictions are out of control. Here’s a fix.” Washington Post, Jan. 14, 2021, [https://www.washingtonpost.com/opinions/marylands-laws-skew-mercilessly-in-landlords-favor-and-evictions-are-out-of-control-heres-a-fix/2021/01/14/7d33bc18-18ce-11eb-b96e-0e54447b23a1\\_story.html](https://www.washingtonpost.com/opinions/marylands-laws-skew-mercilessly-in-landlords-favor-and-evictions-are-out-of-control-heres-a-fix/2021/01/14/7d33bc18-18ce-11eb-b96e-0e54447b23a1_story.html)

<sup>2</sup> Stout Risius Ross, LLC, *The Economic Impact of an Eviction Right to Counsel in Baltimore City 65* (May 2020), <https://bmorerentersunited.org rtc/stoutreport> (study based on case data reported by Maryland Legal Aid, Pro Bono Resource Center of Maryland, Homeless Persons Representation Project, Disability Rights Maryland, and Public Justice Center).

<sup>3</sup> Id. at 80-82.



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HB 18 is not an appropriations bill. It establishes (1) the right to counsel for certain covered individuals and (2) its administration via a coordinator in the Office of the Attorney General and in partnership with the Maryland Legal Services Corporation and existing Maryland legal services organizations. The bill also creates a taskforce of stakeholders to advise on the implementation of the right to counsel and requires annual reporting on the number of households served and case outcomes.

Legal representation is fundamental to safeguarding fair, equal, and meaningful access to the legal system. Yet, in the United States, millions of people who are poor or low-income are unable to obtain legal representation. The United Nations has identified the importance of a right to counsel in civil cases for protecting the rights of racial minorities, women, and immigrants<sup>4</sup>. According to the Maryland Access to Justice Commission, there are only 1.49 lawyers available to help every 10,000 low-income individuals in Maryland.<sup>5</sup> Yet, there is no right to appointed counsel in civil matters, including in housing proceedings. Nonetheless, we know that litigants with representation are more likely to have a successful outcome than those without representation.

While many legal services organizations in Maryland work to bridge the representation gap for low-income tenants, these organizations are under-funded and under-staffed; the need for quality, affordable representation is still incredibly large and acute.

Because we strongly support a civil right to counsel, particularly in areas of the law where fundamental human rights are at stake, the DLS strongly supports HB 18 and urges a favorable report.

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<sup>4</sup> Access to Justice: Ensuring Meaningful Access to Counsel in Civil Cases, [https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/USA/INT\\_CCPR\\_NGO\\_USA\\_11841\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/USA/INT_CCPR_NGO_USA_11841_E.pdf)

<sup>5</sup> Maryland Access to Justice Commission, Strategic Vision Report, 2020, <https://www.mdaccesstojustice.org/reports>