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SB 384 - Landlord and Tenant – Stay of Eviction Proceeding for Rental Assistance Determination

Hearing before the Judicial Proceedings Committee,
Feb. 15, 2022

Position: SUPPORT (FAV)

Disability Rights Maryland (DRM – formerly Maryland Disability Law Center) is the Protection & Advocacy agency in Maryland, mandated to advance the civil rights of people with disabilities. DRM works to increase opportunities for Marylanders with disabilities to be part of their communities and live in safe, decent, affordable and accessible housing.

We urge the Committee to issue a favorable report on SB 384.

Maryland has unprecedented funding to prevent evictions. Every dollar of our [estimated rent debt of \\$392 million](#) (Dec. 2021) can be paid by local emergency rental assistance programs (ERAPs) that have scaled up over the past year. Yet, in the second half of 2021, there were nearly 27,000 eviction cases filed for non-payment of rent per month. **In that time, 705 households were evicted per month.**

These programs are important for people with disabilities. Even prior to COVID-19, people with disabilities are overwhelmingly rent-burdened compared to their non-disabled peers and face greater housing insecurity.¹ On top of being overly rent-burdened, people with disabilities faced significant loss of income at a higher rate during

DECEMBER 2021

105,000

MD HOUSEHOLDS
BEHIND ON RENT

The Household Pulse Survey (Week 41) estimates that **62% of Maryland renters feel "very" or "somewhat" likely to be evicted** in the next 2 months. These renters are disproportionately people of color, and the majority have children in their households. Here's what else we know about them:

97% have a household income under \$50,000

84% lost employment income in the past 4 weeks

88% borrowed from friends/family to meet spending needs in the past 7 days

14% used their Child Tax Credit payment to meet spending needs in the past 7 days

¹ The current Social Security Income payment is \$794 a month, while the average price of a 1 bedroom in Maryland is \$1247, or 157% of a disabled person's income, leaving no money for food, transportation, clothing, or other necessities. Technical Assistance Collaborative, [Priced Out: The Housing Crisis for People with Disabilities](https://www.tacinc.org/resources/priced-out/), <https://www.tacinc.org/resources/priced-out/> (2021).

the COVID-19 pandemic than their non-disabled peers.² For the disability community, accessing and utilizing rental assistance programs may be the difference between remaining independent in their own communities instead of being forced into nursing homes, state hospitals, and institutions.³

There is no reason to not take advantage of these rental assistance programs. The purpose of the CARES Act and the new rental assistance programs is to protect public health by keeping as many impacted families in their homes and off of the streets.⁴ There is no reason not to ensure that this program is used for its purpose, which is to keep families housed. However, as indicated above, tenants are still facing eviction despite this unprecedented amount of money to help prevent a public health crisis from evictions.

SB 384 provides a structural fix by:

- 1. Providing the Court Authority to Temporarily Pause the Eviction Process.** Right now, there is no statutory authority for the Court to pause the eviction process related to rent assistance. This sets up a nightmarish race between the ERAP agency/tenant and the eviction process. SB 384 mandates a stay on Failure to Pay Rent proceedings, on a case-by-case basis, if a judge determines that a good faith rental assistance application to resolve the debt is pending. *No one should be evicted when there is money to pay the rent – especially during a pandemic.*



73%

of surveyed pro bono attorneys in Maryland reported that in some, most, or all of their cases, **renters faced eviction while waiting** for Emergency Rental Assistance.

63%

of surveyed pro bono attorneys had cases in which renters **faced eviction after their landlords refused** to accept Emergency Rental Assistance.

- 2. Incentivizing Landlords to Accept Rental Assistance.** Numerous landlords – both large corporations and smaller operators – are refusing to accept rental assistance. Some refuse it across the board. Others pick winners and losers – accepting the rental assistance for some who they like and refusing it for others. If the landlord wants to use a state-funded judicial process to collect the rent, they should be required to accept rental assistance. *No one should be evicted when there is money to pay the rent – especially during a pandemic.*

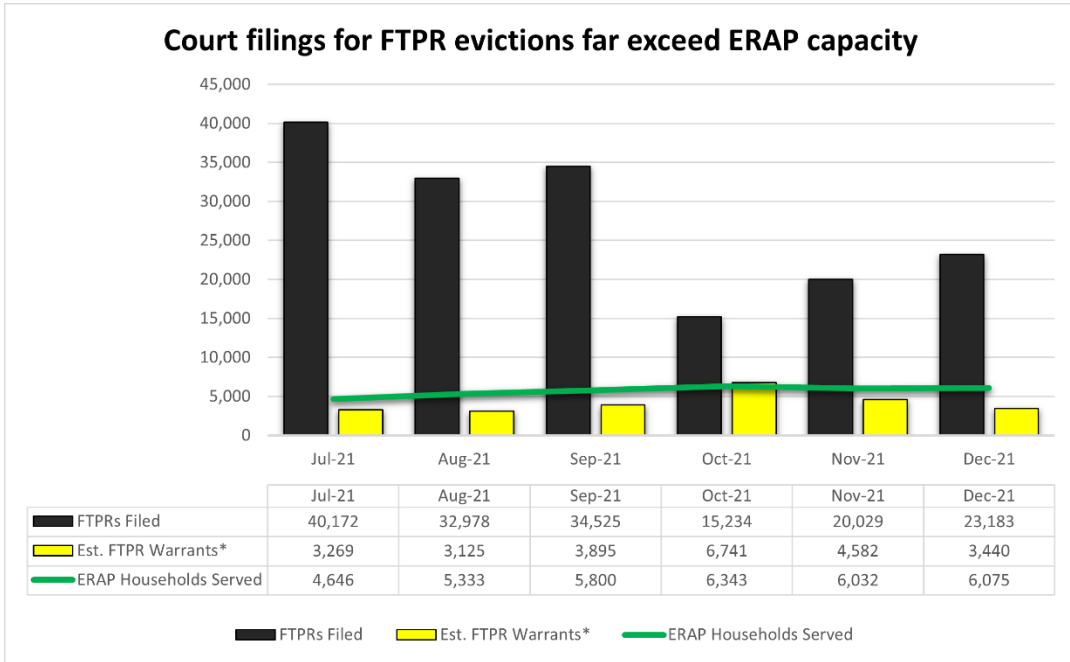
- 3. Aligning The Pace of Rental Assistance With Eviction Processes For Fairness and Efficiency.** Even as local rental assistance programs have worked

² In 2020, 1 out of 5 people with disabilities lost their employment compared to 1 out of 7 people without disabilities. U.S. Bureau of Labor Statistics, *Persons with a Disability: Labor Force Characteristics Summary*, <https://www.bls.gov/news.release/disabl.nr0.htm>

³ K. C. Lakin, S. Larson, P. Salmi, and A. Webster (2010). *Residential Services for Persons with Developmental Disabilities: Status and Trends through 2009*, University of Minnesota, <http://rtc.umn.edu/docs/risp2009.pdf>

⁴ Sheen J, Nande A, Walters EL, et al. *The effect of eviction moratoriums on the transmission of SARS-CoV-2*. *medRxiv*. 2020; 10.1101/2020.10.27.20220897. Accessed November 11, 2020

overtime to innovate solutions that make landlords whole while keeping residents housed, they were exceedingly outpaced by eviction filings. In July 2021, the ratio of FTPR eviction filings to households served by ERAPs was nearly **9:1**. Even with the incredible ramp-up effort over summer and fall, plus the implementation of new notice requirements under HB18 (Oct. 2021), that ratio was still approximately **4:1**.



Amid this tide of eviction litigation, ERAP programs have had to prioritize applications in which tenants face pending evictions. They have collaborated with local sheriffs to identify addresses slated for eviction. The work of distributing federal relief funds broadly has become the urgent triaging of scheduled evictions. The cost of this dynamic has been to place timely applications on hold, to have tenants waiting months for assistance, until they are on the brink of losing their home. This is not fair or efficient. It rewards landlords who aggressively pursue eviction by pushing them to the front of the line while leaving behind those landlords who are cooperating with ERAP programs. SB 384 would remove that incentive for landlords to aggressively pursue eviction because the Court could pause the eviction while a good faith rental assistance application is pending. *No one should be evicted when there is money to pay the rent – especially during a pandemic.*

4. Adopting a National Best Practice of Pausing Eviction for Rental Assistance.

HB 674/SB 384 adopts a best practice learned in the wake of COVID-19 that has been adopted in some form by at least **16 other states**. "Eviction stays are a critical intervention that delay final judgment and give renters the opportunity to apply for ERA and avoid evictions." - [National Low Income Housing Coalition](#)

[At least 16 other state and local jurisdictions have enacted protections for tenants who have applied for rental assistance by temporarily staying the eviction process.](#) Additionally, some states

have issued guidance that landlords who refuse rental assistance violate the state's source of income law. *No one should be evicted when there is money to pay the rent – especially during a pandemic.*

Disability Rights Maryland is a member of the Renters United Maryland coalition and asks that the Committee **issue a report of FAVORABLE on SB 384**. If you have any questions, please contact: Cory Warren, Esq at Cwarren@disabilityrightsmd.org or 410-727-6352 ext. 2472.