



**HB0691 - Landlord and Tenant and Wrongful Detainer Actions – Eviction
Prevention Services**

**Hearing before the House Judiciary Committee,
Feb. 16, 2022**

Position: SUPPORT (FAV)

Chesapeake Physicians for Social Responsibility (CPSR) is a statewide evidence-based organization of over 940 physicians and other health professionals and supporters that addresses existential public health threats: nuclear weapons, the climate crisis, and the issues of pollution and toxic effects on health, as seen through the intersectional lens of environmental, social, and racial justice.

HB0691 would make effective use of existing eviction prevention services when they are needed most: at court, on the day of trial of an eviction case. Under HB0691, “eviction prevention service provider” is defined to include legal assistance, financial assistance, mediation, and social or counseling services. The bill targets Maryland’s rapid “summary” court procedures for evicting renters – Failure to Pay Rent, Tenant Holding Over, and Breach of Lease – as well as Wrongful Detainer, which is intended for removing guests/invitees but may sometimes involve renters.

Chesapeake PSR supports eviction prevention services because evictions cause physical and mental harm.¹ During this COVID-19 pandemic, evictions have been linked to a 5-fold increase in mortality of COVID-19 in general, extending the harm to the greater community.²

¹ <https://www.nejm.org/doi/full/10.1056/NEJMp2031947>

² <https://academic.oup.com/aje/article/190/12/2503/6328194>

In these court proceedings, HB0691 would provide consistency in allowing parties' a reasonable time, through recess or continuance, to become better prepared for trial or to engage with services aimed at avoiding trial and eviction altogether. **Without HB0691, eviction prevention services are hamstrung by judges' discretion not to allow a recess/continuance and landlords' objections** to any delay of trial that benefits their tenants.

Continuances under HB0691

Foremost, this bill operationalizes tenants' access to counsel in eviction proceedings. When a self-represented litigant comes before a judge in an eviction case and requests additional time to seek attorney representation, HB0691 would require the judge to grant a delay "for a reasonable time not less than 5 business days."

This provision recognizes that while 2021's House Bill 18 established an Access to Counsel in Evictions mandate, it did not provide a procedure by which the courts would ensure that tenants who desire counsel may reliably obtain it before trial. Although legal and financial assistance information is more available than ever because of HB18, the efforts of multiple governmental agencies, and the Judiciary's Help Centers, concern remains that litigants appear in eviction actions realizing too late that they would benefit from assistance and that they need certain evidence to prove assertions about payments, notices, lease provisions, or property conditions. **Evidence for the effectiveness of right to counsel the first two years of New York City's RTC's five-year phase-in, 84% of the tenants who had a lawyer were not evicted. And in zip codes where right to counsel were implemented in 2017, evictions were reduced 29%. Evictions have been reduced by 41% since 2013, funding started for right to counsel. . In 2019 alone, evictions in NYC were down 15%.³**

HB0691 fills an important access-to-justice gap by creating a mandatory-if-requested continuance of at least 5 workdays or longer by the judge's discretion. This continuance provision also applies to litigants who request time to bring back to court necessary evidence or witnesses or time to engage an eviction service provider such as the Office of Alternative Dispute Resolution or an Emergency Rental Assistance Program.

Recesses under HB0691

This bill also recognizes that litigants need consistency in their access to the legal services, rental assistance programs, and mediation programs that are increasingly available at court during eviction dockets.

- Legal services programs are now providing day-of-trial, first-come-first-serve assistance in Anne Arundel County, Baltimore County, Baltimore City, Caroline County, Dorchester County, Montgomery County, Prince George's County, Queen Anne's County, and

³ https://www.righttocounselnyc.org/right_to_counsel_power_to_organize_campaign

Wicomico County.

- The District Court Help Centers are available for in-person assistance in nine court locations (Baltimore City, Catonsville, Cambridge, Frederick, Glen Burnie, Hagerstown, Rockville, Salisbury, Upper Marlboro).
- Prior to the COVID-19 pandemic, the Office of Alternative Dispute Resolution was conducting day-of-trial mediations in eviction cases in several jurisdictions, including Baltimore City, Montgomery County, and Wicomico County.

HB0691 would require simply that courts provide “a reasonable amount of time” during an eviction docket to allow a requesting litigant to engage with these eviction prevention services that are available during the docket. Reliable access to a recess would reduce the need for continuances, as pro bono attorneys, mediators, and others would have more time to assist parties during their first appearance at court.

HB0691 is about the future of Maryland’s eviction process

In 2021, amid pandemic-caused scheduling delays, a federal moratorium on evictions, and the unprecedented availability of emergency rent relief, Maryland saw over 355,000 evictions actions filed – nearly a 50-percent reduction in eviction litigation compared to 2019. Actual evictions fell in 2021 by nearly 70 percent compared to 2019. So why require a fairer, more preventative eviction procedure under HB0691? HB0691 is about the future – when there will not be pandemic protocols that delay trial or hundreds of millions in federal assistance to cover rental debt.

Currently, the Failure to Pay Rent procedure (Real Property § 8-401(e)(1)) allows judges the authority to continue a case for one day only. Other eviction procedures do not provide even that. While cities and states across the country have met the challenges of the COVID-19 pandemic by standing up eviction diversion initiatives, often with the leadership of their courts, Maryland has not done so. Even if the Maryland Judiciary sought full funding for an eviction diversion initiative through the National Center for State Courts, for example, our courts would not be able to move forward without fundamental changes to eviction procedures as set forth in HB0691.⁴

HB0691 is the first step to any policy of using eviction trial dates to problem-solve and reach alternatives that do not place Maryland renters at risk of losing their homes.

The author of a recent article in the New England Journal of Medicine concluded that “housing is too often viewed as a commodity or a business, rather than as a social determinant of health. A national recognition of housing as a fundamental need could catalyze the changes necessary

⁴ <https://www.ncsc.org/information-and-resources/improving-access-to-justice/eviction-resources/eviction-diversion-initiative-grant-program>

to ensure that everyone has a safe and stable home — an essential element for health.”⁵ We in CPSR agreed.

Chesapeake PSR is a member of the Renters United Maryland, a statewide coalition of renters, organizers, and advocates, and **we urge the Committee’s report of Favorable on HB0691.**

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⁵ <https://www.nejm.org/doi/full/10.1056/NEJMp2031947>