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

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

HB0691 would allow tenants to request a reasonable delay on day of trial to participate in the plethora of eviction prevention services that have developed during the COVID-19 pandemic. Under HB0691, “eviction prevention service provider” is defined to include legal assistance, financial assistance, mediation, and social or counseling services. It is important to note: 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. There are no reasons evictions should be occurring with this type of funding.**

Without HB0691, eviction prevention services are hamstrung by judges’ discretion not to delay proceedings for tenants to participate in these services. Many of these proceedings are treated as “Rocket Dockets” giving tenants only a matter of days after receiving notice to prepare for trial. Allowing additional time to participate in these programs will prevent households from being evicted.

These eviction prevention 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

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).

during 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

Allowing access to apply in the courthouse and receive a reasonable amount of time to work with the service provider may be the difference between a person with disabilities being able to participate in an eviction prevention program and stay home or face eviction. In short, it provides an equal access to these programs for those who may not be able to apply ahead of time due to their disability. For example, an individual who is vision impaired may require someone to read out the notice and application forms for these programs out loud. This individual may not know about the assistance programs until they are in a court room being told about their options by a judge.

Not only will this allow equal access to programs, it will help ensure that the recent eviction prevention programs are compliant with Title II of the Americans with Disabilities Act- which protects qualified people with disabilities from discrimination on the basis of disability in service, programs, and activities provided by State and local government entities.⁴ Some individuals with disabilities may simply not have the resources or ability to apply beforehand. This bill will make a significant difference in their ability to participate in these programs equally to their non-disabled peers.

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.

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 Id.

People with disabilities may not have the ability to participate in these programs prior to their trial date. They may require additional help in applying to these programs, or are simply unable to access the applications without reasonable accommodations for their disability. For example, if a person who is hard of hearing does not have access to a relay phone or computer, an in-person application may be their only option for applying for eviction prevention services. Title II of the Americans with Disabilities Act requires that governmental programs, including the Courts, provide reasonable accommodations so that people with disabilities may have equal access and use of these programs.⁵

Allowing tenants, a short delay to reach out to these services, and have access to day of court assistance in applications can be the difference between the lose of housing and independent and staying in their home. Furthermore, short delay of a few days may be the difference between Counsel being able to develop a meaningful defense and representing a tenant under-prepared.

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 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 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.

For many people with disabilities, day of access to service providers is necessary. For example, a tenant with an intellectual disability may struggle to be connected to these services prior to the Court date and be confused by a legal notice. Being given the

⁵ Americans with Disabilities Act of 1990, 42 U.S.C. § 12131-12134.

opportunity to speak with a service provider will help the service provider understand the accommodations needed for that individual and to ensure they are connected with services that can help aid them staying housed and out of institutional settings.

HB0691 is about the future of Maryland's eviction process

This bill is about providing meaningful access to the Court system and the program designed to keep people housed. Those with disabilities may not be able to access eviction prevention services until they are physically in the courthouse, allowing a short delay to connect them with these programs can be what prevents them from losing their independence and housing.

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, such as those set forth in HB0691.

One day is simply not enough time for a tenant to be connected with Counsel and prepare a meaningful defense, especially if a tenant has a disability that requires additional assistance in either application for eviction funds or participating in their own defense with Counsel. This bill helps address this issue by giving tenants more time.

HB0691 is the first step to any policy of using eviction trial dates to problem-solve and reach alternatives that do not place Marylanders with disabilities at risk of losing their homes and being forced into institutional settings.

Disability Rights Maryland is a member of the Renters United Maryland coalition and asks that the Committee **issue a report of FAVORABLE on SB 691**. If you have any questions, please contact: Cory Warren, Esq at Cwarren@disabilityrightsmd.org or 410-727-6352 ext. 2472.