

Department of Legislative Services  
 Maryland General Assembly  
 2021 Session

FISCAL AND POLICY NOTE  
 First Reader

House Bill 697 (Delegate Williams)  
 Judiciary

Residential Property - Eviction Proceedings - Shielding of Court Records

This bill requires that the court, in any action for possession or repossession of residential property under specified provisions of the Real Property Article, shield any court record associated with the action. A shielded record may be made available for inspection only by (1) written request mutually agreed to by the parties or (2) order of the court on a showing of compelling need.

Fiscal Summary

**State Effect:** General fund expenditure increase by \$74,800 in FY 2022 only for one-time computer programming costs for the Judiciary and *may* increase minimally to reflect an increased workload for the District Court, as discussed below. Revenues are not affected.

(in dollars)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	74,800	0	0	0	0
Net Effect	(\$74,800)	\$0	\$0	\$0	\$0

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease*

**Local Effect:** The bill is not anticipated to materially affect local government operations or finances.

**Small Business Effect:** Minimal.

Analysis

**Bill Summary:** “Court record” means an official record of a court about a proceeding that the clerk of a court or other court personnel keeps. This includes (1) an index, a docket

entry, a petition, a memorandum, a transcription of proceedings, an electronic recording, an order, and a judgment and (2) any electronic information about the proceeding on the website maintained by the Maryland Judiciary.

“Shield” means to remove information from public inspection, as specified.

The bill’s provisions are applicable to landlord-tenant actions brought under Title 8, Subtitle 4 of the Real Property Article (*e.g.*, failure to pay rent, tenant holding over, and breach of lease), specified actions pertaining to the nonpayment of ground rent, and actions for the repossession of a mobile home premises.

If a court issues a warrant of restitution or warrant of possession to a party in an action, the court must cease shielding the records associated with the action unless, no more than five days after the issuance of a warrant, the parties submit to the court a written statement expressing mutual agreement to the continued shielding of the court records. Upon receipt of a statement expressing mutual agreement to the shielding of the court records, the court must continue to shield all court records associated with the action.

The bill also requires a summons issued in an applicable action to contain a specified statement regarding the shielding of records.

**Current Law:** In general, a landlord seeking to evict a tenant from rental property initiates the process by filing the appropriate action (*e.g.*, failure to pay rent, breach of lease, *etc.*) in the District Court. If awarded a judgment by the court, the landlord files a warrant of restitution, which, once reviewed and signed by the court, authorizes an eviction. The warrants of restitution are forwarded to the local sheriff’s office, who is then authorized to carry out the evictions. Statute sets forth numerous specific requirements for such actions, including those related to written notice prior to filing certain actions.

In failure to pay rent actions, if judgment is in favor of the landlord and the tenant does not return the premises to the landlord or otherwise satisfy the judgment by paying the applicable rent and late fees within 4 days, as specified, the court must, at any time after 4 days have elapsed, issue a warrant of restitution. The court may, upon presentation of a certificate signed by a physician certifying that surrendering the property within the 4-day period would endanger the health or life of the tenant or other occupant, extend the time for surrender of the premises as justice may require, up to 15 days. Statutory provisions also authorize stays of execution in other specified circumstances, such as in the event of extreme weather conditions.

If the landlord does not order a warrant of restitution within 60 days from either the date of judgment or the expiration date of any stay of execution (whichever is later), then (1) the judgment for possession must be stricken and (2) the judgment must generally count toward

the threshold for the number of judgments at which a tenant no longer has the right to redemption of the leased premises, as specified.

Statutory provisions also set forth specific requirements regarding actions to repossess premises associated with a mobile home and actions for possession of property subject to a ground lease for nonpayment of ground rent.

**State Expenditures:** General fund expenditures increase by \$74,808 in fiscal 2022 only for programming changes. Although these programming changes will generally facilitate the shielding of records, the Judiciary notes that workloads are also impacted by the potential of additional filings if parties submit written statements of mutual agreement for continued shielding even once specified warrants have been issued. The Judiciary also notes that landlord-tenant matters routinely represent a high volume of the cases filed in the District Court each year. For example, in fiscal 2019, 669,427 failure to pay rent cases (which represent the largest volume of landlord-tenant related actions) were filed in the State; that same year, 230,968 landlord-tenant cases resulted in a warrant of restitution. Workloads are likely particularly affected in the larger jurisdictions (Baltimore City and Montgomery and Prince George's counties) that have not yet completed integration of the Maryland Electronic Court System. Accordingly, general fund expenditures *may* also increase minimally (in addition to the programming costs noted above) to reflect the increased workload for District Court clerks.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** None.

**Information Source(s):** Montgomery County and Prince George's counties; Judiciary (Administrative Office of the Courts); Department of Legislative Services

**Fiscal Note History:** First Reader - February 15, 2021  
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