

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 691 (Delegate Wells)
Judiciary and Environment and
Transportation

Landlord and Tenant and Wrongful Detainer Actions – Eviction Prevention
Services

This bill requires the court to grant upon request (1) a recess for a reasonable period of time to allow the movant to use the services of an eviction prevention services provider if such a provider is available at the court building during the time scheduled for the trial and (2) a continuance for a reasonable period (at least five business days) if either party seeks legal representation or to procure necessary witnesses or obtain documents or other proof of a claim of defense, or if a party demonstrates that the interests of justice will be better served by the court’s order of referral of the parties to an eviction prevention services provider. The bill’s provisions are applicable to actions brought under Title 8, Subtitle 4 of the Real Property Article (failure to pay rent, tenant holding over, breach of lease, *etc.*) and wrongful detainer actions.

Fiscal Summary

State Effect: Any potential minimal increase in workload for the District Court is anticipated to be absorbable within existing budgeted resources. Otherwise, the bill does not *directly* affect the expenditures of the Judiciary, as discussed below. No material effect on revenues.

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

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: An “eviction prevention services provider” means a governmental, nonprofit, or charitable organization that provides – for the purpose of preventing housing insecurity, eviction, or homelessness – social work services, counseling, financial assistance for rent or relocation, alternative dispute resolution (ADR), or civil legal aid.

Current Law: In general, a landlord seeking to evict a tenant must file 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. This includes specific requirements for written notice prior to initiating a failure to pay rent action.

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. At trial, a court is also authorized – if satisfied that the interests of justice will be better served by an adjournment to enable either party to procure necessary witnesses – to adjourn the trial for up to one day, unless the parties all consent to a longer period of adjournment.

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.

A tenant has the right to redemption of the leased premises by tendering in cash, certified check, or money order to the landlord or the landlord’s agent all past due amounts, as determined by the court, plus all court awarded costs and fees, *at any time before actual execution of the eviction order*. This right of redemption does not apply to any tenant against whom three judgments of possession have been entered for rent due and unpaid in the 12 months prior to the initiation of the action, as specified.

“Wrongful detainer” means to hold possession of real property without the right to do so. A wrongful detainer action is not available if (1) the person in actual possession of the property has been granted possession under a court order; (2) a remedy is available under general landlord/tenant law; or (3) any other exclusive means to recover possession is provided by statute or rule.

If a person holds possession of a property to which he or she is not entitled, a person claiming possession may file a complaint, in writing, with the District Court of the county in which the property is located. Once the court receives a complaint, the court must immediately summon the person in possession of the property to appear before the court on the day specified in the summons to show why the court should not restore possession of the property to the person who filed the complaint (the plaintiff).

If the court determines that the plaintiff is entitled to the property, the court must enter a judgment for restitution and instruct the sheriff to return possession of the property to the plaintiff. The court may also award damages to the plaintiff for the wrongful detainer, court costs, and attorney’s fees, if a claim for damages was included in the complaint and the court finds that specified requirements regarding service were met. Statutory provisions also authorize a jury trial and set forth procedures regarding appeals, as specified.

State Expenditures: The Judiciary advises that due to the bill’s changes to allow additional time for parties to acquire eviction prevention services, it anticipates an increase in referrals to the District Court ADR Program. Accordingly, the Judiciary anticipates general fund expenditures of approximately \$325,100 in fiscal 2023 (reflecting the bill’s October 1, 2022 effective date) and ongoing annual expenditures of approximately \$400,000 annually to hire four full-time ADR Coordinator positions. However, the Department of Legislative Services advises that (1) the bill does not appear to directly require the development or expansion of existing eviction prevention services (including ADR services, which are already available and utilized in many District Court locations) and (2) ADR is only one of several options included as an “eviction prevention services provider.” To the extent that the Judiciary elects to expand ADR programs in order to provide more availability, general fund expenditures increase; however, such expenditures are not directly required by the bill.

Small Business Effect: Requiring the court to grant a continuance on request of a party may delay the final disposition of a case, potentially resulting in lost revenues for landlords. Landlords may also benefit to the extent that more tenants are referred to programs that facilitate rental payments or assistance.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 564 (Senator Lee, *et al.*) - Judicial Proceedings.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of Housing and Community Development; Department of Legislative Services

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Analysis by: Donovan A. Ham

Direct Inquiries to:
(410) 946-5510
(301) 970-5510