

## **BtB written testimony HB52\_SB454.pdf**

Uploaded by: Bradford, Mary

Position: FAV



Testimony in **SUPPORT** of **Senate Bill 454**:  
Real Property – Alterations in Actions for Repossession and Establishment  
of Eviction Diversion Program  
Mary Bradford, Program Manager on behalf of Beyond the Boundaries

Beyond the Boundaries is an Archdiocese of Baltimore program with members from churches throughout Maryland. We recognize the need for Catholic organizations to advocate for social justice, especially as it relates to stable and permanent housing. The United States Conference of Catholic Bishops has repeatedly stated that to effectively love our neighbor, we must care for the conditions in which they live, and we must acknowledge decent housing as a human right.<sup>1</sup> “Since decent housing is a human right, its provision involves a public responsibility.”<sup>2</sup> Such public responsibility includes providing Maryland tenants an eviction process that promotes fairness and housing stability. SB 454 does just that. Therefore, we urge the committee to vote favorably.

Maryland is in a housing crisis, and there is a tsunami of evictions on the horizon after the moratorium is lifted.<sup>3</sup> As a result of the COVID-19 pandemic, an estimated 109-204,000 Maryland households were at risk of eviction at the end of 2020.<sup>4</sup> Meanwhile, 41 percent of Maryland renter households, pre-pandemic, were cost-burdened, meaning they paid 35% or more of their income for housing costs. In FY 2019, there were 669,778 eviction cases filed in Maryland – that is 5 cases filed per cost-burdened household. The struggle to maintain a home in a crisis has become undeniable. Maryland needs a fairer “Failure to Pay Rent” eviction process, one that focuses on housing stability instead of housing loss. We urge the Committee’s favorable report on this bill.

SB 454 brings 3 greatly needed procedural changes to Maryland’s high-volume “Failure to Pay Rent” (“FTPR”) eviction dockets.

- It establishes a 10-day notice period before a FTPR eviction can be filed and requires landlords to attempt alternative resolutions (rental assistance, mediated payment plans) as preconditions to bringing their eviction case.
- It creates a 2-part court process:
  - It uses a status conference, before any trial date, to engage litigants in an Eviction Diversion Program (involving mediation, legal assistance, and rental assistance) and

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<sup>1</sup> <https://www.usccb.org/resources/right-decent-home-pastoral-response-crisis-housing>

<sup>2</sup> <https://www.usccb.org/resources/right-decent-home-pastoral-response-crisis-housing>

<sup>3</sup> [https://www.marylandattorneygeneral.gov/A2JC%20Documents1/AG\\_Covid\\_A2J\\_TF\\_Report.pdf](https://www.marylandattorneygeneral.gov/A2JC%20Documents1/AG_Covid_A2J_TF_Report.pdf) (pgs 17-18)  
<https://nlihc.org/coronavirus-and-housing-homelessness/eviction-update> (click Maryland)

<sup>4</sup> Stout Risius Ross, LLC, Estimation of Households Experiencing Rental Shortfall and Potentially Facing Eviction, <http://bit.ly/stoutevictiondata> (select “Maryland” in drop-down menu).

- If a trial is needed, the bill gives tenants a formal time in the court process to assert their defense and request documents that will be used against them at trial.
- It provides judges discretionary power to stay evictions in emergency circumstances.

Overall, SB 454 emphasizes up-stream methods of diverting parties from eviction. The bill promotes early engagement, alternative resolutions, and effective use of public resources – including both rental assistance and free legal services. It also strengthens the fairness of the FTPR eviction process without unduly delaying landlords’ right to repossess a property through the courts. A [2015 study](#) of one of Maryland’s high-volume “rent courts” found that almost 60% of surveyed renters who appeared at their FTPR trial had a valid defense against their case based on having notified their landlords about severe, continuing housing defects. But about two-thirds of these defendants did not know about habitability-based defenses, namely, rent escrow and implied warranty of habitability defenses. Moreover, the court process itself did not avail these renters a meaningful opportunity to be heard:

At the outset, 168 surveyed renter-defendants appeared at the court building having complained to their landlords about one or more existing threats to health and safety. Instead of bringing forward 168 prima facie implied warranty or rent escrow defenses, these renters were largely diverted to other outcomes. Barely a third of them attempted their available defenses, and only 13 succeeded – yielding an abysmal eight-percent success rate.<sup>5</sup>

We know that evictions and housing instability have lasting impact on Marylanders. In a 2019 assessment on homelessness in Baltimore City, 22% of people surveyed reported evictions as the primary cause for their current homelessness.<sup>6</sup> According to a report from the Aspen Institute, “children who switch schools frequently due to instability or homelessness are more likely to struggle academically and display behavioral problems, less likely to graduate from high school, and earn less than their peers as adults.”<sup>7</sup> Furthermore, in 2019 nearly 10 percent of youth entered foster care due to their families experiencing housing instability.<sup>8</sup> Fixing Maryland’s eviction system to allow for early engagement with tenants, alternative resolution to disputes, and effective use of rental and legal resources will lead to reduced evictions and greater housing stability.

Pope Francis made clear during his visit to Washington DC in 2015: “There is no social or moral justification, no justification whatsoever, for the lack of housing.” Now is the time to answer our moral call to protect housing as a human right. Now is the time to fix Maryland’s massive eviction system. SB 454 is part of that fix, creating a paradigm shift in the state’s massive eviction dockets. **We urge the Committee’s FAVORABLE report on SB 454.**

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<sup>5</sup> Public Justice Center, *Justice Diverted: How Renters Are Processed in the Baltimore City Rent Court* 36 (2015), <https://abell.org/sites/default/files/files/cd-justicediverted216.pdf>.

<sup>6</sup> [https://homeless.baltimorecity.gov/sites/default/files/PIT%20Report%20Draft%202019\\_Update%208.30.19\\_Update.pdf](https://homeless.baltimorecity.gov/sites/default/files/PIT%20Report%20Draft%202019_Update%208.30.19_Update.pdf)

<sup>7</sup> <http://www.aspenepic.org/wp-content/uploads/2019/05/Housing-Affordability-and-Stability-An-EPIC-Challenge.pdf>

<sup>8</sup> [https://abell.org/sites/default/files/files/Baltimore%20RTC%20Report\\_FINAL\\_5\\_8\\_2020.pdf](https://abell.org/sites/default/files/files/Baltimore%20RTC%20Report_FINAL_5_8_2020.pdf)

# **SB0454 Sen Sydnor Fav Eviction Diversion Testimony**

Uploaded by: Clark, Eugene

Position: FAV



THE SENATE OF MARYLAND  
ANNAPOLIS, MARYLAND 21401

**Testimony for SB 454**  
**Real Property – Alterations in Actions for Repossession**  
**And Establishment of Eviction Diversion Program**  
**Before the Judicial Proceedings Committee**  
**On February 9, 2021**

Good afternoon Mr. Chairman, members of the Judicial Proceedings Committee

Before COVID-19 arrived, tenants in Baltimore and across Maryland were in a precarious situation. The arrival of COVID-19 and our response has revealed a lot about how our laws are working and not working for people, but it has also raised the stakes. As we confront a historic wave of evictions in Maryland and in the rest of the country, we can bring security to tenants by guaranteeing their procedural rights. Not only will SB 454 save lives in this time of crisis, it will leave Maryland's landlord-tenant law more equitable and fair than when the pandemic started. SB 454 will ensure tenants are aware of their rights and that all parties will engage in good-faith problem-solving before evictions are pursued.

The landlord-tenant relationship rests on competing interests. On the one hand, the property owner has an interest in property as an investment vehicle and a source of income. On the other hand, the tenant has an interest in a place to live. Our rent courts are set up with respect to both of those competing interests when a tenant is delinquent on rent. As to landlords, the District Court allows landlords to file and complete eviction actions quickly and efficiently so as to protect their investments.<sup>1</sup> The District Court also allows tenants opportunity to object to repossession actions. But in practice, an overwhelming number of tenants are unable to protect themselves from ejectment due to limits on time, knowledge, and resources.

Not only is there uneven access to legal knowledge and tools, the stakes for renters are necessarily higher – compare the loss of a home to the loss of an investment income stream. The dangers facing renters during the COVID-19 pandemic are especially high. In July of last year, the Workgroup on COVID-19 and Housing reported that over 40% of Maryland's rental households,

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<sup>1</sup> PUBLIC JUSTICE CENTER, *Justice Diverted: How Renters are Processed in the Baltimore City Rent Court*, at 5–6 (2015) [hereinafter PUBLIC JUSTICE CENTER].

approximately 292,000 households, were at risk of eviction.<sup>2</sup> Recent research indicates that 10,000 people across the nation died because of jurisdictions that failed to maintain eviction moratoriums through December.

The current state of the repossession complaint reflects an apparent desire to maximize as many eviction claims as quickly as possible, as noted by the Public Justice Center:<sup>3</sup> The court complaint itself is a streamlined fillable form: ten prompts on one single-sided page. The court complaint itself is a streamlined fillable form: ten prompts on one single-sided page. No additional documentation – such as an accounting statement or copy of the lease – is needed to file. Additionally, there is no waiting period. A landlord can litigate a claim for unpaid rent as early as the first day the rent has come due. Maryland is among a handful of states that allow landlords to begin litigating a rent dispute without any prior demand or notice to the renter. In contrast, 41 states require some variety of “pay or quit” notice and a waiting period, ranging from 3 to 14 days, before a landlord may begin the court process.<sup>4</sup>

Senate Bill 454 will transform the summary repossession process in three fundamental ways: (1) it will ensure tenants are made aware of their rights well before showing up to the courthouse; (2) it will require landlords to treat with tenants as equal parties to an agreement rather than as problems to be solved; and (3) it will ensure tenants in need of assistance before trial and at a pre-trial hearing will have assistance. Landlords will no longer be able to use a summons to District Court as a “final notice” to tenants delinquent on rent. Moreover, SB 454 will do nothing to take away landlords’ substantive rights; it will simply guarantee true due process for tenants.

The Eviction Diversion Program under SB 454 is dedicated to promote continuity of housing by reducing the incidence of evictions. The program will engage “eviction prevention service providers” to screen tenants in need of assistance. Landlords will be required to keep current records listing all debts and credits made during tenancy, to be produced within five days of a tenant’s request. Before filing an eviction complaint, pursuant to 8-401(d)(1), a landlord must deliver written notice to the tenant that includes nine pieces of information.<sup>5</sup>

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<sup>2</sup> Kathryn M. Leifheit et al., *Expiring Eviction Moratoriums and COVID-19 Incidence and Mortality*, UCLA FIELDING SCHOOL OF PUB. HEALTH (Dec. 3, 2020), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3739576](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3739576) (pending peer review).

<sup>3</sup> PUBLIC JUSTICE CENTER at 24 (“Former district court administrative judge Keith Matthews said in 2003, ‘it’s easier to evict someone in Baltimore City than almost anywhere else in the country.’”).

<sup>4</sup> *Id.*

<sup>5</sup> The nine items to be included are: (1) a heading and subheading, in specified font sizes, to read: “Notice of Delinquency and Legal Rights: This is Not an Eviction Notice;” (2) the date of the notice; (3) a description of the past-due rent in dispute, including amounts of rent and late fees but not non-rent costs with the corresponding periods for which rent is past due; (4) a statement informing the tenant that the landlord will promptly produce an itemized list of debts and credits upon tenant’s request; (5) a request that tenant apply for financial assistance or that tenant negotiate a payment plan; (6) the contact information of the landlord; (7) a statement that the landlord may initiate a repossession action if the tenant does not respond within 10 days after delivery of the notice and that tenant has the right to dispute the charges; (8) contact information for a service provider and

Before proceeding to file a claim for repossession, a landlord must engage in affirmative, good-faith efforts to resolve the claim. The landlord may proceed if the tenant fails or refuses to respond or materially breaches the terms of a pre-eviction payment plan or alternative agreement. The landlord's repossession filing must be accompanied by affirmations that the landlord delivered mandatory notice, that the landlord made a good-faith effort to resolve the claim, that their effort failed, and the time at which the efforts was attempted.

This pandemic has shown a light on a variety of inequities in the operations of our systems. SB 454, is an opportunity to address a system for which reform is warranted. With that, I am asking for a favorable report on SB 454.

# **BaltimoreCounty\_FAV\_SB0454.pdf**

Uploaded by: Conner, Charles

Position: FAV





JOHN A. OLSZEWSKI, JR.  
*County Executive*

CHARLES R. CONNER III, ESQ.  
*Director of Government Affairs*

JOEL N. BELLER  
*Deputy Director of Government Affairs*

**BILL NO.: SB 454**

**TITLE:** Real Property – Alterations in Actions for Repossession and Establishment of Eviction Diversion Program

**SPONSOR:** Senator Sydnor

**COMMITTEE:** Judicial Proceedings

**POSITION:** **SUPPORT**

**DATE:** February 9, 2021

Baltimore County **SUPPORTS** Senate Bill 454 – Real Property – Alterations in Actions for Repossession and Establishment of Eviction Diversion Program. This legislation would establish an Eviction Diversion Program in the district court.

Of the many areas in which government could further support its residents, few have been highlighted by the pandemic more than housing. When the COVID-19 pandemic resulted in an unprecedented increase in unemployment and poverty, many residents mandated to stay in their homes wondered how long they would be able to afford it. Baltimore County halted eviction actions during this time as a measure to keep all residents safe. These problems preceded the pandemic, however, and without immediate action will continue long after recovery.

Eviction actions, when successful, take away the ability of individuals to rent housing in the future. They serve as a black mark on residents' credit scores and may prevent the procurement of employment, financial assistance, and essential aid for those who are truly in need of these services. By providing for the Eviction Diversion Program, SB 454 allows for continuity of housing and furthers Baltimore County's fight against this cycle of poverty. Failure to afford essential housing should not devastate the lives of our residents.

Accordingly, Baltimore County requests a **FAVORABLE** report on SB 454. For more information, please contact Chuck Conner, Director of Government Affairs, at [cconner@baltimorecountymd.gov](mailto:cconner@baltimorecountymd.gov).

# **Health Care for the Homeless - SB 454 FAV - Evicti**

Uploaded by: Diamond, Joanna

Position: FAV

**HEALTH CARE FOR THE HOMELESS TESTIMONY**  
**IN SUPPORT OF**  
**SB 454 – Real Property – Alterations in Actions for Repossession and**  
**Establishment of Eviction Diversion Program**

*Senate Judicial Proceedings Committee*  
*February 9, 2021*



**Health Care for the Homeless strongly supports SB 454**, which would establish a court-based eviction diversion program. COVID-19 has put hundreds of thousands of Maryland households on the brink of eviction at a time when staying home can be the difference between life and death. To be clear, the pandemic exacerbated an already existing housing crisis. In Maryland, “failure to pay rent” eviction cases offer no steps to avoid eviction. This bill would ensure a fair hearing process and a commonsense system to help avoid the devastating and dangerous experience of an eviction.

Poor health is already a major [cause of homelessness](#) and simply being without a home is a dangerous health condition. Homelessness creates new health problems and exacerbates existing ones. People experiencing homelessness have higher rates of illness and die on average 12 years sooner than the general U.S. population. Chronic health conditions such as high blood pressure, diabetes, and asthma become worse because there is no safe place to store medications properly. Further, recovery and healing are more difficult without housing. Stable housing not only provides privacy and safety, it is also a place to rest and recuperate from surgery, illness, and other ailments without worry about where to sleep and find a meal, or how to balance these needs with obtaining health care and social services. Stable housing not only provides privacy and safety, it is also a place to rest and recuperate from surgery, illness, and other ailments without worry about where to sleep and find a meal, or how to balance these needs with obtaining health care and social services.

As the evidence clearly shows that stable housing is a key element to ensuring good health, the prevention of evictions is imperative as the pandemic continues. [New research](#) shows that evictions lead to increased COVID-19 infections and COVID-19 related deaths. The rise in homelessness as a result of evictions from nonpayment of rent will happen precisely at a time when the COVID-19 virus is hitting new peaks and winter brings about [considerable challenges](#). While renters waited for emergency assistance during this pandemic, nearly 115,000 “Failure to Pay Rent” lawsuits were filed from July through November. For many households, eviction day came before unemployment insurance or rent relief applications could process. Over 2,500 were evicted amid the surging public health crisis (July-November 2020). This is unacceptable. Tenants should not have to experience homelessness or live in unsafe conditions because they do not have enough resources to keep them safe and healthy.

Even in non-pandemic times, in total, Maryland has just 33 affordable housing units per 100 households earning 30% AMI or less.<sup>1</sup> While most low-income households manage to stay housed, housing remains precarious for many. A simple life event – say illness or job loss due to a pandemic – could result in a household falling into homelessness. With “failure to pay rent” eviction cases making up the largest number of eviction cases, the General Assembly must act swiftly to curb the number of evictions and avoid inflaming the

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<sup>1</sup> <https://dhcd.maryland.gov/HomelessServices/Documents/2019AnnualReport.pdf>

homelessness crisis. As we approach a tsunami of evictions, we also face a shortage of beds, and people who are evicted will have no place to go but the sidewalk. We are preparing for mass suffering and misery unless the legislature acts. In establishing an Eviction Diversion Program to reduce the number of evictions and promote the continuity of housing, this bill helps ensure that Maryland's tenants are treated with the dignity and fairness they deserve. **Health Care for the Homeless strongly urges a favorable report on this bill.**

*Health Care for the Homeless proudly supports the Housing Justice Package, of which Right to Counsel in Eviction cases is a part. For more information, visit [www.rentersunitedmaryland.org](http://www.rentersunitedmaryland.org).*

*Health Care for the Homeless is Maryland's leading provider of integrated health services and supportive housing for individuals and families experiencing homelessness. We work to prevent and end homelessness for vulnerable individuals and families by providing quality, integrated health care and promoting access to affordable housing and sustainable incomes through direct service, advocacy, and community engagement. We deliver integrated medical care, mental health services, state-certified addiction treatment, dental care, social services, and housing support services for over 10,000 Marylanders annually at sites in Baltimore City and Baltimore County. For more information, visit [www.hchmd.org](http://www.hchmd.org).*

# **Homeless Persons Representation Project\_FAV\_SB 454**

Uploaded by: Hatfield, Carisa

Position: FAV



Homeless Persons Representation Project, Inc.  
201 North Charles Street, Suite 1104  
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Phone: 410-685-6589  
[www.hprplaw.org](http://www.hprplaw.org)

**Support – SB 454 – Real Property – Alterations in Actions for Repossession and Establishment of Eviction  
Diversion Program**  
**Hearing of the Judicial Proceedings Committee, February 9, 2021**

The Homeless Persons Representation Project, Inc. (HPRP) is a non-profit civil legal aid organization that provides free legal representation to people who are homeless or at risk of homelessness on legal issues that will lead to an end to homelessness. HPRP regularly represents tenants in failure to pay rent cases and other landlord-tenant matters in Baltimore City.

Under current state law, a landlord can file a failure to pay rent complaint and obtain a judgment for possession of the rental property in question in less than one week, and obtain a warrant of restitution for the property in less than two weeks.

SB 454 establish an eviction diversion program that will create natural breaks in the eviction process to allow opportunities for landlords and tenants to create agreements that will significantly reduce the number of disruptive and destabilizing evictions in Maryland.

**Requiring Pre-Filing Notice and Good Faith Efforts by Landlords Would Decrease Eviction Filings**

Under current Maryland law, a landlord is not required to provide any notice to the tenant or engage in any efforts to assist the tenant prior to filing a complaint with the court for nonpayment of rent. This means that the only time a landlord is required under law to engage with their tenant with respect to nonpayment is in court, on the day of trial. In Baltimore City, this has led to an extremely high rate of eviction filings. Indeed, in a city with 125,000 renter households, 140,000 evictions are filed annually – more than one for every renter household in Baltimore City. <sup>1</sup> Eighty four percent (84%) of eviction filings in Baltimore City were for a single month's rent, indicating that landlords are filing serially and using the court system as a rent collection mechanism.<sup>2</sup> HPRP has represented many tenants who were not aware until receiving the failure to pay rent complaint their landlord filed that they were allegedly behind on the rent and who had never seen a copy of their rent ledger before the day of trial. SB 454 will address these flaws in the system by require landlords to give notice to their tenants, at least ten days before filing for eviction, both advising the tenant of their rent delinquency and providing information on how to access financial assistance and assistance establishing a repayment agreement. This required pre-filing notice will open the lines of communication between landlord and tenant and give them an opportunity to reach an agreement even before an eviction action is filed.

**Establishing a Pre-Trial Status Conference Would Assist In Presenting Valid Defenses and Would Reduce Homelessness**

According to a report issued by Stout Risius Ross, LLC (hereinafter “the Stout Report”), eighty percent (80%) of tenants in Baltimore City had a valid legal defense to a nonpayment of rent complaint filed against them, such as unsafe conditions or a landlord's failure to license their property, but only eight percent (8%) of tenants were able to successfully raise such a defense without legal counsel.<sup>3</sup> Under current law, tenants are only guaranteed one opportunity to present valid legal defenses to the court, defenses they may not know even exist or apply to them.

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<sup>1</sup> Stout Risius Ross LLC, *The Impact of an Eviction Right to Counsel in Baltimore City*, available at <https://bmorerentersunited.org rtc/stoutreport/>.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*



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Under SB 454, landlords and tenants would first be required to appear in court for a status conference—a hearing where no judgment would be entered - where the tenant could present any information they have about potential defenses. Additionally, since the tenant would have received the required pre-filing notice with information about legal representation, the tenant could either have counsel present or have the opportunity to request a continuance to engage counsel. A judge would also have discretion to order the parties to engage in alternative dispute resolution, or, if an agreement cannot be reached, schedule a trial date. SB 454 would also give the courts the opportunity to engage with tenants to determine if they are eligible for rental assistance or other beneficial services before trial.

Evictions cause homelessness; according to the Baltimore City Point in Time (PIT) Count from January 2020, twenty percent (20%) of homeless individuals interviewed were homeless as a result of eviction.<sup>4</sup> Creating a pre-trial status conference would reduce the number of evictions and disruptive displacement in Maryland. SB 454 is an important homelessness prevention measure.

### **Extending the Appeal Deadline Would Expand Access to Justice for Tenants**

Under current law, a tenant has just four business days to appeal after a judgment for nonpayment of rent is entered against them, making it one of the shortest appeal periods in the state of Maryland<sup>5</sup>. SB 454 would bring the appeal period for nonpayment of rent cases in line with the majority of the Real Property Code and extend the time for filing an appeal from four days to ten days. Extending the appeal period will give tenants critical, necessary time to determine if there is a basis to appeal.

Additionally, under current law, a judge only has discretion to stay an eviction if the tenant provides documentation from their doctor at trial that an eviction poses an imminent risk to their health. SB 454 would give judges additional discretion in this arena, allowing stays of eviction to be heard on motion of the tenant with evidence of a critical medical condition or that the tenant is in the process of seeking assistance with their rent from a third-party organization. This type of discretion creates an additional stopgap against disruptive displacement and homelessness. .

### **HPRP urges a FAVORABLE REPORT on SB 454.**

Please contact Carisa A. Hatfield, Homeless Persons Representation Project, at 410-685-6589 ext. 32 or [chatfield@hprplaw.org](mailto:chatfield@hprplaw.org) with any questions.

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<sup>4</sup> Baltimore City Continuum of Care, 2020 Point-in-Time (PIT) Count Report, available at [https://drive.google.com/file/d/197okMLOAT9BZXYNuxjSl\\_DXeVmNPnKcc/view](https://drive.google.com/file/d/197okMLOAT9BZXYNuxjSl_DXeVmNPnKcc/view).

<sup>5</sup> The only shorter period also falls under the Real Property Code in relation to appeal of mobile home park repossessions, which is two (2) days. Md. Code Ann., Real Prop. §8A-1701.

# **MAP - SB 454- Eviction Diversion Program - Support**

Uploaded by: Jefferson , Stacey

Position: FAV





## Member Agencies:

Advocates for Children and Youth  
Baltimore Jewish Council  
Behavioral Health System Baltimore  
CASH Campaign of Maryland  
Catholic Charities  
Episcopal Diocese of Maryland  
Family League of Baltimore  
Fuel Fund of Maryland  
Health Care for the Homeless  
Homeless Persons  
Representation Project  
Job Opportunities Task Force  
League of Women Voters of Maryland  
Loyola University Maryland  
Maryland Catholic Conference  
Maryland Center on Economic Policy  
Maryland Community Action  
Partnership  
Maryland Family Network  
Maryland Hunger Solutions  
Paul's Place  
Public Justice Center  
St. Vincent de Paul of Baltimore  
Welfare Advocates

## Marylanders Against Poverty

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## TESTIMONY IN SUPPORT OF SB 454

### Real Property- Alterations in Actions for Repossession and Establishment of Eviction Diversion Program

*Senate Judicial Proceedings Committee*

**February 9, 2021**

*Submitted by Stacey Jefferson and Julia Gross, Co-Chairs*

**Marylanders Against Poverty (MAP) strongly supports SB 454**, which establishes an eviction diversion program that will create natural breaks in the eviction process to allow opportunities for landlords and tenants to create agreements that will significantly reduce the number of disruptive and destabilizing evictions in Maryland.

**The pandemic has highlighted the dire lack of affordable housing in Maryland, and struggling households are burdened with past due rent payments and eviction proceedings.** Policies such as those suggested in SB 454 can fix long standing flaws in the eviction process that increase the burden to families and lead to homelessness.

**SB 454 would establish a pre-trial status conference that would assist in presenting valid defenses and would reduce homelessness.** According to a report issued by Stout Risius Ross, LLC (hereinafter "the Stout Report"), eighty percent (80%) of tenants in Baltimore City had a valid legal defense to a nonpayment of rent complaint filed against them, such as unsafe conditions or a landlord's failure to license their property, but only eight percent (8%) of tenants were able to successfully raise such a defense without legal counsel.<sup>1</sup> Under current law, tenants are only guaranteed one opportunity to present valid legal defenses to the court, defenses they may not know even exist or apply to them. This bill would require landlords and tenants to first appear in court for a status conference—a hearing where no judgment would be entered - where the tenant could present any information, they have about potential defenses. Additionally, since the tenant would have received the required pre-filing notice with information about legal representation, the tenant could either have counsel present or have the opportunity to request a continuance to engage counsel. It would also give the courts the opportunity to engage with tenants to determine if they are eligible for rental assistance or other beneficial services before trial. Evictions cause homelessness; according to the Baltimore City Point in Time (PIT) Count from January 2020, twenty percent (20%) of homeless individuals interviewed were homeless because of eviction.<sup>2</sup> Creating a pre-trial status conference would reduce the number of evictions and disruptive displacement in Maryland. SB 454 is an important homelessness prevention measure.

**For these reasons, MAP strongly urges a FAVORABLE report on SB 454 and appreciates your consideration.**

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**Marylanders Against Poverty (MAP) is a coalition of service providers, faith communities, and advocacy organizations advancing statewide public policies and programs necessary to alleviate the burdens faced by Marylanders living in or near poverty, and to address the underlying systemic causes of poverty.**

<sup>1</sup> Stout Risius Ross LLC, The Impact of an Eviction Right to Counsel in Baltimore City, available at <https://bmorerentersunited.org/rtc/stoutreport/>.

<sup>2</sup> Baltimore City Continuum of Care, 2020 Point-in-Time (PIT) Count Report, available at [https://drive.google.com/file/d/197okMLOAT9BZXYNuxjSI\\_DXeVmNPnKcc/view](https://drive.google.com/file/d/197okMLOAT9BZXYNuxjSI_DXeVmNPnKcc/view).

# **SB454\_FAV\_MedChi\_Alterations for Repossession & Es**

Uploaded by: Kasemeyer, Pam

Position: FAV



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*The Maryland State Medical Society*

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[www.medchi.org](http://www.medchi.org)

TO: The Honorable William C. Smith, Jr., Chair  
Members, Senate Judicial Proceedings Committee  
The Honorable Charles E. Sydnor, III

FROM: Pamela Metz Kasemeyer  
J. Steven Wise  
Danna L. Kauffman

DATE: February 9, 2021

RE: **SUPPORT** – Senate Bill 454 – *Real Property – Alterations in Actions for Repossession and Establishment of Eviction Diversion Program*

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The Maryland State Medical Society (MedChi), the largest physician organization in Maryland, **supports** Senate Bill 454.

Senate Bill 454 establishes a framework for the establishment of an Eviction Diversion Program through the District Court eviction process to reduce the incidence of evictions and promote continuity of housing. A District Court in a County that processed 10,000 or more eviction cases in fiscal year 2019 is required to establish a program. The legislation also requires enhanced notification and communication requirements between landlords and tenants to facilitate the resolution of rental issues with the objective of reducing evictions as well as providing additional assistance for tenants who face eviction proceedings.

There is substantial evidence that housing insecurity and homelessness is a significant contributor to health disparities and exacerbates chronic somatic and behavioral health conditions in already compromised individuals. Creating a framework, as proposed by Senate Bill 454, to divert individuals from eviction and prevent housing insecurity and homelessness will also have a positive impact on the health and well-being of individuals served by these programs and will serve to address the broader goal of the reduction of health disparities. A favorable report is requested.

**For more information call:**

Pamela Metz Kasemeyer  
J. Steven Wise  
Danna L. Kauffman  
410-244-7000

## **2021-02-09 SB 454 (Support).pdf**

Uploaded by: Kemerer, Hannibal

Position: FAV

**BRIAN E. FROSH**  
*Attorney General*



**ELIZABETH F. HARRIS**  
*Chief Deputy Attorney General*

**CAROLYN QUATTROCKI**  
*Deputy Attorney General*

**STATE OF MARYLAND**  
**OFFICE OF THE ATTORNEY GENERAL**

FACSIMILE NO.

WRITER'S DIRECT DIAL NO.

410-576-6584

February 9, 2021

To: The Honorable William C. Smith, Jr.  
Chair, Judicial Proceedings Committee

From: Office of the Attorney General

Re: Senate Bill 454 – Real Property – Alterations in Actions for Repossession and  
Establishment of Eviction Diversion Program (SUPPORT)

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The Office of the Attorney General submits the following written testimony in support of Senate Bill 454 which incorporates recommendations and findings from the Attorney General's COVID-19 Access to Justice Task Force. Specifically, Senate Bill 454 provides that before pursuing a Failure to Pay Rent Action a landlord must first provide the tenant a ten-day notice with the alleged arrearages, accrued late fees, and the period of time the delinquency occurred. The ten-day notice requirements of this bill also require tenants be provided with information on Eviction Diversion Programs, Alternative Dispute Resolution Offices, and District Court Self-Help Centers. Additionally, this bill requires landlords to cooperate with a tenant's application for financial assistance to cure any arrearage.

Our Office's Consumer Protection Division regularly receives consumer complaints that a landlord has accused a tenant of unpaid or under-paid rent when the tenant disputes that there is an arrearage or alleges that their payments were misallocated to non-rent charges. While the Division attempts to mediate these disputes, landlords do not always engage with Division mediators and any delay in resolution of the dispute can lead to a landlord securing a warrant of restitution against the tenant and the tenant losing their housing. Requiring landlords to provide written notice of the amounts owed, the period of delinquency, and resources to assist with curing any alleged debt will allow landlords and tenants to more easily resolve alleged debts while maintaining continuity of housing.

Moreover, Section 8-401 of the Real Property Article currently allows landlords to file summary ejectment actions as soon as the landlord has not received a tenant's full rental payment, and landlords may file cases for any alleged arrearage amount. As such, the tenant's first notice of alleged delinquency can arrive as a summons from the District Court with compounded demands for late fees and other costs connected to the filing. However, if a tenant

received prior notice of the alleged delinquency as this bill provides, the tenant could cure the arrearage prior to a summary ejectment action being filed. Thus, releasing much needed pressure off the overburdened rent court dockets in Maryland's District Courts.

Likewise, due to the current expedited nature of summary ejectment proceedings, tenants often are unable to gather the evidence necessary to dispute erroneous allegations of arrearages or investigate misallocations of prior payments and other available defenses. Under the provisions of this bill, when a dispute as to the amount in arrearage remains and a summary ejectment must be filed, tenants would be afforded the limited time needed to gather evidence and investigate defenses.

Finally, landlords are not presently required to complete applications or accept payments from rental assistance programs, often leaving tenants eligible for assistance without the resources or access to services that would cure any outstanding rental balance. During the COVID-19 Pandemic and the extended CDC eviction moratorium, connecting tenants to financial assistance programs and alternative dispute resolution services, while simultaneously requiring landlords to complete applications for financial assistance is necessary to ensure consumers remain housed and to prevent the spread of the coronavirus.

For these reasons, we ask that the Judicial Proceedings Committee return a favorable report on this bill.

cc: The Honorable Charles E. Sydnor, III  
Members, Judicial Proceedings Committee

# **CC - SB 454 - Eviction Diversion - FAV.docx.pdf**

Uploaded by: Klingenmaier, Lisa

Position: FAV

**Senate Bill 454**  
**Real Property – Alterations in Action for Repossession and Establishment of**  
**Eviction Diversion Program**

Senate Judicial Proceedings  
February 9, 2021

**Support**

**Catholic Charities of Baltimore strongly supports SB 454**, which establishes a 10-day notice period before a Failure To Pay Rent (FTPR) eviction can be filed, requires landlords to attempt alternative solutions before filing FTPR eviction, provides judges discretionary power to stay evictions for emergency circumstances, and creates a 2-part court process that centers an eviction diversion program and provides extra time if a trial is needed for the tenant to gather their defense materials and representation.

Inspired by the gospel to love, serve and teach, Catholic Charities provides care and services to improve the lives of Marylanders in need. As the largest human service provider in Maryland working with tens of thousands of youth, individuals, and families each year, we see the traumatic impact of eviction and housing displacement every day. Homelessness and housing instability are public health crises, and the failure of Maryland's safety net systems to assist struggling low-income renters has only been exacerbated by the pandemic. COVID-19 has laid to bare longstanding inequities in our systems, including inequitable eviction processes. We strongly support SB 454, and the examples below outline how we see this legislation benefiting those we serve:

**SB 454 will reduce the incidence and burdens of homelessness.** We provide homeless services across central and western Maryland, and often those we work with tell us their households spiraled into homelessness due to an eviction they faced alone and without mediation or support. The stories we hear from our clients mirror what our state data shows: as a result of COVID-19, an estimated 200,000 Maryland households were at risk of eviction at the end of 2020.<sup>1</sup> Stable housing is a cornerstone of stable families, and this bill promotes early engagement with tenants, alternative resolutions to eviction, and strengthens the fairness of the FTPR eviction process without unduly delaying landlords' right to repossess a property through the courts.

**Reenvisioning eviction proceedings in Maryland will assist in the social and economic recovery from COVID.** Tragically, during this historic public health challenge, over 115,000 failure to pay rent lawsuits were filed in Maryland from July to November. Without stable shelter, families are more susceptible to adverse childhood experiences (ACEs), hunger, behavioral health crises, and poor health - including increased risk of contracting COVID. This past year in our head start programs our caseworkers have talked to hundreds of parents that have told us they are at risk of eviction and looking for assistance. The pandemic has demonstrated the gaping holes in our safety net programs, especially for people of color. Evictions and homelessness have a disparate impact on black and brown communities. Establishing alternatives to quick evictions improves the socioeconomic outlook of low-income families, and is a tangible step in the effort to dismantle the inequities born of structural racism and oppression in our legal and social safety net systems.

**Changing our eviction process is sound fiscal policy.** Evictions further entrench families into homelessness, poverty, and adverse childhood experiences, which are extraordinarily expensive to address. Maryland should be working to prevent loss of housing, especially among households with children. Safe and reliable housing provides the stability needed to secure and maintain employment, promote good health, invest in educational opportunities and ultimately saves the state resources that otherwise go to maintain shelters and state-funded safety net programs. We know our individuals and families thrive in economically secure households with stable housing, and thriving families means a thriving economy.

**On behalf of the individuals and families we work with, Catholic Charities of Baltimore appreciates your consideration, and urges the committee to issue a favorable report for SB 454.**

Submitted By: Lisa Klingenmaier, Assistant Director of Advocacy

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<sup>1</sup> Stout, Risius, Ross, LLC, Estimation of Households Experiencing Rental Shortfall and Potentially Facing Eviction, <http://bit.ly/stoutevictiondata>.



# **MD Catholic Conference\_FAV\_SB454.pdf**

Uploaded by: Kraska, MJ

Position: FAV



ARCHDIOCESE OF BALTIMORE † ARCHDIOCESE OF WASHINGTON † DIOCESE OF WILMINGTON

**February 09, 2021**

**SB 454**

**Real Property – Alterations in Actions for Repossession and Establishment of Eviction Diversion Program**

**Senate Judicial Proceedings Committee**

**Position: Support**

The Maryland Catholic Conference (“Conference”) represents the public-policy interests of the three Roman Catholic (arch) dioceses serving Maryland: the Archdiocese of Baltimore, the Archdiocese of Washington, and the Diocese of Wilmington.

Senate Bill 454 establishes the Eviction Diversion Program in the District Court to reduce the incidence of judgments for repossession of residential property and to promote continuity of housing; requiring the Chief Judge of the District Court to establish a Program in a District Court sitting in a county that processed 10,000 or more claims for repossession of residential property in fiscal year 2019; requiring that a landlord provide a certain written statement to a tenant within 5 days of receiving a certain request from the tenant.

As a result of the COVID-19 pandemic, an estimated 109-204,000 Maryland households were at risk of eviction at the end of 2020.<sup>1</sup> Meanwhile, 41 percent of Maryland renter households, pre-pandemic, were cost-burdened, meaning they paid 35% or more of their income for housing costs. In FY 2019, there were 669,778 eviction cases filed in Maryland – that is 5 cases filed per cost-burdened household. The struggle to maintain a home in a crisis has become undeniable. Maryland needs a fairer “Failure to Pay Rent” eviction process, one that focuses on housing stability instead of housing loss.

Recently several bishop chairmen of the U.S. Conference of Catholic Bishops (USCCB) wrote to all members of Congress addressing housing needs during the COVID-19 pandemic stating “Ensuring stable housing is essential, especially during a public health crisis. Emergency rental assistance that meets today’s historic need is crucial in order to avoid evictions for tens of millions of people...to keep people safely housed until they are able to access these services, it is necessary to strengthen and extend eviction and foreclosure moratoriums and establish a national utility shutoff moratorium.”

For this reason the Conference appreciates your consideration and urges a favorable report for Senate Bill 454.

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<sup>1</sup> Stout Risius Ross, LLC, Estimation of Households Experiencing Rental Shortfall and Potentially Facing Eviction, <http://bit.ly/stoutevictiondata> (select “Maryland” in drop-down menu).

# **SB454- FAV - Claire Landers, JUFJ.pdf**

Uploaded by: Landers, Claire

Position: FAV

February 9, 2021

Claire Landers  
Baltimore, MD 21209



## **TESTIMONY IN SUPPORT OF SB454/HB52**

### **Real Property – Alterations in Actions for Repossession and Establishment of Eviction Diversion Program**

**TO:** Chair Smith, Vice Chair Waldstreicher and members of the Judicial Proceedings Committee

**FROM:** Claire Landers, on behalf of Jews United for Justice (JUFJ)

My name is Claire Landers. I am a resident of Baltimore County, in District 11. I am submitting this testimony on behalf of Jews United for Justice in support of SB454/HB52, Real Property – Alterations in Actions for Repossession and Establishment of Eviction Diversion Program. JUFJ organizes more than 5,500 Jewish Marylanders and allies in support of local and state campaigns for social, racial, and economic justice.

Jewish tradition tells us that all people should have *dei machsoro*, resources sufficient for each person's needs. (Deut. 15:7-8) As such, society has an obligation to ensure that people stay in their homes, especially during times of emergency.

In 2015, I volunteered in Baltimore City Rent Court as part of The Abell Foundation study conducted by the Public Justice Center (PJC) and Right to Housing Alliance. One afternoon in the lobby of Rent Court, another volunteer and I spoke with a renter who was there to defend herself from eviction after enduring a long-standing dispute with her landlord. The circumstances of her experience in this apartment were mind-boggling and the photographs of the uninhabitable conditions of disrepair were horrific. Ultimately, the story of this woman, identified as "Denise", was included in the in-depth report *Justice Denied: How Renters are Processed in Baltimore City Rent Court*. I spent hours in Rent Court speaking with tenants about their experiences and observing the proceedings. What I saw and heard has never left me and so I share it with you, our legislators who have the power to bring justice to a broken system.

In the many evictions hearings I watched, I remember tenants trying to make their case by explaining to the judge why they were withholding rent and the nature of on-going disputes with their landlords. More than one renter attempted to present evidence of disrepair, mold, rodent infestation or other problems with photos or paperwork; repeatedly these same individuals were informed by the judge that “today’s proceeding is not about evidence” nor the opportunity for them to litigate their treatment by landlords. They were instructed the procedure was limited to deciding the question of whether or not they had paid the rent and, if not, would they be prepared to pay it immediately to prevent an order for eviction. I can only remember one or maybe two tenants represented by an attorney. On the other hand, the landlords were represented by private attorneys or “agents,” or had the benefit of their own significant professional experience filing previous cases in Rent Court. The judge often sent renters back into the lobby area “to negotiate” with the landlord, the agent or attorney: in those instances, clearly the power imbalance ensured renters would be held over a barrel to agree to terms that favored the landlord’s interests.

The taxpayer-funded District Court provides a service to landlords - processing their filings and utilizing the Sheriff’s services in carrying out evictions. What service does the process provide for renters and to the public? It should provide equal protection to renters and serve to prevent unjust evictions, which have a steep cost to state and local governments. Unfortunately, the current system fails to do so.

Sitting in Rent Court was eye-opening for me as a middle-aged, white woman from Pikesville: I did not see Rent Court functioning in the way we believe American courtrooms are supposed to operate - especially when a legal proceeding will result in the most dire consequences for one party: that is, losing the roof over their head. As an observer, it appeared to me that court findings against a tenant became a foregone conclusion and that evictions were processed with less due process and mercy than speeding violations in traffic courts. I left with the impression that Rent Court was an eviction processing center unworthy of the judges and court administrators and all of us who believe in fundamentally fair and equal justice rendered by our courts.

It is therefore heartening to see SB454/HB52 come before you. This legislation will make much needed changes to our state’s eviction process to be more equitable, prevent evictions, and keep people in their homes. This includes reforming court procedures to include an Eviction Diversion Program and providing formal time for tenants to prepare their defence when a trial is

necessary, and giving judges discretionary power to stay evictions under emergency circumstances. All of these changes will help ensure that there is greater fairness and equity within Maryland's rent court system.

Additionally, I ask you to remember that the covid pandemic has disproportionately imposed extreme economic pressures on Black, brown and immigrant individuals and families: these communities have most intensely experienced difficulties around plunging household incomes, accessing unemployment support, expensive healthcare crises, and even loss of life. When the covid-era eviction protections are lifted, rent court proceedings will resume and mass evictions will result. The damaging impact of that will be felt throughout Maryland, likely for years to come.

SB454/HB52 has the potential to reduce the long-term havoc this pandemic will inflict on all of us in Maryland. **On behalf of JUFJ, I respectfully urge you to support SB454/HB52 with a favorable report.**

# **SB 454 testimony 2021.pdf**

Uploaded by: Legal Aid, Maryland

Position: FAV



**MARYLAND  
LEGAL AID**

*Advancing*  
**Human Rights and  
Justice for All**

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ADVOCACY SUPPORT UNIT**

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01.2021



**LSC**



February 5, 2021

The Honorable William C. Smith, Jr.  
Chairman of the Judicial Proceedings Committee  
Miller Senate Office Building  
Annapolis, Maryland 21401

**RE: Maryland Legal Aid Written Testimony in Support of SB 454 –  
Alterations in Actions for Repossession and Establishment of  
Eviction Diversion Program**

Dear Chairman Smith and Committee Members:

Thank you for the opportunity to provide testimony on this important bill. Maryland Legal Aid (MLA) is a non-profit law firm that provides free legal services to Maryland's low-income and vulnerable residents. MLA handles civil legal cases involving a wide range of issues, including family law, housing, public benefits, consumer law (e.g., bankruptcy and debt collection), and criminal record expungements to remove barriers to obtaining child custody, housing, a driver's license, and employment. Maryland Legal Aid supports Senate Bill 454 and asks that this committee give it a favorable report.

This letter serves as notice that Gregory Countess, Esq. will testify on behalf of MLA in support of SB 454 at Senator Charles Sydnor's request. SB 454 reforms the Failure to Pay Rent process and addresses gaping inadequacies in Maryland law. As Maryland Attorney General Frosh has said, "our eviction process is out of balance and unfair to tenants."<sup>1</sup>

SB 454 reforms the process by requiring Landlords to provide notice of past rent due, changing the process imbedded in current law to provide time for negotiation, provides tenants with notice of legal and rental assistance available to them, encourages parties to resolve disputes, requires courts to allow defenses and counterclaims which relate to rent claimed owed, and extends the appeal period so that it corresponds to the appeal period granted in other Landlord-Tenant actions and extends the time the court can consider blocking an eviction if it would harm the health of the tenant and others who reside in the residence.

<sup>1</sup> See <https://www.baltimoresun.com/opinion/op-ed/bs-ed-op-1213-frosh-serial-evictions-20201211-nnl6zmiqjgc>



This bill would acknowledge current realities in terms of the time between filing a Failure to Pay Rent complaint and the scheduling of a hearing. MLA's housing attorneys and paralegals had not observed, pre-pandemic, any hearings taking place within five days of filing the complaint as current law requires. Nor have MLA advocates observed the Sheriff serving tenants within three days. In 2012 there were 614,735 Failure to Pay Rent cases filed in Maryland. Maryland Legal Aid conducted a study in 2016 that looked at rent court to see whether it met basic due process standards. The study of rent court practices looked at default judgments and found that in 14.3% of the courts' default judgments in Maryland, there was no service to the tenant. This study included a sampling of cases from across the state. Lack of service is a problem in jurisdictions throughout the state- one cause of the problem is that there is not enough time for the heavily burdened Sheriff Departments to serve all the Failure to Pay Rent Complaints within the time specified by law. Therefore, tenants are in jeopardy of not receiving sufficient notice and are deprived of their due process.

Housing is health; this is true even when a deadly pandemic is not ravaging our entire state. Health and safety issues like mold, rodent and insect infestation, and licensing issues caused by some landlords' unwillingness to comply with the promulgated laws to ensure that rental property is safe and habitable are endemic throughout the state. From the failure of a Landlord to adhere to licensing requirements in Annapolis, where tenants faced the devastating consequences of mold and rodent infestation in their housing or unlicensed Landlords attempting to collect rent in Baltimore City where current law forbids these actions, the many jurisdictions throughout the state require a process that allows tenants to litigate their claims fully.

In the two examples above, MLA advocates had to exert extraordinary efforts to resolve these problems or get them heard. And these cases are not outliers. They are, in many cases, the norm. The process envisioned by this bill provides for a more equitable process that encourages negotiated resolutions while allowing Landlords to repossess their premises if rent is unpaid.

Housing is a human right. Article 25 of the Universal Declaration of Human Rights declares that "[e]veryone has the right to a standard of living adequate for the health and well-being of himself and of his family, including...housing..." For this right to be fully realized, the housing must be safe and adequate for human habitation, and must provide for the inhabitants to live "in security, peace, and dignity."<sup>2</sup> In other words, four walls and a floor aren't enough, and it is the state's responsibility to ensure that its residents' rights to live in secure and adequate housing are protected.

SB 454 would be a critical affirmative step in improving and strengthening the current protections in Maryland law for tenants when the properties they are renting have unrepaired conditions that threaten their health and safety. It also helps to ensure that tenants have the full opportunity to redeem their premises for the amount of rent truly owed.

For these reasons, Maryland Legal Aid urges a favorable report on SB 454.

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<sup>2</sup> Committee on Economic, Social, and Cultural Rights, General Comment 4 , U.N. Doc. E/1992/23 (1991)

/s/ Gregory Countess

Gregory Countess, Esq.

Director of Advocacy for Housing and Community Development.

Maryland Legal Aid

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## **SB454 - FAV -Debra Band.pdf**

Uploaded by: Lloyd, Rianna

Position: FAV

February 9, 2021

Debra Band  
Potomac, MD 20854

**TESTIMONY IN SUPPORT OF SB454/HB52**

**Real Property – Alterations in Actions for Repossession and Establishment of Eviction Diversion Program**

**TO:** Chair Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee  
**FROM:** Debra Band

My name is Debra Band of Potomac, Maryland in District 15. As a devoted citizen of Maryland, I submit this testimony in support of SB454/HB52, Real Property – Alterations in Actions for Repossession and Establishment of Eviction Diversion Program.

In my tradition, Jewish values have always held the home to be a sacrosanct right for every person. In particular, the terms of the traditional Jewish marriage document, the ketubah, a fundamental document of Jewish law, were first codified in the eleventh century Rhineland (after hundreds of years of prior practice across the Middle East and Europe) to protect the economic rights of a woman whose marriage ended, to prevent divorce or desertion from depriving her of a home of her own.

Across Jewish tradition a home has always been the starting point for personal and family dignity and economic self-sufficiency. The population that suffers the highest risk of losing homes to eviction are black women, households with minor children, and others who receive no housing subsidy. We all see the news reports daily: in this era of COVID-19, when so many in the service industries and gig economy are losing work through no fault of their own, the need for the state to preserve their ability to maintain these people and their families' health, safety and dignity grows daily.

I have a degree in public policy from MIT, and understand that public policy must fuse ethical concerns with financial responsibility. In addition to meeting basic societal needs, as well as Jewish ethics, SB454 is essential to efficient functioning for the State of Maryland. This bill will diminish the number of people emotionally and materially crippled by losing their homes during the current COVID-19 crisis, and during more normal times.

**I respectfully urge a favorable report on SB454/HB52**, to assist renters in maintaining stable housing, to maintain their health, dignity, and the future of their children, enabling them to be productive residents of Maryland.

# **SB454 - FAV - Michael English.pdf**

Uploaded by: Lloyd, Rianna

Position: FAV

February 9, 2021

Michael English

Silver Spring MD, 20910

**TESTIMONY IN SUPPORT OF SB454/HB52**

**Real Property – Alterations in Actions for Repossession and Establishment of  
Eviction Diversion Program**

**TO:** Chair Smith, Vice Chair Waldstreicher and members of the Judicial Proceedings Committee

**FROM:** Michael English

My name is Michel English. I live in Silver Spring Maryland in District 20. This testimony is in support of SB454/HB52, Real Property – Alterations in Actions for Repossession and Establishment of Eviction Diversion Program. SB454/HB52 would bring about sorely needed rent court reform. There are several reasons I support this bill, but I think telling you a bit about my own housing story could help explain why it is so important to me.

While I was fortunate enough to buy a condo in downtown Silver Spring a little over a year ago, I rented in the area since 2012, and am no more or less a part of the community than I was when I lived a half mile down the road in a place where my name wasn't on the deed. Renters make up the lifeblood of many areas in Montgomery County and across the state, yet even before the pandemic, they face less long term stability due to rising costs over time, and more uncertainty in their living situation. While rents have settled down a bit during the pandemic, this reprieve is likely temporary and, more to the point, has been replaced with a more acute and devastating one, displacement and job loss from the crippling economic impacts of the ongoing pandemic.

Safe and stable housing has far reaching economic, health, and social benefits to individuals, families, and communities, and is key to reducing racial inequities, as the most marginalized are often the first to have their housing threatened. Renters are more likely to work the very kind of food service, customer service, retail, and other jobs that have been decimated by the COVID-19 pandemic and related closure orders. These measures are necessary from a public health standpoint, but when we don't give people the ability to earn the money needed to pay

rent, we can't allow them to risk being kicked out on the street when the current rent court system dramatically favors landlords. This bill, sponsored by Senator Sydnor and Delegate Wells, would make several important reforms to the state's rent court system to protect renters well beyond the immediate consequences of the pandemic.

The bill would increase the potential for alternative resolutions to eviction by establishing a formal pre-trial structure for service providers to engage renters and landlords and for judges to order alternative dispute resolution if deemed appropriate. These changes would move the default decision away from eviction and towards something that doesn't ruin a person's housing situation for years to come. Further, when no alternative resolution can be reached, the bill would make trials more even-handed by allowing renters time to seek counsel and to adequately prepare for trial. If a tough decision needs to be made, it's only fair that both sides have the ability to make their best arguments. Finally, the bill would give judges broader power to order stays of evictions in emergency situations, allowing time for renters to relocate as optimally as possible should that be deemed necessary.

This last point is not to be dismissed. Not only is this a fair and moral measure, but a wise one from a public health standpoint. Obviously, throwing people out on the streets during a pandemic is a risk to their health and others with the lack of access to privacy and sanitation. Further, even if those evicted can shelter with friends or family, that is more people in a smaller space, risking further community spread of COVID. Helping them find the safest possible accommodations is in everyone's interest.

Please do the right thing and pass SB454/HB52 out of committee to help prevent evictions, keep people in their homes, and make our state's rent court system more fair. **Thank you and I urge a favorable report on SB454/HB52.**

## **SB454 - FAV Jeffrey Rubin.pdf**

Uploaded by: Lloyd, Rianna

Position: FAV



February 9, 2021

Jeffrey Rubin  
Potomac, MD 20854

**TESTIMONY IN SUPPORT OF SB454/HB52**

**Real Property – Alterations in Actions for Repossession and Establishment of Eviction  
Diversion Program**

**TO:** Chair Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee

**FROM:** Jeffrey Rubin

My name is Jeffrey Rubin and I am a resident of Potomac, in District 15. I provide this testimony in strong support of SB454/HB52, Real Property – Alterations in Actions for Repossession and Establishment of Eviction Diversion Program.

My support for this legislation is rooted in Jewish values that recognize the fundamental importance of the home for a person's well-being and the basic obligations of landlord to tenant. The Babylonian Talmud, a sacred text dating back over 1500 years, contains specific guidelines concerning the eviction of tenants (Baba Metzia, 101b). An enduring message is that the needs of the renter and the importance of stable housing must be taken into account.

In his Pulitzer Prize-winning book about eviction and poverty in America, Matthew Desmond painted a vivid picture of the harm that befalls an individual, a family and its community as a consequence of eviction. It's a toxic blend of psychological instability, emotional turmoil, potential job loss, disruption of children's education, loss of property, and degradation of community spirit.

SB454 would reduce the likelihood of eviction by ensuring that alternatives to this outcome are explored prior to any judgment that would remove tenants from their home. Specifically, tenants and landlords would first have to engage in a process whereby rental assistance was sought before there would be a suit for eviction. Judges would be empowered to order alternative dispute resolution where appropriate. If the case proceeded to trial, sufficient time would have to be provided for tenants to prepare for the trial, including taking time off work,

seeking childcare, and obtaining counsel for a proper defense. In addition, judges would have the authority to delay eviction in emergency situations, allowing tenants to recover from critical health conditions and/or to access resources from government or charitable organizations to re-house the renter and thereby prevent homelessness.

SB454 would decrease the burden on the courts, make use of a variety of services to find resolution, and would therefore reduce the frequency of eviction, which would benefit renters, landlords, and our communities at large. **I therefore respectfully urge a favorable report on SB454/HB52.**

# **SB454- FAV - Anna Levy.pdf**

Uploaded by: Lloyd, Rianna

Position: FAV

February 9, 2021

Anna Tubiash Levy  
Rockville, MD 20852

**TESTIMONY IN SUPPORT OF BILL SB454/HB52**

**Real Property – Alterations in Actions for Repossession & Establishment of Eviction  
Diversion Program**

**TO:** Chair Smith, Vice Chair Waldstreicher and members of the Judicial Proceedings Committee

**FROM:** Anna Tubiash Levy

My name is Anna T Levy, a resident of Rockville, MD, District 16. I am submitting this testimony in support of SB454/HB52, Real Property – Alterations in Actions for Repossession & Establishment of Eviction Diversion Program.

Access to safe and stable housing has far reaching economic, health, and social benefits to individuals, families, and communities, and is a key to reducing racial inequities. Renters routinely have little agency when faced with threats to maintaining stable housing. One overdue rent payment can result in an eviction filing. As a Jewish person, I am taught that all people should have *dei machsoro*, resources sufficient for each person's needs. (Deut. 15:7-8) Consequently, society has an obligation to make sure that people can stay in their homes, especially during a pandemic.

SB454/HB52 will establish procedures for processing of failure to pay rent cases with the goal of avoiding court filings and ultimately, evictions. A preliminary notice period will be required prior to filing; currently a landlord can file for eviction with no notice. An eviction diversion program will be made available to landlords and tenants through a community mediator to provide access to financial, social and legal services to assist tenants in resolving outstanding obligations and work toward housing stability. Tenants would have the opportunity to file a defense or counterclaim prior to an eviction hearing – currently tenants have no option to file a defense/counterclaim. And, finally, the judge would have the option to delay an eviction in an emergency situation. The intent is to make eviction a solution of last resort rather than an easy way to collect rent.

Stable communities are communities where individuals and families are not in constant fear of losing their homes to eviction and live in safe and well-maintained properties. Stable communities engender stronger and healthier communities where people can grow and thrive. Over 655,000 eviction cases are filed each year in the State of Maryland among 805,000 renter households. A history of eviction filings, even when resolved without eviction, impacts a renter's ability to find new housing. Evictions are socially and financially destabilizing to individuals, families and our communities.

Evictions create significant costs for state and local government due to the need for funding for shelter and education, as well as health care provided in hospitals instead of by community-based providers, transportation costs for homeless youth, and foster care. Notably, evictions have a disparate impact on Black and brown households in Maryland. Reducing the numbers of evictions would help to reduce significant racial inequities and strengthen the financial status of individuals and our communities.

Passage of SB454/HB52 can help to resolve housing inequities, reduce evictions for failure to pay rent, and increase access to stable and safe housing for all Marylanders.

**I respectfully urge a strong and favorable report from the Committee on SB454/HB52.**

# **SB454-FAV-Broadview Apts.pdf**

Uploaded by: Lloyd, Rianna

Position: FAV

February 9, 2021

Thomas R. Knoche, Board Member  
Broadview Apartments, LLC  
Baltimore, MD 21210

**TESTIMONY IN SUPPORT OF SB454/HB52**

**Real Property – Alterations in Actions for Repossession and Establishment of Eviction Diversion Program**

**TO:** Chair Smith, Vice Chair Waldstreicher and members of the Judicial Proceedings Committee

**FROM:** Thomas R. Knoche, on behalf of Broadview Apartments, LLC

The Broadview Apartments, LLC family ownership Board encourages the Maryland legislature to support SB454/HB52, Real Property – Alterations in Actions for Repossession and Establishment of Eviction Diversion Program. **The Broadview Apartments, LLC owns 500 units of rental housing** on W. 39th Street in Baltimore City, where approximately 1,300 people are housed.

**As a landlord, we might not be expected to support this legislation. But we do,** for four reasons.

(1) We see first-hand the impact the pandemic has had on the people who rent from us. Times are tougher than many ever expected to see, and the financial hardship comes at no fault of their own.

(2) Our costs go down when turnover is reduced, so we want residents to live at our developments for as long as they can. Displacement is bad for them, and the turnover costs are bad for us.

(3) Displacement can lead to homelessness, and the latter is to be avoided at all cost. The human cost is beyond measure. The cost to society – specifically taxpayers -- can be measured. Study after study, over decades, confirm that the most cost-effective way to address homelessness is to avoid it by preventing displacement, providing sufficient affordable housing units, and preventive social services.

(4) Finally, we consider ourselves fortunate. Everyone needs a roof over their head, so most tenants see rent as a priority bill that must get paid. Consequently, our revenue has dropped by a small amount compared to what many other family-owned businesses have faced during this

pandemic. Our business will survive, and so will many others that own rental property. Tragically, many other businesses will not. We can help our tenants get through this difficult time, and we should.

We consider decent housing to be a basic human right. Reforming our rent court system will increase fairness and stability in the housing market long after the pandemic has waned. We believe this package of legislation will benefit landlords, as well as renters, in the state of Maryland. **We urge timely action to pass SB454/HB52.**



# **HB-52-SB-454-Supporter-Chris Merriam.pdf**

Uploaded by: Merriam, Chris

Position: FAV

Christopher A. Merriam  
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#### **Senate Bill 454**

Real Property – Alterations in Actions for Repossession and Establishment of Eviction Diversion Program

In Senate Judicial Proceedings Committee on Feb. 9, 2021

Position: FAVORABLE

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Honorable Chair Smith, Vice Chair Waldstreicher, and Members of the Senate Judicial Proceedings Committee:

**My name is Chris Merriam and I own multiple rental properties in Baltimore City. I am writing in strong support of Senate Bill 454.**

Before becoming a property owner and landlord, I spent several years renting homes while struggling financially. Because I had access to financial assistance from my family when I needed it, I was fortunate never to be involved in eviction proceedings. Most people do not have that luxury; as such, I deeply empathize with people who are at risk of losing their home, usually through little or no fault of their own. People who rent their homes deserve better due process before the drastic and traumatic process of eviction is carried out. And while evictions are extremely traumatic for the renters themselves and should be avoided even in the best of times, evictions in the middle of a global pandemic affect far more than just the people being evicted. In a time when we need people to stay home as much as possible to prevent the spread of COVID-19, we must go above and beyond to ensure that all people have a home in the first place.

As a result of the COVID-19 pandemic, an estimated 109-204,000 Maryland households were at risk of eviction at the end of 2020.<sup>1</sup> Meanwhile, 41 percent of Maryland renter households, pre-pandemic, were cost-burdened, meaning they paid 35% or more of their income for housing costs. In FY 2019, there were 669,778 eviction cases filed in Maryland – that is 5 cases filed per cost-burdened household. The struggle to maintain a home in a crisis has become undeniable. Maryland needs a fairer “Failure to Pay Rent” eviction process, one that focuses on housing stability instead of housing loss. We urge the Committee’s favorable report on this bill.

Some argue that if people paid their rent, they wouldn’t end up in rent court, but that assumes guilt on the part of renters. In fact, a [2015 study](#) of one of Maryland’s high-volume “rent courts” found that almost 60% of surveyed renters who appeared at their FTPR trial had a valid defense against their case based on having notified their landlords about severe, continuing housing defects. But about two-thirds of these defendants did not know about habitability-based defenses, namely, rent escrow and implied

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<sup>1</sup> Stout Risius Ross, LLC, Estimation of Households Experiencing Rental Shortfall and Potentially Facing Eviction, <http://bit.ly/stoutevictiondata> (select “Maryland” in drop-down menu).

warranty of habitability defenses. Moreover, the court process itself did not avail these renters a meaningful opportunity to be heard:

At the outset, 168 surveyed renter-defendants appeared at the court building having complained to their landlords about one or more existing threats to health and safety. Instead of bringing forward 168 prima facie implied warranty or rent escrow defenses, these renters were largely diverted to other outcomes. Barely a third of them attempted their available defenses, and only 13 succeeded – yielding an abysmal eight-percent success rate.<sup>2</sup>

Further, there are cases where a landlord has made an accounting error and the renter has paid the rent.

SB 454 brings 3 greatly needed procedural changes to Maryland’s high-volume “Failure to Pay Rent” (“FTPR”) eviction dockets.

- It establishes a 10-day notice period before a FTPR eviction can be filed and requires landlords to attempt alternative resolutions (rental assistance, mediated payment plans) as preconditions to bringing their eviction case.
- It creates a 2-part court process:
  - It uses a status conference, before any trial date, to engage litigants in an Eviction Diversion Program (involving mediation, legal assistance, and rental assistance) and
  - If a trial is needed, the bill gives tenants a formal time in the court process to assert their defense and request documents that will be used against them at trial.
- It provides judges discretionary power to stay evictions in emergency circumstances.

Overall, SB 454 emphasizes up-stream methods of diverting parties from eviction. The bill promotes early engagement, alternative resolutions, and effective use of public resources – including both rental assistance and free legal services. It also strengthens the fairness of the FTPR eviction process without unduly delaying landlords’ right to repossess a property through the courts.

The bill’s eviction diversion components and “procedural tweaks” are recognized by The Washington Post Editorial Board as urgently needed measures and I agree. The system as it currently exists is unjust and is heavily weighted in the landlord’s favor. SB454 will bring more balance and justice to rent court.

**As a landlord, I have no hesitation in supporting this legislation and do not anticipate any negative impact on my business.**

Now is the time to fix Maryland’s massive eviction system. SB 454 is a critical part of that fix, creating a paradigm shift in the state’s massive eviction dockets at a time where the housing crisis is more intense than ever due to the pandemic. **I urge the Committee’s favorable report on SB 454.**

Respectfully,

Chris Merriam

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<sup>2</sup> Public Justice Center, *Justice Diverted: How Renters Are Processed in the Baltimore City Rent Court* 36 (2015), <https://abell.org/sites/default/files/files/cd-justicediverted216.pdf>.

## **Eviction Diversion.pdf**

Uploaded by: Ortega, Chelsea

Position: FAV



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**Chelsea Ortega**

[cortega@svolaw.com](mailto:cortega@svolaw.com)

February 5, 2021

Senate Bill 454

Real Property – Alterations in Actions for Repossession and Establishment of Eviction Diversion Program

In Senate Judicial Proceedings Committee on Feb. 9, 2021

Position: FAVORABLE

I write in support of SB 454. I am a Maryland attorney and our law firm regularly represents tenants who are being threatened with, or have been evicted. Maryland needs a fairer “Failure to Pay Rent” (“FTPR”) eviction process, one that focuses on housing stability instead of housing loss. I urge the Committee’s favorable report on this bill.

SB 454 would establish a 10-day notice period before a FTPR eviction can be filed and requires landlords to attempt alternative resolutions (rental assistance, mediated payment plans) as preconditions to bringing their eviction case. Maryland is one of only a few handful of states that does not require a landlord to provide written notice to a tenant before filing for eviction. It is time to put procedures in place to reduce the occurrences of housing instability that many Maryland families face.

In almost every Maryland county and in most residential leases, rent is due on the first and if it is not paid by the sixth, the landlord will file a failure to pay rent case. There is very little time for a tenant to communicate with the landlord or obtain resources to help with payment of the rent. The significant delays in the mail will only enhance the problems, as many tenants in the fall reported that they were not receiving notices from the court about their trial dates until after the trial had already occurred.

SB 454 is also necessary because it would create a 2-part court process: (i) a status conference, before any trial date, to engage litigants in an Eviction Diversion Program (involving mediation, legal assistance, and rental assistance); (ii) if a trial is needed, the bill gives tenants a formal time in the court process to assert their defense and request documents that will be used against them at trial. Rent court currently operates with a mass of confused tenants who often have minutes to try and work out a deal with the landlord’s attorney or rent court agent (who often only comes to court armed with a spreadsheet of the amount the tenant allegedly owes). If the tenant has a defense, the court is resistant to hearing it because of the amount of cases that have to be heard that day. If a trial is set, then the court is much more likely to provide tenants the time they need to present their case – whether or not they should be permitted to stay in their

homes. Defendants in civil collection cases where the amount being sought is less than \$5,000 are currently afforded more time to present a defense than tenants facing homelessness.

Finally, SB 454 will give judges discretionary power to stay evictions in emergency circumstances. Our office has been contacted by tenants who have been evicted while they are in the hospital and elderly clients who have lived in their homes for more than 10 years. Unfortunately, there was nothing we could do for these individuals under the current state of the law. These vulnerable persons could have been helped by a judge with this discretionary power.

The astronomical number of failure to pay rent filings in Maryland is a drain on judicial resources and hurts the economy. Tenants often have to take off work to attend court, pay for childcare, and transportation costs. This is money that could have been used to pay the rent, for groceries, or put back into the economy.

As Maryland prepares for a massive wave of evictions, the processes that will be created by SB 454 are needed more than ever. I urge this committee to give SB 454 a favorable report.

Very truly yours,



Chelsea Ortega

## **SB 454 -ACDS Testimony in Support of SB 454 (Evict**

Uploaded by: Sarro, Lisa

Position: FAV



February 9, 2021

## **Senate Bill 454**

### **Real Property –Alterations in Actions for Repossession and Establishment of Eviction Diversion Program**

#### **Position: Favorable**

Thank you for the opportunity to provide testimony in support of Senate Bill 454, **legislation that would provide desperately-needed modifications to the court process for Failure to Pay Rent actions in Maryland.** Arundel Community Development Services, Inc., (ACDS) serves as Anne Arundel County's nonprofit housing and community development agency, helping Anne Arundel County residents and communities thrive through the provision of safe and affordable housing opportunities, programs to prevent and end homelessness, and community development initiatives. In fulfilling this role, ACDS administers grants to nonprofit partners, directly develops and implements programming, and advises the County on housing and community development policy initiatives.

As the COVID-19 crisis forced the closing of businesses and so many households saw a huge drop in incomes due to the loss of jobs and childcare and other factors, **ACDS stood up the State's first Emergency Rental Assistance (ERA) Program, getting payments to landlords as quickly as possible and keeping low-income families affected by the COVID-19 crisis in their homes.** (Financial eligibility for ERA Programs is typically set at or below 80% Adjusted Median Income.) With the influx of more than \$400,000,000 in new federal rental assistance funds coming to the State of Maryland this year through the Consolidated Appropriations Act, **Emergency Rental Assistance Programs in jurisdictions throughout the State will play a larger role than ever in providing ERA payments to the State's landlords and preventing evictions of the State's lower income households.**

Many applicants for ERA are already in the court process for eviction or are being threatened with court filing as the tenant's ERA application is being processed. There is no mechanism in current law that incorporates the possibility of Emergency Rental Assistance funds that could get a landlord paid without the need for the court process to play out fully. **Absent reform to the current Failure to Pay Rent eviction process, Maryland will without question see the eviction of scores of tenants for Failure to Pay Rent even though rental assistance funds may be available to get landlords paid.**

Because there are no advance notice requirements under current law for Failure to Pay Rent (FTPR) actions in Maryland, FTPR lawsuits often come as a surprise. **If advance notice were required before filing a FTPR case (as is required in this bill), an ERA Program would be**



able to reach out to the landlord before the lawsuit is filed to confirm that an application is being processed. That alone could avoid the filing of a FTPR case in the first place.

**Currently, if an applicant for ERA is sued before or while an application for ERA is pending, a flurry of activity *focused on the court action rather than on the continued processing of the ERA application takes place.*** The tenant is referred immediately for legal assistance in an effort to fend off the court action, and the tenant's attention is necessarily diverted from gathering all required information and documentation for processing the ERA application to focusing on the court action. The ERA Program's attention is also diverted to the court action, as the ERA Program staff attempts to provide whatever is necessary to persuade the landlord to delay the eviction process pending completion of the ERA application. All the while, time is passing when the tenant's application would otherwise be getting processed, moving the landlord closer to getting paid.

Very often the only thing holding back the entry of a judgment for possession and the inevitable eviction is the presence of an attorney arguing vigorously for trial delays and stays on evictions based on the existence of a pending application for ERA. This is not a theory that is currently clearly spelled out in the law. Moreover, not all tenants are able to retain legal counsel on short notice, and short notice is virtually all there ever is on the "Rocket Docket" that is the current Failure to Pay Rent process. **This bill would alleviate both problems, by creating a diversion point immediately after a FTPR case is filed to allow the tenant *time to seek legal counsel before trial* and by allowing *time for the involvement of an ERA Program.***

**At the diversion point immediately after the filing of a FTPR case, a tenant is afforded time to either complete the processing of a pending ERA application or to start an application for ERA.** A Status Conference is built into the process before trial, and to the extent the tenant is still involved in the ERA process at that point, the Court is authorized to allow time for completion of the ERA process. Unlike current law, this bill *gives judges clear authority to delay trials and evictions after trial pending completion of a tenant's ERA application.* With this eviction diversion point written into the eviction process and authority given to the court, **an eviction taking place when funds to pay a tenant's rent are mere processing time away will be avoided.** Tenants who are eligible for ERA funds – low-income families and individuals negatively affected by the COVID-19 crisis and those who qualify for other ERA funds – will avoid eviction, and landlords will be paid.

**For the reasons noted above, we urge a FAVORABLE report on SB 454.**

Lisa Marie Sarro

General Counsel

# **SB 454\_MDCEP\_FAV.pdf**

Uploaded by: Schumitz, Kali

Position: FAV

FEBRUARY 9, 2021

# Preventing Evictions Would Protect Health and Improve Economic Stability for Families

## Position Statement Supporting Senate Bill 454

*Given before the Judicial Proceedings Committee*

As a result of the COVID-19 pandemic, an estimated 109,000 to 204,000 Maryland households were at risk of eviction at the end of 2020.<sup>1</sup> Meanwhile, 41 percent of Maryland renter households, pre-pandemic, were cost-burdened, meaning they paid 35 percent or more of their income for housing costs. In FY 2019, there were 669,778 eviction cases filed in Maryland – that is 5 cases filed per cost-burdened household. The struggle to maintain a home in a crisis has become undeniable. **The Maryland Center on Economic Policy supports Senate Bill 454 because Maryland needs a fairer “Failure to Pay Rent” eviction process, one that focuses on housing stability instead of housing loss.**

Senate Bill 454 brings three greatly needed procedural changes to Maryland’s high-volume “failure to pay rent” eviction dockets:

- It establishes a 10-day notice period before a failure to pay rent eviction can be filed and requires landlords to attempt alternative resolutions such as rental assistance or mediated payment plans as preconditions to bringing their eviction case.
- It creates a two-part court process:
  - It uses a status conference, before any trial date, to engage litigants in an eviction diversion program involving mediation, legal assistance, and rental assistance.
  - If a trial is needed, the bill gives tenants a formal time in the court process to assert their defense and request documents that will be used against them at trial.
- It provides judges discretionary power to stay evictions in emergency circumstances.

Overall, SB 454 emphasizes preventing evictions before they happen. The bill promotes early engagement, alternative resolutions, and effective use of public resources – including both rental assistance and free legal services. It also strengthens the fairness of the failure to pay rent eviction process without unduly delaying landlords’ right to repossess a property through the courts. A 2015 study of one of Maryland’s high-volume “rent courts” found that almost 60% of surveyed renters who appeared at their failure to pay rent trial had a valid defense against their case based on having notified their landlords about severe, continuing housing defects.<sup>i</sup> But about two-thirds of these defendants did not know about the defenses available to them. Moreover, the court process itself did not avail these renters a meaningful opportunity to be heard.

<sup>1</sup> Stout Risius Ross, LLC, Estimation of Households Experiencing Rental Shortfall and Potentially Facing Eviction, <http://bit.ly/stoutevictiondata> (select “Maryland” in drop-down menu).

Now is the time to fix Maryland's eviction system. Senate Bill 454 is part of that fix, creating a paradigm shift in the state's massive eviction dockets. **For these reasons, the Maryland Center on Economic Policy respectfully requests the Judiciary Proceedings Committee to make a favorable report on Senate Bill 454.**

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## Equity Impact Analysis: Senate Bill 454

### *Bill Summary*

Senate Bill 454 establishes a 10-day notice period before a failure to pay rent eviction can be filed and requires landlords to attempt alternative resolutions (rental assistance, mediated payment plans) as preconditions to bringing their eviction case.

### *Background*

The economic and health impact of evictions will exacerbate the effects of the covid-19 pandemic as households will rely heavily on safety net programs and families will not be able to comply with social distancing orders as many will have to double up with their relatives or turn to shelters for assistance. As Maryland braces for a rising wave of evictions due to COVID-19, it has become increasingly important to keep their tenants in their home. Evictions cause poverty, drive homelessness, job loss, deteriorating health, poor education outcomes, poor credit scores, loss of assets, and increase the risk of children being placed into foster care. At least 23 percent of homelessness is caused by eviction.

### *Equity Implications*

A recent study found that the number of evictions of Black women is 3.9 times (296% more) than the number of evictions of white men.

### *Impact*

Senate bill 454 will not only level out the imbalance of power between landlords and tenants, but will ensure many families can stay in their homes and save the state money over time. **It will likely improve racial, gender, and economic equity in Maryland.**

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<sup>i</sup> Public Justice Center, *Justice Diverted: How Renters Are Processed in the Baltimore City Rent Court* 36 (2015), <https://abell.org/sites/default/files/files/cd-justicediverted216.pdf>.

## **2021.02.05 - A2JC Written Testimony - SB454 - Evic**

Uploaded by: Shah, Reena

Position: FAV

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**Reena K. Shah**  
Executive Director

## **Senate Bill 454** **Real Property – Alterations in Actions for Repossession and** **Establishment of Eviction Diversion Program** **Senate Judicial Proceedings Committee** **SUPPORT**

The Maryland Access to Justice Commission (A2JC) is an independent entity supported by the Maryland State Bar Association (MSBA) that unites leaders to drive reforms and innovations to make the civil justice system accessible, fair and equitable for all Marylanders. Prominent leaders from different segments of the legal community in Maryland – including the deans of the two law schools, the attorney general, law firm partners, heads of the legal services providers and funders, corporate counsel, academics, legislators, the state bar and judiciary comprise the A2JC.

During the course of the COVID-19 pandemic, A2JC served as the lead partner in the [Maryland Attorney General's COVID-19 Access to Justice Task Force](#), with its executive director serving as the A2J Task Force's Vice Chair.

For the past six months, the Task Force has convened more than 300 stakeholders across the public and private sectors to confront COVID-19's access to justice crisis. The Task Force has developed strategies for reforming long-standing inequities in housing access and several other civil legal areas. The resulting report, "Confronting the COVID-19 Access to Justice Crisis" is available online [here](#). Senate Bill 454 arose as a key recommendation of the Task Force's Housing Security Committee, which extensively analyzed and made recommendations to avert the looming eviction crisis.

Eviction is a legal process carried out by District Courts in Maryland. In any given year, even before the COVID-19 pandemic, Maryland courts confronted, managed and adjudicated over 650,000 rent court filings. The number of actual evictions is wholly disproportionate to the number of filings, indicating that there are structural deficiencies that allow for an unnecessary number of filings, that there is opportunity to reduce case numbers, and that processes can be put in place that increase fairness for all parties in the civil justice system.

It is important to note, that beyond the constant stress and threat of eviction, there are additional costs associated with the continual churn of defending rent court cases, including time off from work, mounting court costs and fees, and barriers to finding future housing.

Now, as a result of the COVID-19 pandemic, Maryland faces an inordinate challenge to prevent mass eviction and displacement - which will cost the state a tremendous amount - in terms of health care costs, re-housing costs, and the human cost of lives lost as a result of evictions. An estimated 320,000 households are at risk of eviction by 2021.

One of the most critical ways that SB454 addresses the inordinate amount of unnecessary case filings is by establishing a 10 day notice period before a Failure to Pay Rent eviction case can be filed and requires landlords to attempt alternative resolutions. This makes sense. Currently, Maryland is an outlier among other states in that there is no pre-filing notice requirement. Taking 10 days to seek rental assistance or a payment plan could in itself could lower the volume of cases and the chances of eviction.

Further, once a case is filed, SB454 allows for cases to be diverted from the court docket so that courts could focus on housing stability of individuals coming before them, instead of housing loss. Maryland courts have been active in setting up diversion programs for other types of cases and individuals, including drug courts and more. The same approach can be used by the courts to prevent evictions at a time when so much is at stake in relation to the health and economic recovery of Marylanders and the state as a whole.

Overall, SB 454 is about putting processes in place to prevent evictions. The bill promotes early engagement, alternative resolutions, and effective use of public resources – including both rental assistance and free legal services. It also strengthens the fairness of the FTPR eviction process without unduly delaying landlords' right to repossess a property through the courts.

As Attorney General Frosh noted in his introduction to the Report:

COVID-19 did not create the systemic failings and inequities of our social safety net and civil justice system. Those most vulnerable to any setback have disproportionately experienced the effects of these deficiencies for generations. Yet the pandemic exacerbated and brought to light with painful clarity these deficiencies and the suffering that they cause. We must, therefore, seize this unprecedented chance and collectively work together to fix them.

For the reasons stated, A2JC urges the Committee's FAVORABLE report on SB 454. For more information, please contact Reena K. Shah, Executive Director of the Maryland Access to Justice Commission, at [reena@msba.org](mailto:reena@msba.org).

# **Public Justice Center - FAV - SB 454.pdf**

Uploaded by: Shah, Zafar

Position: FAV





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## SB 454 - Real Property – Alterations in Actions for Repossession and Establishment of Eviction Diversion Program

In Senate Judicial Proceedings Committee on Feb. 9, 2021

### Position: SUPPORT

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The Public Justice Center is a not-for-profit, civil legal aid organization that serves over 700 renters each year throughout Maryland. Our attorneys work at the frontline of eviction defense in the district court's "Failure to Pay Rent" eviction dockets, known colloquially as "Rent Court," in which well over 600,000 eviction cases are processed annually. In these actions, our clients are predominantly Black women with children, without federal or state housing assistance, who earn \$2,000 or less per month. This profile matches a growing national statistical picture of eviction litigation and its disproportionate impact on households of color. These Marylanders face not only the challenge of unaffordable housing, but also a court system that, by design, constrains their opportunity to be heard. These constraints are not merely anecdotal. They have been studied and reported on, by [Public Justice Center](#) (2015), [Maryland Legal Aid](#) (2016), and [The Baltimore Sun](#) (2017).

SB 454 follows the data. It also follows from 5 consecutive years of proposed legislation and two different "summer study" efforts (2016, 2019) focused on reform of "Rent Court." This bill has been needed, and now the need can be no clearer, amid the COVID-19 pandemic, which put [14 million American households](#) at risk of eviction – including an estimated [104,000 to 204,000 Maryland households](#) – at the end of 2020.

While critically needed, SB 454 is not a complicated bill. It sets forth **3 changes** to the "Failure to Pay Rent" ("FTPR") process:

- 1) Establishes a 10-day notice period before a FTPR eviction can be filed and requires landlords to attempt to secure rental assistance and/or a mediated repayment plan as a precondition to filing the FTPR eviction case.
- 2) Creates an Eviction Diversion Program and 2-track court process:
  - First, in a status conference, before any trial date, litigants engage an Eviction Diversion Program (involving mediation, legal assistance, and rental assistance).

- Then, if there is no alternative resolution and a trial is needed, the tenant has a formal time in the status conference to assert their defense and request documents that will be used against them at trial.
- Judges determine whether there will be a second court proceeding, based on whether the tenant's defense is "meritorious."
- Many cases will resolve without a second court proceeding. SB 454 allows judges to enter default judgment if a tenant fails to appear at the status conference.

3) Provides judges discretionary power to stay evictions, in 2 emergency circumstances:

- Critical medical conditions: the tenant shows evidence by motion that eviction will threaten their health or life (currently limited to 15 days if requested at trial)
- Homelessness: the tenant shows evidence by motion that eviction would impede imminent efforts by a government agency or charity to assist with re-housing and avoiding certain homelessness.

**"Notice of Delinquency and Legal Rights" & 10-day notice period [p. 7-10]**

In SB 454, Real Property Art. § 8-401 (d) establishes a pre-filing notice period and requires landlords to take three actions before they can file a FTPR eviction action: (1) send a "Notice of Delinquency and Legal Rights," (2) complete the process of securing rental assistance, and (3) if rental assistance is unavailable, then complete a repayment plan negotiated via a neutral third party.

- Maryland and just 7 other states allow property owners to initiate a possessory action for non-payment of without any prior written notice to tenants. In those other jurisdictions, the pre-filing notice serves as notice of termination of the tenancy. This bill uses a pre-filing notice to accomplish a different objective, namely, to ensure that landlords and tenants engage with each other intentionally to avoid litigation – through rental assistance programs or negotiation of a payment plan. These steps prevent overreliance on the court's FTPR process.
- The 10-day notice to the tenant specifies the amount of arrears, provides information about rental assistance and legal services, and requests the tenant's participation in mediated negotiation of a payment plan and joint efforts to obtain rental assistance. The landlord is obligated for 10 days after delivery of the notice to take ***affirmative, good faith efforts*** to reach a resolution.
- What makes these efforts "complete" for the purpose of filing an FTPR action?
  - If a tenant fails to respond to the Notice within 10 days of delivery
  - If the tenant fails or refuses to take steps to complete a rental assistance process or negotiation of a repayment plan
  - If the tenant materially breaches the repayment plan

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Sec. 8-401(d)(5) sets out the elements of a certification statement about completion of these efforts. The certification statement would be incorporated into the District Court's form complaint for FTPR actions.

### **Eviction Diversion Program [p. 2-4]**

SB 454 also creates new provision under the Courts & Judicial Proceedings Article for the establishment of an Eviction Diversion Program "to reduce incidence of judgments for repossession of residential property and to promote continuity of housing." Section 4-501 defines the range of "service providers" included in the Program – social work, counseling, financial assistance, alternative dispute resolution, and legal aid.

- The district courts are not required to provide these services. Rather, such services would be permitted "as appropriate," meaning, as service providers themselves make them available.
- Importantly, under § 4-503, the District Court's statutory obligation is to *facilitate* the provision of available services – not to fund it or to staff it.
- Only certain local courts would be required to establish an Eviction Diversion Program – those in which eviction filings in FY 19 totaled 10,000 or higher:

Anne Arundel County: 43,627  
 Baltimore City: 135,207  
 Baltimore County: 184,130  
 Harford County: 24,440  
 Howard County: 15,632  
 Montgomery County: 48,922  
 Prince George's County: 156,457  
 Wicomico County: 11,521

The Eviction Diversion Program in SB 454 recasts "Rent Court" as a gateway to programs that effectively help to prevent entry of judgments for repossession. The District Court's responsibility under SB 454 is to effectively partner with service providers so that on-site screening for financial assistance, ADR, legal assistance and representation, etc., is available. This partnership already has seeds in Volunteer Lawyer of the Day programs in Baltimore City and Prince George's County and a Navigator Pilot Program in Baltimore City.

### **Status Conference and Trial [p.11-13]**

SB 454 puts the adjudication phase of FTPR eviction actions into two tracks – and does so for two reasons: (1) so that the litigants' first interaction with the court is Eviction Diversion, rather than a trial; and (2) so that tenants with a viable defense will be effectively heard and then prepared for trial.

This bill proposes a status conference as the first proceeding. As with the current FTPR process, if a tenant fails to appear at this first proceeding, the court may enter a default judgment for possession; and if the landlord fails to appear, the court may dismiss the action. Many actions will proceed onto the "second track" because of alternative resolutions or simply because the tenant has already made payment

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of rent between the filing date and status conference date. The status conference would occur between 10 and 15 days after the filing of the complaint.

This preliminary hearing affords litigants a “recess” to allow for screening by eviction diversion services and additionally offers judges a juncture by which to hear from the parties about potential for a mediated resolution. The judge may decide whether to order the parties to undertake mediation or settlement conference. The parties could reach a resolution (for example, a stipulated dismissal), or they could move onto the trial phase. This approach is modeled after [New York City’s Housing Court resolution/trial process](#).

At the status conference, when no alternative resolution can be reached, the tenant must be heard on any defense or counterclaim. If the judge is satisfied that the tenant has raised a meritorious defense/counterclaim, the judge schedules a trial on a later date, not more than 10 days later unless the parties agree to a longer continuance, and may order parties to exchange documents that will be used as evidence at trial. Otherwise, the court may schedule a trial in the ordinary course, including a same-day trial.

These provisions (1) for ordering a referral to mediation and (2) for hearing the tenant’s defense before trial may appear unnecessary at first glance. Yet, the current FTPR process so lacks the ordinary features of adversarial civil proceedings, these additional provisions have become absolutely necessary to clarify in law.

“Rent Court” currently proceeds without discovery and, because of the rapid pre-judgment timeline, defendants lack opportunity to answer a complaint, file pre-trial motions, or subpoena witnesses and records. Among defendants who contest FTPR actions, few understand what defenses apply to their case or how to raise an applicable defense – until they are at court and engaging with civil legal services. Indeed, in Public Justice Center’s research, we found that among nearly 300 tenants who appeared at “Rent Court,”

Nearly three in four respondents (73%) reported that they did not know they could raise a defense based on serious housing defects. More than half (57%) of respondents reported that they did not know they could ask the judge, at trial, to allow payment of rent into a court escrow account. Eighty-six percent responded that they were unaware of the right to rent abatement.<sup>1</sup>

Among nearly 300 surveyed defendants, Public Justice Center found that 168 of them had a prima facie legal defense to their FTPR eviction action based on their landlords’ failure to redress severe housing defects. However, “[i]nstead of bringing forward 168 prima facie implied warranty or rent escrow defenses, renters were largely diverted to other outcomes. Barely a third of them attempted their available defenses, and only 13 succeeded – yielding an abysmal eight-percent success rate.”<sup>2</sup>

The 2-track FTPR process proposed in SB 454 above would formalize a structure in which defendants can obtain legal information, brief advice, and/or legal representation, which can then be applied to mediation and to trial. In contrast to judicial preference or unpredictable docket management, this structure provides a reliable and standardized process by which to be heard before the court.

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<sup>1</sup> Public Justice Center, *Justice Diverted: How Renters Are Processed in Baltimore City Rent Court* 33 (2015), <https://abell.org/sites/default/files/files/cd-justicediverted216.pdf>.

<sup>2</sup> *Id.* at 36.

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### **SB 454's early interventions and due process promote housing stability and effective use of public funding for emergency relief and homelessness prevention**

This bill would ensure that Maryland's public policy is to put rental assistance funds and other eviction prevention funds at higher priority than the "Rent Court" process. SB 454 incentivizes landlord's resort to "upstream" resolutions (financial assistance, mediated payment plans) before they bring a lawsuit. It also boosts the potential for alternative resolutions by establishing a formal pre-trial structure within the FTPR process for services providers to engage litigants and for judges to order alternative dispute resolution if deemed appropriate.

The procedural changes to the FTPR eviction process are long-needed and have been opposed by the multi-family and real estate industry because those special interest groups prioritize rapid adjudication over any other policy objective. Public Justice Center believes that some "delay" in this rapid court process is warranted.

The procedural changes in this bill are as follows:

1. "Notice of Delinquency and Legal Rights": 10-day period
2. Status conference: 10-15 days after complaint filed in court
3. Trial: set no later than 10 days after status conference
4. Appeal: available up to 10 days after entry of judgment
5. Petition for warrant: after the appeal period ends (10 days after entry of judgment)

This timeline projects to require, in the most developed cases, 40 days.

**Please issue a report of FAVORABLE on SB 454.** If you have any questions, please contact Zafar Shah, shahz@publicjustice.org, (410) 625-9409 Ext. 237.

## **Renters United Maryland - Informational Testimony-**

Uploaded by: Shah, Zafar

Position: FAV



## HB 52/SB 454: Eviction Diversion and Defense

Housing-cost “burdened” households are those that spend at least 35% of their monthly income on housing costs. Among 714,875 renter households in Maryland, 120,170 (41%) are burdened.

- There were **669,778 eviction cases filed** in Maryland in FY 2019. That’s nearly 1 case filed per renter household and **5 cases filed per burdened household**.
- An average of **22,369 households were evicted** throughout Maryland in the years 2017-2019. Although 22,369 evicted households make up 3% of all renter households, they are 18% of the housing-cost burdened households. That’s **nearly 1 eviction for every 5 burdened households**.

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**The Washington Post** **Opinion:** Maryland’s laws skew mercilessly in landlords’ favor, and evictions are out of control. Here’s a fix.

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### Nutshell

HB 52/SB 454 proposes procedural changes to make Maryland’s high-volume “Failure to Pay Rent” (“FTPR”) evictions fairer. The bill emphasizes up-stream diversion from eviction:

- requiring attempts at alternative resolutions (rental assistance, mediated payment plans) before an eviction case can be filed, and
- establishing a 2-part court process that uses a status conference, before any trial date, to prioritize mediation, legal assistance, and rental assistance.

### Highlights

|   |   |
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| Notice to tenant before an eviction is filed in court.....                        | 2 |
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## Notice to tenant before an eviction is filed in court

*Current status:* Notice is not required before filing an “FTPR” eviction. Maryland is one of 5 states that allowing filing without any prior notice. This is unique to Maryland’s extraordinarily high-volume “FTPR” docket – lesser-used eviction process for holdover (30 or 60 days) and breach of lease (14 or 30 days) already require pre-filing notice. In the current process, “notice” is actually a summons for a trial date.

*Changes:* HB 52/SB 454 creates a 10-day notice, called the “Notice of Delinquency and Legal Rights,” in the “FTPR” process. The landlord must send this notice, which does the following:

- describes the rent that is past due
- requests that tenant apply for rental assistance or negotiate a payment plan
- provides information for financial and legal resources and the court’s mediation program
- informs the tenant that if they do not respond within 10 days, the landlord may initiate an eviction action in court.

## Pre-conditions to bringing eviction action

*Current status:* Maryland’s “FTPR” eviction process has zero preconditions before the court process begins – no waiting time, no notice of delinquency, no steps to avoid litigation through a payment plan, mediation, or rental assistance application.

*Changes:* HB 52/SB 454 requires a 10-day “Notice of Delinquency and Legal Rights,” sent to a tenant by 2 methods (by regular mail, plus either by posting at door or by e-mail, as opted by the tenant).

During the 10-day notice period, a landlord is required to make “affirmative, good-faith efforts” to attempt a resolution via a rental assistance program or negotiation of a payment plan via a neutral third-party mediator.

- If a tenant does not respond during the 10-day notice period, then the landlord may initiate their eviction action by filing the court complaint.
- If a tenant responds, then the landlord is obligated to complete the process of applying for rental assistance or using the negotiated payment plan. An unsuccessful application, a failed negotiation, or a defaulted payment plan still counts as completing this pre-filing step. However, in cases where rental assistance is pending or a payment plan is ongoing, this pre-filing step is not “complete” for the purpose of a “FTPR” complaint.
- After these steps are complete, if a dispute remains, then the landlord may file their “FTPR” court complaint with a certifying statement about these steps taken to avoid litigation.



## Altering the court process to focus on eviction diversion

**Current status:** Today's "FTPR" court process has 3 key features: summary procedure, minimized opportunity to engage mediation or legal assistance, and a post-judgment emergency assistance process:

- "Summary procedure" - A trial in an "FTPR" eviction action is typically held within 7-14 days after a complaint is filed in court. In that timeline, tenants have no pre-trial opportunity to submit a defense, and there is no status hearing before trial.
- Minimized legal services and mediation - In some courts around Maryland, tenants can engage free legal assistance and/or mediation, if available during the "FTPR" docket. However, these opportunities can be cut short and made less effective because they take place outside the court's fast-moving trial process. The availability and quality of these opportunities are subject to court discretion.
- "Emergency assistance" - In the current process, rental assistance is actually emergency assistance: it is available only after an eviction is pending. First, the court enters judgment to allow eviction and, only then, can the tenant begin an application for emergency rental assistance. This means that, after trial, renters often land in between a rock (rental assistance processing and delays) and a hard place (looming eviction date). Further, the current eviction process does not obligate landlords to utilize available rental assistance money – an eviction may proceed if the landlord wants it to.

**Changes:** HB 52/SB 454 establishes an Eviction Diversion Program in the court's process and splits the "summary procedure" into 2 parts – first, a status conference, and then, if needed, a trial. This adapts the New York City Housing Court's model. The status conference must occur 10-15 days after the "FTPR" court complaint is filed.

The status conference gives a formal place in the court's process for the following:

- Tenant or landlord may ask for a recess to engage on-site or remote service providers – including for legal assistance, mediation, or rental assistance – via an Eviction Diversion Program and may also ask for time to obtain attorney representation.
- Judge may order parties to participate in mediation/settlement conference for 10 days or longer if requested.
- Tenant may raise a defense or counterclaim.
- If the judge is satisfied that the tenant has raised a meritorious defense/counterclaim, the judge schedules a trial within 10 days and may order parties to exchange documents that will be used as evidence at trial.

Under HB 52/SB 454, when a tenant fails to appear at the status conference, the court may proceed to enter a default judgment in favor of the landlord. Similarly, when a landlord fails to appear at the status conference, the court may dismiss the “FTPR” action.



The 2-part court procedure is not automatic. A second proceeding for trial occurs only by court order, after the parties have had opportunities to engage services, including mediation, and the tenant has raised a meritorious defense/counterclaim.



HB 52/SB 454 change the process leading up to entry of judgment and leave alone the substance of an “FTPR” trial. These bills *do not* increase a landlord’s burden of proof or create new defenses for renters.

### Giving judges greater discretion to stay eviction in critical circumstances

**Current status:** Judge may not consider the tenant’s possible homelessness as a basis for staying eviction and may stay eviction for health-related reasons only up to 15 days after trial if the tenant presents (before entry of judgment) a physician’s statement certifying that removal from the rental property would endanger the tenant’s life or health. The court may stay evictions on a day-to-day basis in an extreme weather event.

**Changes:** HB 52/SB 454 allows a tenant may, by motion, to request a stay (on the warrant of restitution) based on evidence that the eviction would

- endanger the tenant’s health or life or
- impede efforts by a government agency or charitable organization to help the tenant re-house and avoid certain homelessness.

For health-related stays, the bill allows tenants to submit evidence beyond a physician’s certifying statement. The court, in its discretion, could enter a stay of any number of days.

### Increasing the appeal period to 10 days

**Current status:** A party may submit an appeal in an “FTPR” eviction action within 4 days after entry of judgment. This is by far the shortest appeal period in any type of litigation in Maryland. It is more than half the amount of time provided for filing an appeal in lesser-used eviction actions for tenant holdover (10 days) and breach of lease (10 days). Appeals in “FTPR” cases are rare, particularly because of excessive bond requirements. But where tenants do attempt an appeal, they are unfairly hindered by the 4-day rule. It is barely enough time to obtain records from the court, let alone seek advice or representation from an attorney.

**Changes:** HB 52/SB 454 increases the appeal period in “FTPR” eviction actions to 10 days after entry of judgment. This brings “FTPR” actions in line with other types of eviction actions in Maryland.

## On-demand access to a landlord’s accounting

**Current status:** Although state law requires landlords to maintain accounting for each tenant, it does not require landlords to share that accounting. While many tenants at large, professionally managed properties have electronic access to this information via a “portal” site, many others are not so lucky. Often, these tenants cannot see “the ledger” of what they have paid and what they owe until they are actually in trial.

**Changes:** HB 52/SB 454 establishes a requirement for landlords to provide a written accounting to the tenant, in hard copy or electronically, within 5 days of a tenant’s request.

## Changing the eviction timeline with purpose

**Current status:** The time period from court filing to entry of judgment is around 7-14 days in many Maryland jurisdictions. After 4 days from entry of judgment, a landlord may petition for a warrant of restitution, typically issued within 5-7 days. From there, the eviction timeline depends on (1) the landlord’s choice to exercise it and (2) the sheriff or constable’s capacity to schedule the eviction.

Many landlords wonder, why does it take so long to evict someone? This concern relates primarily to the sheriff or constable’s role – after the court process is over.

**Changes:** HB 52/SB 454 changes only the court process that precedes the landlord’s petition for a warrant. Except in utmost emergency situations, this bill makes no changes to any process that occurs once a landlord petitions for the warrant.

The procedural changes in this bill are as follows:

1. “Notice of Delinquency and Legal Rights”: 10-day period
2. Status conference: 10-15 days after complaint filed in court
3. Trial: set no later than 10 days after status conference
4. Appeal: available up to 10 days after entry of judgment
5. Petition for warrant: after the appeal period ends (10 days after entry of judgment)

Does HB 52/SB 454 make the eviction process “take longer”? The answer is: yes, *marginally*. This timeline projects to take 40 days.

This is longer than the roughly two-week timeline seen in many parts of Maryland, in which, historically, 25-30% of “FTPR” actions are dismissed before or at trial (presumably because of payment). Under the new timeline, such cases likely would not be filed at all or would resolve at the status conference, shaving time off the 40-day estimate.

## **SB 454 - Real Property - Alterations in Actions fo**

Uploaded by: Siri, Michelle

Position: FAV



## The Delivery of Legal Services Section Council

BILL NO: Senate Bill 454  
TITLE: Real Property – Alterations in Actions for Repossession and Establishment of Eviction Diversion Program  
COMMITTEE: Judicial Proceedings  
HEARING DATE: February 9, 2021  
POSITION: **SUPPORT**

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The Delivery of Legal Services Section (DLS) is a section of the Maryland State Bar Association formed to promote the fair administration of justice in the State of Maryland. The Section supports and encourages free or low-cost legal services for people of limited means through legal services programs for the indigent, public interest legal organizations, *pro bono publico*, reduced fee, and other alternatives to traditional fee-for-service representation to provide access to the courts, and court alternatives for the resolution of disputes. The areas include legal practice and legal reform for the indigent and persons of modest means, for example, civil rights, consumer advocacy, civil and criminal legal services, and lawyer referral services. The Section Council is comprised of a mix of practicing attorneys, including those working for civil legal aid organizations, private practitioners, and government attorneys, who all share a common goal: increasing access to justice.

The DLS urges a favorable report on Senate Bill 454. The bill brings 3 greatly needed procedural changes to Maryland’s high-volume “Failure to Pay Rent” (“FTPR”) eviction dockets:

1. Establish a 10-day notice period before a FTPR eviction can be filed and require landlords to attempt alternative resolutions (rental assistance, mediated payment plans) as preconditions to bringing their eviction case.
2. Create a 2-part court process:
  - Use a status conference, before any trial date, to engage litigants in an Eviction Diversion Program (involving mediation, legal assistance, and rental assistance).
  - If a trial is needed, set a formal time in the pre-trial court process for tenants to assert their defense and for either litigant to request documents that will be used against them at trial.
3. Provide judges discretionary power to stay evictions in emergency circumstances.

SB 454 emphasizes the use of upstream interventions and a pre-trial court process to achieve eviction diversion. Members of the DLS have been working since 2017 at the forefront of introducing eviction diversion into Maryland’s “rent courts” via Volunteer Lawyer of the Day programs in two of Maryland’s high-volume dockets, in Baltimore City and Prince George’s County. These programs are funded in part by the Maryland Judiciary and work alongside



## The Delivery of Legal Services Section Council

the court's Office of Alternative Dispute Resolution to bring free lawyers, paralegals, and mediators to litigants at the district court. They meet and assist litigants in the hallways before the court begins their dockets. This is delivery of legal services in perhaps its most direct, highest-impact form.

Yet, these efforts are hindered by the absence of a clear, sustainable structure in the court process for eviction diversion. Lawyers who volunteer to represent tenants in defense against evictions encounter inconsistent access to litigants, lack sufficient time and space at court to engage litigants, and sometimes find that judges are more interested in moving their docket ahead than with a litigant's desire to utilize available legal services.

SB 454 remedies these challenges by formally integrating eviction diversion into the FTPR court process. By creating an Eviction Diversion Program in each of the state's high-volume courts, and clearly guiding judges to allow litigants time at their preliminary hearing ("status conference," per section (f) of the bill, page 11-12) to engage with service providers, SB 454 bill removes uncertainty about access to critically needed services for defense and mediation.

SB 454 also remedies these challenges by extending the time for appeal, allowing limited motion practice within rent court, and establishing a requirement for the landlord to provide a written accounting to tenants upon request. Each of these provisions helps to level the playing field between tenants and landlords by providing a more feasible avenue for the tenants to take advantage in a meaningful way of the free legal services available to them.

Importantly, Maryland's current law for FTPR actions does not allow district courts nearly enough latitude to deploy the Judiciary's resources or those of legal services organizations, rental assistance programs, and community mediation programs. The "rent court" process under Maryland Real Property Art. § 8-401 contemplates a perfunctory adjudication. As [the Baltimore Sun Editorial Board wrote](#) about rent court five years ago, "Only the state legislature can make the changes needed to create a more level playing field."

For all the foregoing reasons, the DLS strongly supports SB 454 and urges a favorable report.

# **SB454\_MCRC\_FAV.pdf**

Uploaded by: Stern, Isadora

Position: FAV



Maryland Consumer Rights Coalition

**Testimony to the Senate Judicial Proceedings Committee**  
**SB 454: Real Property – Alterations in Actions for Repossession and Establishment of Eviction**  
**Diversion Program**  
**Position: Favorable**

February 9, 2021

The Honorable William Smith Jr., Chair  
Senate Judicial Proceedings Committee  
2 East Miller Senate Office Building  
Annapolis, Maryland 21401  
cc: Members, Judicial Proceedings Committee

Honorable Chair Smith and Members of the Committee:

The Maryland Consumer Rights Coalition (MCRC) is a statewide coalition of individuals and organizations that advances economic rights and financial inclusion for Maryland consumers through research, education, direct service, and advocacy. Our 8,500 supporters include consumer advocates, practitioners, and low-income and working families throughout Maryland.

We are writing today in support of SB 454.

The risk of eviction has skyrocketed as a result of the COVID-19 pandemic. According to STOUT data, an estimated 109-204,000 Maryland households were at risk of eviction at the end of 2020.<sup>1</sup> Maryland is facing a housing crisis; forty-one percent of Maryland renter households, pre-pandemic, were cost-burdened – paying 35% or more of their income for housing costs. The struggle to maintain a home during the COVID-19 health and wealth crisis has become undeniable. Maryland needs a fairer “Failure to Pay Rent” (FTPR) eviction process focused on generating housing stability.

SB 454 advances effective methods of diverting parties from eviction. The bill promotes early engagement, alternative resolutions, and effective use of public resources – including both rental assistance and free legal services. It also strengthens the fairness of the FTPR eviction process without unduly delaying landlords’ right to repossess a property through the courts.

Even with COVID-19 legal protections, over 2,500 renter families were evicted in Maryland in the past 9 months. MCRC’s Tenant Advocacy program empowers tenants to advocate for themselves by providing information about housing rights and responsibilities, legal information, mediation, and

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<https://app.powerbi.com/view?r=eyJrIjoibNzRhYjg2NzAtMGE1MC00NmNjLTllOTMtYjM2NjFmOTA4ZjMyIiwidCI6Ijc5MGJmNjk2LTE3NDYtNGE4OS1hZjI0LTc4ZGE5Y2RhZGE2MSIsImMiOiN9>





Maryland Consumer Rights Coalition

referrals to other nonprofits and legal services. The requests we have received for assistance with eviction have skyrocketed by 1086% since the beginning of the pandemic. COVID-19 has exponentially increased the housing insecurity impacting Maryland tenants.

More evictions during the COVID-19 pandemic will jeopardize the health of Maryland families. The CDC is now citing stable housing as a vital tool to control the spread of coronavirus.<sup>2</sup> Among other factors, evictions drive homelessness and are linked to deteriorating health. At least 23% of homelessness is caused by eviction.<sup>3</sup> Curbing evictions is both a matter of public health, as well as a civil rights issue. Due to COVID-19, 36% of Black households in Maryland are likely facing an eviction action, compared to 14% of white households. A report by Dr. Timothy Thomas finds that in Baltimore City, the number of evictions of Black women is 3.9 times higher than the number of evictions of white men.<sup>4</sup> In 2020, 75% of the clients who utilized the Tenant Advocacy program for eviction prevention services were Black women.

Without enabling strong renter protections, Maryland is facing a wave of evictions when the eviction moratorium is lifted. The bill's eviction diversion components offer a solution to decreasing the state's massive eviction dockets.

For all these reasons, we support SB 454 and ask for a favorable report.

Best,

Isadora Stern  
Economic & Tenants' Rights Organizer  
Maryland Consumer Rights Coalition

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<sup>2</sup> <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/homelessness.html>

<sup>3</sup> <https://evictions.study/maryland/report/baltimore.html>

<sup>4</sup> <https://evictions.study/maryland/report/baltimore.html>

# **CDN SB 454 FAVORABLE.pdf**

Uploaded by: Wilson Randall, Claudia

Position: FAV



**Testimony SB 454**  
**Senate Judicial Proceeding Committee**  
**February 5, 2021**  
**Position: FAVORABLE**

Dear Chairman Smith & Members of the Judicial Proceedings Committee

The Community Development Network of Maryland (CDN) is the voice for Maryland's community development sector and serves nearly 200 member organizations. CDN—focuses on small affordable housing developers, housing counseling agencies and community-based non-profits across the state of Maryland. The mission of CDN is to promote, strengthen and advocate for the community development sector throughout Maryland's urban, suburban and rural communities. CDN envisions a state in which all communities are thriving and where people of all incomes have abundant opportunities for themselves and their families.

SB 454 would establish the Eviction Diversion Program in the District Court to reduce the incidence of judgments for repossession of residential property and to promote continuity of housing; requiring the Chief Judge of the District Court to establish a Program in a District Court sitting in a county that processed 10,000 or more claims for repossession of residential property in fiscal year 2019; requiring that a landlord provide a certain written statement to a tenant within 5 days of receiving a certain request from the tenant; etc.

Eviction isn't just a byproduct of poverty, but a driver of it. According to "Evicted" author Matthew Desmond's research, a year or more after eviction, families are more likely to experience hardships like hunger or going without electricity. Evicted workers are more likely to get laid off. Children are more likely to miss school. Eviction has had a disproportionate impact on black women who struggle to regain footing for themselves and their children.

In a new study published in Sociological Science in December 2020, found that property owners disproportionately threaten Black and Hispanic renters—particularly women—with eviction. Drawing on millions of court records of eviction cases filed between 2012 and 2016, the study found that Black renters received a disproportionate share of eviction filings and experienced the highest rates of eviction filing and eviction judgments. Black and Hispanic renters were also more likely to be serially filed against for eviction at the same address.

COVID-19 pandemic has put hundreds of thousands of Maryland households in desperate conditions. This is the time for reform of the eviction system to protect people who have been hardest hit by COVID-19.

We respectfully request a favorable report for SB 454.

Submitted by Claudia Wilson Randall, Executive Director, Community Development Network

# **SB-454-Pierson FAVORABLE.pdf**

Uploaded by: Wilson Randall, Claudia

Position: FAV

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## Senate Bill 454

### Real Property – Alterations in Actions for Repossession and Establishment of Eviction Diversion Program

In Senate Judicial Proceedings Committee on Feb. 9, 2021

Position: FAVORABLE

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I urge you to support Eviction Diversion Bill (SB454). The ongoing pandemic has both highlighted and exacerbated the negative consequences of evictions and the inequities within the rent court system across Maryland. The state needs housing justice legislation to address the broader systemic problems of the state's rent court.

I am an affordable housing and community development practitioner with both experience in Baltimore and nationally. I was the Executive Director of Govans Ecumenical Development Corporation for 12 years and led the development of the Stadium Place affordable retirement community. Since 2010 I have worked for national organizations providing technical assistance about HUD programs and managed projects for cutting edge initiatives in the housing and community development field. I am now serving as Executive Director of a nonprofit association that supports asset managers of affordable housing across the country.

In the 1980s, I started my career as a property manager of subsidized housing. I took residents to rent court regularly and at the time took for granted that this was the only way to collect rents. I find it **appalling** that decades later the eviction process in Maryland and especially Baltimore City has not changed. We have perpetuated systemic inequities that have had impacts on multiple generations of low-income renters and people of color. This must change.

Around the country and in Maryland, affordable housing providers, both for-profit and nonprofit, have changed their approach on rental collections and resident well-being. They are committed to providing services and workouts with their residents to prevent and avoid evictions. COVID has accelerated financial hardships and providers have accordingly intensified their response to prevent resident evictions in the long and short term.

Here are examples of what is going on around the nation:

- A recent article in Shelterforce “Is the Pandemic Improving Affordable Housing Asset Management?” *Resident services has long been the first to be cut in hard times—but for some housing providers that may be changing.* [Link](#)

- WinnCompanies Announces National Housing Stability Program Designed to Cut Evictions in Half Within Five Years. *Company will make financial hardship evictions the last resort for 160,000+ people nationwide.* [Link](#)
- Social Impact Measurement of CommonBond's Eviction Prevention Activities. *When it comes to the impacts of a stable home, the SROI analysis estimates that for every \$1 invested in our eviction prevention work, \$4 in social benefit is generated.* [Link](#)

The legislation lays out major changes to the process that help residents and also landlords.

- Requires early resort to rental assistance before suing to evict
  - Affordable housing providers already provide referrals or direct services on-site. I urge you to seek input from nonprofit housing providers to ensure that the required process complements and does not deter from what they already offer and the trusting relationships they have built with their residents.
  - Sustained outreach efforts with training and technical assistance for both landlords and residents are needed – written in plain, non-legal terms with infographics and using multiple channels to communicate the messages.
  - There will need to be new resources for rental assistance and ways to access funds that are efficient so that tenants do not have to take off work to hunt down assistance.
- Establishes a formal two-phase proceeding and Eviction Diversion Program
  - Rent collection procedures have been driven by rent court timeline for as long as I have been in the business. Mediation and work out agreements will save landlords and tenants time and money, and be more effective.
- Delaying eviction in emergency situations
  - It is heartbreaking to see people evicted when providing a bit more time and resources would prevent homelessness. Many landlords will evict strictly by the court timeline rather than grant extensions that stabilize a person's housing situation and allow them to stay in their apartment.

Now is the time to fix Maryland's massive eviction system. SB 454 is part of that fix, creating a paradigm shift in the state's massive eviction dockets. **I urge the Committee's FAVORABLE report on SB 454.**

Thank you for your consideration of new laws that will mitigate against Maryland's eviction crisis.

Julia Pierson  
Baltimore City  
District 41

# **SB454\_writtentestimony\_final.pdf**

Uploaded by: Guerin, Toby

Position: FWA

**Testimony in Support of Senate Bill 454**  
**Alterations in Actions for Repossession and Establishment of Eviction  
Diversion Program**

*Before the Judicial Proceeding Committee: February 9, 2021*

**To:** Hon. William C. Smith, Jr., Chair, and Members of the Judicial Proceedings Committee

**Position:** Favorable with Amendments

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We strongly urge you to vote in favor of SB454 with proposed amendments. SB454 presents a system of actions and supports to promote housing stability and the payment of rent. Recognizing the impact of housing displacement on the tenant, homeowner, and community, this legislation strikes a balance between pre-filing access to services, notice, and negotiation, with involvement of the court for appropriate matters. This integrated approach can disrupt the impending eviction crisis and establish practices to address the already high numbers of failure to pay rent actions in the District Court for the State of Maryland.

Even prior to the COVID-19 pandemic, our state and nation faced an eviction crisis. In fiscal 2019 there were 669,788 landlord-tenant cases statewide accounting for more than 40 percent of all District Court filings.<sup>1</sup> While the closure of the courts has temporarily paused evictions, an unprecedented number of people will face housing insecurity and potential homelessness when the courts resume operations. This will create reverberating, destabilizing effects for families, communities, and the economy, and pose a significant threat to the public health and safety.

### **Early Intervention**

The establishment of pre-filing actions connects landlords and tenants with eviction prevention resources early in the process. All too often landlords and tenants rely upon the triggering event of a court action to begin negotiation or seek financial supports. Promoting and incentivizing appropriate dispute resolution prior to filing has the combined impact of addressing conflicts earlier and reducing the already overburdened failure to pay rent dockets. Early intervention promotes housing stability, which helps to reduce homelessness and the other adverse consequences of evictions such as child separations, adult psychological stress,

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<sup>1</sup> MARYLAND JUDICIARY, MARYLAND JUDICIARY 2019 STRATEGIC PLAN 55,  
<https://mdcourts.gov/sites/default/files/import/publications/annualreport/2019strategicplanupdate.pdf>



intimate partner violence, food insecurity, problems in school, and family separations.<sup>2</sup>

In addition to connecting landlords and tenants with services earlier, the inclusion of negotiation and alternative dispute resolution (ADR) before filing will reduce the failure to pay rent docket in the courts. Pre-filing dispute resolution options can be helpful for all parties involved. Judiciary data shows that half of the landlord-tenant cases in Charles County that were referred to a new mediation program ended in a settlement agreement.<sup>3</sup> In Baltimore City, 81 percent of Rent Court cases that went to mediation resulted in a settlement. Of these settlements, 77 percent were full agreements, and the remainder were partial agreements.<sup>4</sup> Each agreement reached before involvement of the District Court and without the finding of a writ for possession frees up valuable court resources as well the resources in sheriff's office associated with executing an eviction.

## **Uses Existing Infrastructure**

This legislation expands the opportunities for conflict resolution in rent matters by using the existing ADR infrastructure to create numerous pathways to access mediation and other forms of dispute resolution both before and after filing an action in the District Court.

Maryland is a national and international leader in court-based alternative dispute resolution. Currently, mediation and settlement conferencing is available at all levels of the court system. Mediation is a voluntary, self-determinative, and confidential process in which participants discuss their mutual concerns and, if they both agree, negotiate a settlement agreement. The District Court of Maryland ADR Office relies upon its staff and a statewide roster of volunteer ADR practitioners and partnerships with ADR organizations to provide mediation and settlement conferences for civil cases on the day of trial or before the trial date. ADR for failure to pay rent cases is available on a limited basis in two jurisdictions and only on the day of trial.<sup>5</sup> ADR for other landlord-tenant matters is provided on a broader basis. In all instances, services are provided at no charge to the litigants.

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<sup>2</sup> U.S. DEP'T OF HOUSING & URBAN DEVELOPMENT, OFFICE OF POLICY DEVELOPMENT & RESEARCH, FAMILY OPTIONS STUDY, SHORT-TERM IMPACTS OF HOUSING AND SERVICES INTERVENTIONS FOR HOMELESS FAMILIES (July 2015), available at [https://www.huduser.gov/portal/portal/sites/default/files/pdf/familyoptionsstudy\\_final.pdf](https://www.huduser.gov/portal/portal/sites/default/files/pdf/familyoptionsstudy_final.pdf).

<sup>3</sup> MARYLAND JUDICIARY, MARYLAND JUDICIARY 2019 STRATEGIC PLAN 9, <https://mdcourts.gov/sites/default/files/import/publications/annualreport/2019strategicplanupdate.pdf>.

<sup>4</sup> CENTER FOR DISPUTE RESOLUTION UNIVERSITY OF MARYLAND FRANCIS KING CAREY SCHOOL OF LAW, REPORT ON THE 2016 RENT COURT ADR PILOT FOR THE DISTRICT COURT OF MARYLAND IN BALTIMORE CITY 5

<https://www.courts.state.md.us/sites/default/files/import/district/adr/pdfs/rentcourtreport.pdf>.

<sup>5</sup> ADR is available on the failure to pay rent dockets in Baltimore City and Howard County. See <https://www.mdcourts.gov/sites/default/files/import/district/adr/when.pdf>

The Mediation Clinic at Maryland Carey Law has provided pre-trial and day of trial mediation in the District Court for Baltimore City since the 1990's and currently partners with the District Court ADR Office. This legislation capitalizes on the existing infrastructure of partnerships with ADR organizations (such as the Mediation Clinic and Community Mediation Maryland) to provide ADR either *before or after* a case is filed in the District Court.

Recent studies demonstrate the broad impact of mediation in these disputes. A study of mediation in the District Court of Maryland show that participants appreciate the opportunity to devise agreements that better fit their circumstances.<sup>6</sup> Pilot projects in Maryland and other states that use mediation as one tool in a broader system of supports and resources for tenants can reduce evictions and prevent homelessness.<sup>7</sup>

### **Landlords and Tenants Maintain Their Current Rights**

SB454 encourages the parties to work out mutually agreeable solutions before seeking court intervention. If the parties do not reach a voluntary settlement in mediation, however, the parties retain all of their rights to proceed with a court hearing. In this way, the legislation strikes a balance between promoting housing stability and preventing the devastating impacts of evictions on families and communities, while protecting the legal rights of property owners and tenants.

### **Conclusion**

SB454 represents a well-designed, integrated system needed to respond to the eviction crisis and prevent homelessness. It will help provide pre-filing supports to maintain housing stability and payment of rent. The inclusion of mediation and other conflict resolution processes as part of an integrated approach builds upon successful programs in Maryland and other states. For these reasons, we ask you to give SB454, with proposed amendments, a favorable report.

Attachment: Proposed language amendments to SB454.

*This testimony is submitted on behalf of the Mediation Clinic at the University of Maryland Carey School of Law and not by the School of Law, University of Maryland, Baltimore, or the University of Maryland system.*

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<sup>6</sup> See *Impact of Alternative Dispute Resolution on Responsibility, Empowerment, Resolution, and Satisfaction with the Judiciary: Comparison of Short- and Long-Term Outcomes in District Court Civil Cases*, Administrative Office of the Courts, Court Operations (February 2016).

<sup>7</sup> See [Report on the 2016 Rent Court ADR Pilot for the District Court of Maryland in Baltimore City](#), Center for Dispute Resolution at Maryland Carey Law (2017); Eisenberg & Ebner, [Disrupting the Eviction Crisis with Conflict Resolution Strategies](#), 41 MITCHELL-HAMLINE J. PUB. POL'Y & PRAC. 125 (2020).

**Proposed Amendments to SB454:  
Alterations in Actions for Repossession and Establishment of Eviction  
Diversion Program**

We support the purpose of SB454 which presents a system of actions and supports, before and after the filing of a failure to pay rent action, in the District Court for the State of Maryland to promote housing stability and payment of rent. The amendments detailed below reinforce the intention of the legislation while aligning it with existing alternative dispute resolution practices in Maryland and the core tenets of mediation including self-determination, confidentiality, voluntariness, and impartiality.

**Expand Provider of Pre-filing ADR Services to Align with Existing Practices**

Page 8, line 21: (D)(V)(1) requires the “Notice of Delinquency and Legal Rights This is Not an Eviction Notice” to include a “request that the tenant apply for financial assistance from a service provider or that the tenant negotiate a payment plan through:

1. The District Court Alternative Dispute Resolution Office; or
2. The Eviction Diversion Program;

Amendment:

“Notice of Delinquency and Legal Rights This is Not an Eviction Notice” to include a “request that the tenant apply for financial assistance from a service provider or that the tenant negotiate a payment plan through:

1. The District Court Alternative Dispute Resolution Office *or designated ADR Organization*; or
2. The Eviction Diversion Program;

*Add definition of ADR Organization to 4-501*

4-501 (D) “ADR Organization” means an entity that is designated by the court to select individuals with the applicable qualifications to conduct non-fee-for-service ADR.

The District Court ADR Office provides valuable mediation and settlement conference services on the day of trial through its roster of volunteer ADR practitioners and mediation before the day of trial through partnerships with ADR Organizations. Title 17-103 of the Maryland Rules defines ADR Organization as “an entity, including an ADR unit of a court, that is designated by the court to select individuals with the applicable qualifications required by Rule 9-205 or the Rules in this Title to conduct a non-fee-for-service ADR ordered by the court.”

The District Court ADR Office provides services for matters under the jurisdiction of the District Court. Currently individuals contacting the District Court for mediation prior to filing a case are referred to an ADR Organization (one of 15 community mediation centers or Maryland Carey Law Clinical Law Program). The addition of

“or designated ADR Organization” (1) addresses any concerns regarding authority of the District Court ADR Office get involved in matters before they are filed, (2) ensures the ADR provider conducts mediation on a non-fee-for-service basis, and (3) provides the tenant and landlord with additional options for receiving ADR services.

### **Adjust Standard of Review of Pre-trial Settlement Agreements to Align with Contract Law**

p. 12, row 7-11 (F)(IV): If the parties agree to resolve the landlord’s complaint without a trial on the merits, they shall submit an agreement to the judge who, if satisfied that the terms of the agreement are fair and equitable, shall dismiss the landlord’s complaint in accordance with Maryland Rule 3-506(B).

#### Amendment:

If the parties agree to resolve the landlord’s complaint without a trial on the merits, they shall submit an agreement to the judge who, if satisfied that the terms of the agreement are *not unconscionable or contrary to law*, shall dismiss the landlord’s complaint in accordance with Maryland Rule 3-506(B).

The language of Maryland Rule 3-506(B), dismissal upon stipulated terms, is silent regarding a standard of review. Unconscionable as defined by Maryland courts as an agreement with both procedural and substantive problems. Procedural unconscionability arises during the formation of a contract and is akin to fraud or duress that occurs in the formation of the agreement. It can include use of fine print and twisted, unclear language. The weaker party might not have had a choice about whether and how to enter into the contract, and is impeded in the bargaining process. *Freedman v. Comcast Corp.*, 190 Md. App. 179, 208 (2010). Substantive unconscionability deals with the terms of the contract. The contract has provisions that are contrary to public policy or are outright illegal, and are unreasonably harsh. *Id.* at 208-09. These contracts are not only lopsided and favor the more powerful party, but they unreasonably favor that party. *Id.*

“Fair and equitable” is not explicitly defined as “not unconscionable” in Maryland law, but the terms are largely synonymous. An agreement must be “fair and equitable in procurement and result.” *Frey v. Frey*, 298 Md. 552, 563 (1984). These two prongs – procurement and result – are akin to the two prongs of an unconscionable contract – unfair in process and unfair in substance. Although the terms fair and equitable have a legal definition as interpreted by Maryland courts, the terms have a colloquial meaning to self-represented litigants.

The substitution of “not unconscionable or contrary to law” maintains the court’s interest in protecting the integrity of settlement agreements while maintaining deference to the negotiated terms of the parties. Using “not unconscionable or

contrary to law” rather than “fair and equitable” would provide the court with a clearer and better-established standard.

*This is submitted on behalf of the Mediation Clinic at the University of Maryland Carey School of Law and not on behalf of the School of Law; the University of Maryland, Baltimore; or the University of Maryland System.*

# **SB454 Community Mediation Maryland Testimony.pdf**

Uploaded by: Overholser, Leslie

Position: FWA

## **SB454**

### **A Measure to Reduce Unnecessary Evictions in a Time of Crisis**

#### **Position: Favorable with Amendments**

#### **Judiciary**

#### **Community Mediation Maryland**

February 9, 2021

We strongly urge you to vote in favor of SB454 with the proposed amendments (see attached).

Community Mediation Maryland (CMM) supports 15 community mediation centers located throughout the state. CMM provides training, technical assistance, and the development of partnerships with statewide agencies and organizations.

Community mediation centers throughout the state provide mediation at no charge and at a time and place convenient for the participants. Mediation gives people a chance to speak, to be heard, and to hear each other. Mediation ensures that participants make their own decisions and develop long-term solutions that meet the needs of everyone involved. Mediation is confidential and voluntary. Mediators are neutral parties in the mediation and do not give advice.

Mediation centers receive landlord/tenant mediation referrals from the District Court, through the self-help center or individuals can request mediation directly through the center. Use of mediation early in the process can prevent the situation from escalating, requiring court intervention and keeps families in their homes. In mediation, participants are able to work collaboratively to develop solutions that address the conflict and explore the underlying issues resulting in a long-term plan. Over 90% of mediation participants reported they would recommend mediation to others in conflict.

As community-based providers, we see the positive impact of mediation by bringing people together to work through their challenges in a collaborative process, resolving the underlying issues and developing solutions that work for everyone.

Research shows that mediation works.

The Maryland Judiciary Statewide Evaluation of Alternative Dispute Resolution research study included an analysis of the long-term costs to court and the probability of returning to court.

This long-term analysis indicated that cases that reached an agreement in ADR are less likely to return to court for enforcement action in the 12 months following the intervention compared to cases that did not get an agreement in ADR (including those that reached an agreement on their own, ADR cases that did not get an agreement, and cases that got a verdict).

Reaching an agreement in ADR decreases the predicted probability of returning to court for an enforcement action. Cases that reached agreement in mediation are half as likely (21%) to return to court for enforcement actions compared to cases that reached a verdict (46%).

The analysis finds the following in terms of the long-term impact of ADR on the self-reported outcomes we measure. Participants who went through ADR are more likely than those who went through the court process to report:

- 1) An improved relationship and attitude toward the other participant measured from before the intervention (the ADR session or trial) to 3-6 months later.
- 2) That the outcome was working, satisfaction with the outcome, and satisfaction with the judicial system 3-6 months after the intervention.

Community Mediation Maryland strongly supports this bill with the proposed amendments.

To see the complete summary of outcomes visit <https://mdmediation.org/wp-content/uploads/2020/11/Impact-of-District-Court-DOT-ADR-Summary.pdf> or to see the detailed study: <https://mdmediation.org/wp-content/uploads/2019/09/districtcourtcomparisonfullreport.pdf>

Attachment:  
Proposed amendments



## Proposed Amendments to HB52/SB454: Alterations in Actions for Repossession and Establishment of Eviction Diversion Program

### **Expand Provider of Pre-filing ADR Services to Align with Existing Practices**

Page 8, line 21: (D)(V)(1) requires the “Notice of Delinquency and Legal Rights This is Not an Eviction Notice” to include a “request that the tenant apply for financial assistance from a service provider or that the tenant negotiate a payment plan through:

1. The District Court Alternative Dispute Resolution Office; or
2. The Eviction Diversion Program;

#### Amendment:

“Notice of Delinquency and Legal Rights This is Not an Eviction Notice” to include a “request that the tenant apply for financial assistance from a service provider or that the tenant negotiate a payment plan through:

1. The District Court Alternative Dispute Resolution Office *or designated ADR Organization*; or
2. The Eviction Diversion Program;

#### *Add definition of ADR Organization to 4-501*

4-501 (D) “ADR Organization” means an entity that is designated by the court to select individuals with the applicable qualifications to conduct non-fee-for-service ADR.

The District Court ADR Office provides valuable mediation and settlement conference services on the day of trial through its roster of volunteer ADR practitioners and mediation before the day of trial through partnerships with ADR Organizations. Title 17-103 of the Maryland Rules defines ADR Organization as “an entity, including an ADR unit of a court, that is designated by the court to select individuals with the applicable qualifications required by Rule 9-205 or the Rules in this Title to conduct a non-fee-for-service ADR ordered by the court.”

The District Court ADR Office provides services for matters under the jurisdiction of the District Court. Currently individuals contacting the District Court for mediation prior to filing a case are referred to an ADR Organization (one of 15 community mediation centers or Maryland Carey Law Clinical Law Program). The addition of “or designated ADR Organization” (1) addresses any concerns regarding authority of the District Court ADR Office get involved in matters before they are filed, (2) ensures the ADR provider conducts mediation on a non-fee-for-service basis, and (3) provides the tenant and landlord with additional options for receiving ADR services.

### **Adjust Standard of Review of Pre-trial Settlement Agreements to Align with Contract Law**

p. 12, row 7-11 (F)(IV): If the parties agree to resolve the landlord’s complaint without a trial on the merits, they shall submit an agreement to the judge who, if satisfied that the terms of the agreement are fair and equitable, shall dismiss the landlord’s complaint in accordance with Maryland Rule 3-506(B)

Amendment:

If the parties agree to resolve the landlord's complaint without a trial on the merits, they shall submit an agreement to the judge who, if satisfied that the terms of the agreement are *not unconscionable or contrary to law*, shall dismiss the landlord's complaint in accordance with Maryland Rule 3-506(B).

The language of Maryland Rule 3-506(B), dismissal upon stipulated terms, is silent regarding a standard of review. Unconscionable as defined by Maryland courts as an agreement with both procedural and substantive problems. Procedural unconscionability arises during the formation of a contract and is akin to fraud or duress that occurs in the formation of the agreement. It can include use of fine print and twisted, unclear language. The weaker party might not have had a choice about whether and how to enter into the contract, and is impeded in the bargaining process. *Freedman v. Comcast Corp.*, 190 Md. App. 179, 208 (2010). Substantive unconscionability deals with the terms of the contract. The contract has provisions that are contrary to public policy or are outright illegal, and are unreasonably harsh. *Id.* at 208-09. These contracts are not only lopsided and favor the more powerful party, but they unreasonably favor that party. *Id.*

"Fair and equitable" is not explicitly defined as "not unconscionable" in Maryland law, but the terms are largely synonymous. An agreement must be "fair and equitable in procurement and result." *Frey v. Frey*, 298 Md. 552, 563 (1984). These two prongs – procurement and result – are akin to the two prongs of an unconscionable contract – unfair in process and unfair in substance. Although the terms fair and equitable have a legal definition as interpreted by Maryland courts, the terms have a colloquial meaning to self-represented litigants.

The substitution of "not unconscionable or contrary to law" maintains the court's interest in protecting the integrity of settlement agreements while maintaining deference to the negotiated terms of the parties. Using "not unconscionable or contrary to law" rather than "fair and equitable" would provide the court with a clearer and better-established standard.

*This is submitted on behalf of the Mediation Clinic at the University of Maryland Carey School of Law and not on behalf of the School of Law; the University of Maryland, Baltimore; or the University of Maryland System.*

## **SB 454.pdf**

Uploaded by: Castelli, William

Position: UNF



**Senate Bill 454 – Real Property – Alterations in Actions for Repossession and Establishment of Eviction Diversion Program**

**Position: Oppose**

The Maryland REALTORS® opposes SB 454 which seeks to mandate an eviction diversion program for certain counties. The Maryland REALTORS® believe the new CARES Act funding which provides over \$400 million for rental assistance combined with state and local funding is the best means to avert evictions.

REALTORS® often manage property for owners who lease single-family properties. Sometimes the owner is seeking to create additional income for their family by holding onto property they once lived in. Sometimes, they choose rental real estate as an investment rather than income. The owner doesn't make any monthly profit on the rent but will benefit from the equity in the property at the end of the mortgage term. Sometimes, an owner of the property is a reluctant landlord. The owner is faced with circumstances that require him/her to rent the property rather than sell it. This can occur because of looming foreclosures, job relocation, or loss of income.

In most of these cases, the single-family rental is not intended to be a permanent rental property. For that reason, the owner wants to maintain some flexibility if the owner is going to exercise their right to sell the property. The Maryland REALTORS® is concerned that SB 454 will delay evictions in some counties and further erode an owner's flexibility. While the REALTORS® recognize the terrible situations many tenants have experienced during the pandemic, small mom and pop owners have faced challenges too.

SB 454 will add delay to the current court process for eviction by requiring an up-front 10-day process that a landlord must enter into with the tenant. Only after completing that process, will the landlord be able to file for nonpayment of rent. The bill further extends the time that the court may consider these cases, including directing that a court mediated process take place before the court hearing. If the parties have completed these new requirements and the landlord is still able to file for eviction, the legislation permits a court to stay the execution of a warrant of restitution if the a tenant can show a threat to life or safety or a charitable or governmental entity can prevent the tenant's homelessness. The bill doesn't specify what that means.

With more smaller landlords now considering the sale of single-family rental properties due to the strong sales market and the uncertainty of the rental market, Maryland REALTORS® believes SB 454 will further disincentivize owners from continuing the rental of these properties. We recommend an unfavorable report.

**For more information, contact [bill.castelli@mdrealtor.org](mailto:bill.castelli@mdrealtor.org), [susan.mitchell@mdrealtor.org](mailto:susan.mitchell@mdrealtor.org), or [lisa.may@mdrealtor.org](mailto:lisa.may@mdrealtor.org)**

# **MD Judiciary - Testimony SB 454.pdf**

Uploaded by: Elalamy, Sara

Position: UNF

**MARYLAND JUDICIAL CONFERENCE**  
**GOVERNMENT RELATIONS AND PUBLIC AFFAIRS**

Hon. Mary Ellen Barbera  
Chief Judge

187 Harry S. Truman Parkway  
Annapolis, MD 21401

**MEMORANDUM**

**TO:** Senate Judicial Proceedings Committee

**FROM:** Legislative Committee  
Sara Elalamy  
410-260-1561

**RE:** Senate Bill 454  
Real Property – Alterations in Actions for Repossession and  
Establishment of Eviction Diversion Program

**DATE:** January 15, 2021  
(2/9)

**POSITION:** Oppose as drafted

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The Maryland Judiciary opposes Senate Bill 454 as drafted. This bill creates an Eviction Diversion Program in the District Court of Maryland.

While the Maryland Judiciary supports the use of alternative dispute resolution (ADR) to address eviction and landlord tenant disputes, the procedures outlined in the bill are more appropriate for the Executive Branch.

This bill would fundamentally alter the District Court process for the handling of failure to pay rent cases. The District Court hears over 650,000 failure to pay rent cases in a normal year. The bill would require the court to screen all cases, create and operate an eviction diversion program, and expand existing alternative dispute resolution (ADR) programs to ensure all tenants and landlords had the opportunity to mediate or work out a settlement of the matter. The fiscal impact will be significant. The Judiciary has not planned for the capital needs of expanding staff of the magnitude required to implement this bill. Under section § 4-503 of the Courts and Judicial Proceedings Article of this bill, the Chief Judge of the District Court is required to create an Eviction Diversion Program to include alternative dispute resolution in jurisdictions with greater than 10,000 filings in Fiscal Year 2019. The facilitation of remote screening of tenants and the prevention service providers is not feasible, because Failure to Pay Rent (FTPR) cases are not added to the MDEC case management system until post-adjudication, and with some of the largest jurisdictions in the state (Baltimore City, Montgomery County, and Prince George's County) still operating with paper filings, case data could not be worked on or screened from a digital MDEC queue. The ADR program will result in a substantial fiscal impact to the existing District Court that can only be resolved with hiring additional staff at a cost of over \$1.7 million.

Limiting the ADR intake process to 10 days will be problematic. The language contained in § 8-401(d)(3)(ii) of the bill provides that a landlord prior to filing a failure to pay rent complaint, has 10 days to make “affirmative, good-faith efforts” to resolve the claim with the tenant. The ADR intake process to reach both parties and schedule the case for a mediation session generally takes more than 10 days and access to reliable contact information for all necessary parties may not be available, extending the timeline.

Further, the language contained in § 8-401(d)(5) of the bill requires the landlord to certify that they made an affirmative good faith effort to resolve the case through mediation and require the tenant to defend against that affirmation. This language is problematic as it warrants for a potential breach of the Maryland Mediation Confidentiality Act and Maryland Rule 17-105, Mediation Confidentiality, which protects mediation communications from disclosure in a judicial, administrative, or other proceeding.

Additionally, the terms “good faith” and “fair and equitable” contained in § 8-401(d)(3)(ii), § 8-401(d)(5)(i), and § 8-401(f)(2) of this bill are ambiguously defined, and therefore, can be interpreted differently by each judge, creating inconsistent application and unmet expectations.

Moreover, the language contained in section § 8-401(d)(1)(v) of this bill, contains unclear language about whether the Court or the parties bear the responsibility of notifying the District Court ADR Office for ADR services.

Lastly, the status conference provision in this bill is not workable, based on current caseload volumes, without very strong assumptions about the decline in filings that would accompany an increase in the costs associated with filings stemming from a separate bill whose enactment is not certain. Time standards on other cases would suffer as well. Courthouses also may not have the physical space to house the Eviction Diversion Program.

cc. Hon. Melissa Wells  
Judicial Council  
Legislative Committee  
Kelley O’Connor

# **MMHA - 2021 - SB454 - Eviction Diversion.pdf**

Uploaded by: Greenfield, Aaron

Position: INFO





## **Senate Bill 454, Real Property – Alterations in Actions for Repossession and Establishment of Eviction Diversion Program**

Committee: Judicial Proceedings Committee  
Date: February 9, 2021  
**Position: Unfavorable**

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This testimony is offered on behalf of the Maryland Multi-Housing Association (MMHA). MMHA is a professional trade association established in 1996, whose members consist of owners and managers of more than 210,000 rental housing homes in over 958 apartment communities. Our members house over 538,000 residents of the State of Maryland. MMHA also represents over 250 associate member companies who supply goods and services to the multi-housing industry.

Senate Bill 454 seeks to reduce the number of judgments entered in Failure to Pay Rent (FTPR) cases by establishing an Eviction Diversion Program (the Program) and mandating that the Chief Judge of the District Court establish the Program in some jurisdictions, while keeping it discretionary in others. The Bill places new requirements on housing providers to participate in the Program and to follow new procedures as well as provide a variety of new notices to residents as prerequisites to being able to avail themselves of their legal right to file Failure to Pay Rent cases to collect unpaid rent. The Bill, among other provisions, alters rules for getting adjournments or continuances and lengthens time periods for seeking and obtaining judgments and warrants of restitution, drastically altering failure to pay rent (FTPR) collection procedures established by this Legislature over the last 40 years, causing detriment to both housing providers and the residents they serve.

MMHA OPPOSES this Bill because, although it may be well intentioned, the Program described in the Bill is cumbersome, duplicative of many well-established and trusted mediation and alternative dispute resolution programs currently working in this space, ignores local laws governing current practices of housing providers and residents, establishes potentially unconstitutional barriers to the courts for litigants and, simply put, is completely unworkable.

### **I. Background**

Maryland's Landlord -Tenant statute is found in Md Real Property Code Annotated, Section 8. The rules and procedures found in that Article were established through the recommendations of two Gubernatorial Landlord-Tenant Commissions composed of members of the Legislature, the Judiciary and stakeholder communities. Together those Commissions created a system of laws and procedures designed to balance and protect the interests of both Landlords and Tenants - i.e. providing safe and affordable rental housing to residents with the expectation that the landlord will receive timely compensation for having provided that service - which this Legislature has reviewed and approved for over 40 years. This balance has stood the test of time, however, SB 454, likely motivated by the recent unprecedented, yet temporary, circumstances presented by the Global Pandemic, proposes permanent, sweeping, significant and unnecessary changes to this carefully legislated statutory architecture.



II. SB 454's Mandatory versus discretionary establishment of the Program based upon numbers of FTPR cases filed in a jurisdiction undermines statutory rights of litigants and threatens the public's confidence in the Courts

The statutory rights established by this Legislature and justice for all litigants, is not dependent on numbers of cases filed, nor should it. While it may seem elemental that jurisdictions which contain more units of residential rental housing are likely to have more FTPR filings, using the number of cases filed to determine where the Program is mandatory versus discretionary threatens the important need for uniform statewide judicial procedure and by doing so, the fundamental fairness that Maryland housing providers and their residents have come to expect from every jurisdiction of the Maryland District Court. Many housing providers have communities in multiple jurisdictions in the state. Under this Bill those providers will find themselves faced with different prerequisites to be able to file in court and treating their residents differently from jurisdiction to jurisdiction. This not only disrupts reasonable business activity, but it also unfairly exposes these providers to claims and lawsuits for differential treatment of their residents.

III. By establishing prerequisite procedures which must be completed before an FTPR case may be filed SB 454 needlessly upends the current FTPR process designed by this Legislature to create balanced protections for the rights of both residents and housing providers in failure to pay rent cases.

The Failure to Pay Rent process is designed to protect residents from “self-help” evictions which expose them to unmerited harassment and dispossession while balancing the housing provider's need to be paid rent in a timely manner or to regain possession of the property. The right of a resident to “pay and stay”, known as the right of redemption, which can be used by the resident 3 or 4 times per year is a unique and valuable right established through this process. This Bill undermines this balance by barring a housing provider from filing an FTPR complaint until new, cumbersome, and time-consuming prerequisites are met including:

1. A detailed “Notice of Delinquency and Legal Rights” to be delivered to the resident by first class mail and posting on the resident's rental unit 10 days before the Landlord can begin SB 454's new process for collecting unpaid rent. See, pages 7-8
2. During this period, the resident is given time to respond to this notice, while as provided for on pages 9-10 the housing provider is mandated to make “affirmative, good faith efforts to resolve the claim”. These efforts remain largely undefined in the Bill, but these include:
  - i. Cooperating with providers of housing assistance, and
  - ii. Negotiating a payment plan or other agreement with the Program (established by the court under this Bill) or Alternative Dispute Resolution Office.
  - iii. Note that if a payment agreement is made between the resident and housing provider, the Bill indicates that a resident's material breach of a term of the agreement is deemed to be a failure of the resident allowing the housing provider to file its FTPR case, however, the Bill is silent regarding how long the provider must wait for this to occur before it can exercise that right.



- iv. Moreover, on page 9, lines 24-26 “all efforts to cure late rent SHALL be completed before a complaint to repossess may be filed”, again a situation left undefined, open-ended and fraught with potential liability for the housing provider.
3. When the housing provider files a FTPR complaint it must certify what the provider did to satisfy the prerequisites however, instead of carrying a rebuttable presumption of compliance these prerequisites become another element of the provider’s case which must be proven to and determined by the Judge in every case. See, page 10, lines 8-25.
4. While these provisions and adding a 10-day prerequisite to the ability to file an FTPR case may sound immaterial, this addition when added to the existing timelines required by state and local laws makes the time to reach trial at least 15 days and in many jurisdictions as much as 30-45 days. Adding this procedure to the actual time to reach a judgment and obtain a writ extends the time from filing to redemption or repossession from an average of 40-50 days to over 60-120 days. This threatens the historic core of the FTPR statute and the balance this Legislature felt necessary to this process. (In this regard it is noteworthy that Maryland Courts have been closed to FTPR trials for almost a year due to COVID making it impossible for landlords to recover rent and leaving residents in dire uncertainty).
5. Once a case is filed the Bill imposes even more hurdles for both housing providers and residents.
  - i. Any time after filing of the FTPR complaint a party may ask for a continuance to get an attorney, this will result in the resetting of the trial date, perhaps multiple times as the provision has no limitation on this request.
  - ii. On pages 11-12 the Bill additionally requires that the housing provider and the resident attend a “status conference” which must occur within 10-15 days before the trial. There the Court can order the parties to mediation, settlement conferences or alternative dispute resolution, and the status conference can be continued for another 10-day period.

The flaws in this provision are two-fold. First it presumes that all housing providers and all residents can schedule time for these matters. Most residents and many “Mom and Pop” housing providers have jobs or family obligations that make it difficult to attend protracted court proceedings. Finding time to attend a trial is often a hardship, attending a status conference in addition to trial is likely to be unworkable. Secondly, the Bill’s reliance on the Courts and the litigants to have access to remote hearing platforms is misplaced since all of the larger filing Landlord /Tenant jurisdictions are still utilizing paper filing systems.
  - iii. Moreover, the penalty for missing the status conference is draconian and risky. If the housing provider fails to attend the status conference the FTPR case is dismissed. This means that the housing provider, particularly those who do not have large holdings, will have to begin this onerous process again creating the risk that the housing provider will rely only on short term leases which do not promote housing stability, end the tenancy through some other legal means, such as a Breach of Proceeding, which does not afford the resident the right to redeem their tenancy as the FTPR



process does, or simply abandon its business and sell, reducing the much needed supply of affordable rental housing in this State.

6. Lastly, on page 15 lines 22-24 of the Bill creates a stay of execution of a judgment for repossession where it would “impede an act by a governmental or charitable organization to prevent homelessness of the resident or other occupant”. This new provision is undefined, open ended, limitless and patently unfair to housing providers who cannot afford to wait to regain their property from a nonperforming resident.

For these reasons, MMHA opposes SB454’s attempt to dismantle this Legislature’s carefully crafted balance between the rights and remedies of housing providers and residents. MMHA requests an UNAVORABLE report on SB454.

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