



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**

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



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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.