

House Bill 0729

Landlord and Tenant - Eviction Actions - Filing Surcharge and Prohibited Lease Provisions House Judiciary Committee SUPPORT

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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.

HB0729 has been filed by the Speaker Jones at the request of Attorney General Frosh and is supported by the recommendations of the Attorney General's Task Force Report entitled, [Confronting the COVID-19 Access to Justice Crisis](#).

The mission of the Task Force is to ensure that as Marylanders struggle to survive and overcome the pandemic, they are housed, fed, safe, secure and connected to justice. We highlighted that pandemic-related hardships have created heightened levels of conflict and difficulties related to health, food, employment, housing, debt, estate planning, and family issues that only the civil justice system can resolve. The result is a crisis in access to justice of unprecedented scale and magnitude. The impact of this crisis, as with that of the pandemic itself, has also fallen disproportionately on Maryland's Black and Latinx communities and other vulnerable groups, including persons with disabilities.

The Civil Legal Aid Funding Crisis

Yet crisis-level barriers to civil justice for low-income Marylanders are not new. Because the State does not provide a right to counsel in civil legal cases, all Marylanders who cannot afford a lawyer must either go without one or seek assistance from civil legal aid organizations, some of which are funded by MLSC and others of which must rely on other funding sources. Long before the pandemic, these organizations fell far short of having the funding and resources necessary to meet the

demand. The civil legal aid community was serving only 20% of Marylanders who needed help.

Civil justice is a right, not a privilege. It helps preserve the rule of law and ensure fairness and equity for all. A robust civil legal justice system capable of meeting the needs of all Marylanders is essential for maintaining public health and economic vitality. In the wake of COVID-19's devastation, it is also critical to our recovery.

Yet, we are constantly confronted with a chronic, structural funding deficit in the civil legal aid community's capacity to meet demand. Historically, the primary source of MLSC's funding has been the IOLTA program, or "Interest on Lawyers Trust Accounts." As this pandemic has made painfully clear, however, this funding stream is not only variable, but it is also inversely proportional to the fluctuating levels of need for civil legal aid. IOLTA funding decreases sharply in times of economic crisis when interest rates plummet, and yet it is exactly during these economic crises when we see spikes in civil legal aid demand. During the pandemic, the second source for MLSC funding - filing fees - also sharply declined due to changes in court operations.

The Eviction Crisis

At the same time, the state is facing an 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.

HB0729 aims to reduce evictions by increasing the amount it takes to file for an eviction. Currently, the barriers to entry for an eviction filing are too low and allow for hundreds of thousands of cases to be filed and churned through the courts unnecessarily.

Filing fees in Maryland are one of the lowest in the country and could be increased to both reduce evictions and address the funding gap in legal services. Based on the information provided above, the Maryland Access to Justice Commission requests the House Judiciary Committee to deliver a FAVORABLE report to HB0729. Please contact Reena Shah - reena@msba.org - with any questions.