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SB564

Landlord and Tenant and Wrongful Detainer Actions - Eviction Prevention Services

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.

The Access to Justice Commission supports the ability of tenants to get the legal help they need to prevent evictions.

Last year, the Maryland General Assembly passed HB18, creating a statewide Access to Counsel in Eviction Program. The bill became law, effective October 1, 2021. The law mandated that there be an [Access to Counsel in Evictions Task Force](#) (TF). The leadership of the Task Force was primarily composed of A2J Commissioners. The TF started its work on October 1, 2021 and delivered its [final report](#) on January 1, 2022. The TF studied and made recommendations on effective implementation of the Access to Counsel in Evictions Program.

One of the key components for effective implementation is effective outreach.

The Executive Director of the Access to Justice Commission served as the Chair of the Outreach and Assessment Committee for the TF. The Committee studied best practices and recommended that early outreach about the Access to Counsel Program would be critical to the Program's success:

For the Program to create the benefits described above, services must be available and accessible to eligible tenants. Because tenants at risk of eviction are already in crisis and eviction proceedings move quickly by

design, early and ongoing outreach and education about the Program is critically important.

However, in our discussions, we acknowledged the challenge doing early outreach and given the large number of eviction filings (over 650,000 pre-pandemic); the fact that only a very small percentage of litigants (approximately 5%) of tenants come to court at present; and the fact that most connections to legal services in the eviction context happen in court, on the day of trial.

SB564 Ensures a Pathway to Operationalize the Access to Counsel Program

SB564 operationalizes tenants' access to counsel in eviction proceedings. When a self-represented litigant comes before a judge in an eviction case and requests additional time to seek attorney representation, SB564 would require the judge to grant a delay "for a reasonable time not less than 5 business days." **Without SB564, eviction prevention services are hamstrung by judges' discretion not to allow a recess/continuance and landlords' objections** to any delay of trial that benefits their tenants.

This provision recognizes that while 2021's House Bill 18 established an Access to Counsel in Evictions mandate, it did not provide a procedure by which the courts would ensure that tenants who desire counsel may reliably obtain it before trial. Although legal and financial assistance information is more available than ever because of HB18, the efforts of multiple governmental agencies, and the Judiciary's Help Centers, concern remains that litigants appear in eviction actions realizing too late that they would benefit from assistance and that they need certain evidence to prove assertions about payments, notices, lease provisions, or property conditions.

SB564 fills an important access-to-justice gap by creating a mandatory-if-requested continuance of at least 5 work days or longer by the judge's discretion. This continuance provision also applies to litigants who request time to bring back to court necessary evidence or witnesses or time to engage an eviction service provider such as the Office of Alternative Dispute Resolution or an Emergency Rental Assistance Program.

Recesses under SB564

This bill also recognizes that litigants need consistency in their access to the legal services, rental assistance programs, and mediation programs that are increasingly available at court during eviction dockets.

- Legal services programs are now providing day-of-trial, first-come-first-serve assistance in Anne Arundel County, Baltimore County, Baltimore City, Caroline County, Dorchester County, Montgomery County, Prince George's County, Queen Anne's County, and Wicomico County.

- The District Court Help Centers are available for in-person assistance in nine court locations (Baltimore City, Catonsville, Cambridge, Frederick, Glen Burnie, Hagerstown, Rockville, Salisbury, Upper Marlboro).
- Prior to the COVID-19 pandemic, the Office of Alternative Dispute Resolution was conducting day-of-trial mediations in eviction cases in several jurisdictions, including Baltimore City, Montgomery County, and Wicomico County.

SB564 would require simply that courts provide “a reasonable amount of time” during an eviction docket to allow a requesting litigant to engage with these eviction prevention services that are available during the docket. Reliable access to a recess would reduce the need for continuances, as pro bono attorneys, mediators, and others would have more time to assist parties during their first appearance at court.

SB564 is about the future of Maryland’s eviction process

In 2021, amid pandemic-caused scheduling delays, a federal moratorium on evictions, and the unprecedented availability of emergency rent relief, Maryland saw over 355,000 evictions actions filed – nearly a 50-percent reduction in eviction litigation compared to 2019. Actual evictions fell in 2021 by nearly 70 percent compared to 2019. So why require a fairer, more preventative eviction procedure under SB564? SB564 is about the future – when there will not be pandemic protocols that delay trial or hundreds of millions in federal assistance to cover rental debt.

Currently, the Failure to Pay Rent procedure (Real Property § 8-401(e)(1)) allows judges the authority to continue a case for one day only. Other eviction procedures do not provide even that. While cities and states across the country have met the challenges of the COVID-19 pandemic by standing up eviction diversion initiatives, often with the leadership of their courts, Maryland has not done so. Even if the Maryland Judiciary sought [full funding for an eviction diversion initiative through the National Center for State Courts](#), for example, our courts would not be able to move forward without fundamental changes to eviction procedures as set forth in SB564.

SB564 is the first step to any policy of using eviction trial dates to problem-solve and reach alternatives that do not place Maryland renters at risk of losing their homes.

For the reasons stated, the Maryland Access to Justice Commission requests the Senate Judicial Proceedings Committee to issue a FAVORABLE report on SB564. For more information, please contact Reena K. Shah, Executive Director of the Maryland Access to Justice Commission, at reena@msba.org.