

Testimony in Support of SB 564 – FAVORABLE
Landlord and Tenant and Wrongful Detainer Actions – Eviction Prevention Services

Before the Judicial Proceedings Committee – February 22, 2022

To: Chairman William C. Smith, Vice Chair Jeff Waldstreicher, and Members of the Committee

Position: Favorable

Senate Bill 564, cross-filed as House Bill 691, creates a consistent time and space for landlords and tenants to take advantage of court-based and other necessary resources to prevent eviction. The pandemic has exacerbated the long-lasting and significant impacts on individuals and families that are evicted. This bill connects available alternative dispute resolution resources with landlords and at-risk tenants, at a time when both parties need the resources the most and where they would be most impactful.

Senate Bill 564 recognizes the value of alternative dispute resolution on the day of trial and outside the courtroom. The bill grants a party requesting alternative dispute resolution services if such a provider is available at the time of trial. Additionally, the bill gives the court discretion to grant a continuance under limited circumstances to preserve access to justice.

Eviction Has Long-Lasting and Significant Health Impacts on Individuals, Families, and Communities

Housing is a “social determinant of health,”¹ meaning where you live plays a role in your health and longevity. Adults who face eviction are more likely to report symptoms of poor health, such as high blood pressure, depression, anxiety, and psychological distress.² Children in families that encounter eviction are also more likely to experience poor health, a higher prevalence of food insecurity, and worse educational outcomes than other low-income children.³ Eviction also directly impacts the health and

social connectedness of communities—frequent moves cause individuals to feel less invested in their communities, homes, and social relationships.⁴

The ramifications of an eviction continue over time and into all aspects of an individual's life.⁵ An eviction record can create economic hardships, health problems, employment challenges, and long-term housing instability.⁶ Families often end up moving to lower-quality homes, unsafe conditions, and into neighborhoods with higher rates of poverty and crime.⁶

Nationwide, Black and Hispanic renters in general, and women in particular, are disproportionately threatened with eviction and evicted from their homes.⁷ The pandemic has only heightened these disparities: As the Attorney General's COVID-19 Access to Justice Task Force Report highlights, 17% of tenants nationally is currently behind on rent, but these rates are substantially higher for Black renters (31%) and multiracial renters (25%).¹⁸ Consequently eviction should be avoided whenever there are other viable options.

Mediation Has Proven Successful

Mediation is a viable solution to landlord-tenant disputes because its voluntary nature promotes creative, self-determined, cost-effective, and individualized solutions. The court's resources are freed up when landlords and tenants reach their own agreements. Eviction can be expensive for tenants and landlords alike and most times they both want the same thing, a resolution.⁸ A 2018 study in Montgomery County, found that the costs to landlords associated with eviction could range from \$5,700 to \$16,600.⁹ More recently, a best practices analysis of eviction prevention and diversion programs found that 70% of landlords surveyed would be inclined to address issues of non-payment out of court.¹⁰

Increasingly states and courts are turning to eviction prevention interventions, including alternative dispute resolution. Since the start of the pandemic, at least 12 programs have been started around the country, bringing the number of court-based prevention programs to 47.¹¹ These programs have proven effective. In St. Louis City and County, 16,000 eviction lawsuits were filed in 2019, with an average of 43 eviction cases per day.¹² According to the St. Louis Mediation Project which provides mediation on the day of trial, 71% of the *pro-se* landlord-tenant cases resulted in settlement in 2018.

Where mediation was attempted, 53% of cases resulted in dismissals. St. Louis judges now refer more cases to alternative dispute resolution as a result.

Senate Bill 564 Requires no Additional Resources

Senate Bill 564 would utilize alternative dispute resolution services already established within the courts. The bill, as written would expand the opportunities for conflict resolution in rent matters by using the existing infrastructure to create numerous pathways to access mediation and other forms of dispute resolution. Per SB 564's Fiscal and Policy Note, "[a]ny potential minimal increase in workload for the District Court is anticipated to be absorbable within existing budgeted resources."

Alternative dispute resolution for failure to pay rent cases is available on a limited basis in two jurisdictions and only on the day of trial.¹³ Services are provided at no charge to the litigants. 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) and creates the time necessary to conduct mediation.

Senate Bill 564 Improves the Efficiency of the Courts and Access to Justice

Each year, over 655,000 eviction cases are filed in Maryland, with only about 855,000 renter households.¹⁴ Tenants often lack representation and have little to no time to mount a meaningful defense. By allowing a judge to grant a recess and a continuance, tenants and landlords may be afforded the opportunity to settle their dispute the day of trial. Given the success of the Maryland District Court pilot program, the burden placed on the courts by landlord-tenant disputes may be eased. While not every dispute will be settled in mediation, the opportunity for landlords and tenants to work together to find an equitable solution is in the interest of justice.

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

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- ¹ Centers for Disease Control and Prevention, *Social Determinants of Health: Know What Affects Health*, <https://www.cdc.gov/socialdeterminants/index.htm>.
- ² Allison Bovell-Amman, *The Hidden Health Crisis of Eviction*, BOSTON UNIV. SCHOOL OF PUB. HEALTH (Oct. 5, 2018), <https://www.bu.edu/sph/news/articles/2018/the-hidden-health-crisis-of-eviction/>.
- ³ Gracie Himmelstein & Matthew Desmond, *Eviction and Health: A Vicious Cycle Exacerbated By A Pandemic*, HEALTH AFFAIRS (Apr. 1, 2021), <https://www.healthaffairs.org/doi/10.1377/hpb20210315.747908/full/>.
- ⁴ Katie Moran-McCabe & Scott Burris, *Eviction and the Necessary Conditions for Health*, NEW ENGLAND J. OF MED. (Oct. 14, 2021), <https://www.nejm.org/doi/full/10.1056/NEJMp2031947>.
- ⁵ Kristin Ginger, *Eviction Filings Hurt Tenants, Even If They Win*, SHELTER FORCE (July 30, 2018), <https://shelterforce.org/2018/07/30/eviction-filings-hurt-tenants-even-if-they-win/>.
1. ⁶ Heidi Schultheis & Caitlin Rooney, *A Right to Counsel is a Right to a Fighting Chance*, CTR. AM. PROGRESS (Oct. 2, 2019), <https://www.americanprogress.org/article/right-counsel-right-fighting-chance/>.
- ⁷ Peter Hepburn, Renee Louis, and Matthew Desmond, *Racial and Gender Disparities Among Evicted Americans*, Eviction Lab (Dec. 16, 2020), <https://evictionlab.org/demographics-of-eviction/>.
- ⁸ Phillip Garboden, *Serial Filing: How Landlords Use the Threat of Eviction*, Am. Sociological Assn. (last visited Feb. 11, 2022), <https://www.asanet.org/serial-filing-how-landlords-use-threat-eviction>.
- ⁹ These costs include lost rent, vacancy, and turnover. Stephanie Bryant, *Eviction in Montgomery County*, Office of Legislative Oversight (last visited Feb. 11, 2022), https://www.montgomerycountymd.gov/OLO/Resources/Files/2018%20Reports/2018_10EvictionsMontgomeryCounty.pdf.
- ¹⁰ Deanna Pantin Parrish, *Designing for Housing Stability: Best Practices for Court-Based and Court-Adjacent Eviction Prevention and/or Diversion Programs*, American Bar Association & Harvard University (last visited Feb. 11, 2022), https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/lscovid19-dpp-best-practices.pdf.
- ¹¹ Mark Trekson, Solomon Greene, Olivia Fiol & Anne Junod, *Eviction Prevention and Diversion Programs, Early Lessons From the Pandemic*, The Urban Institute (2021), <https://www.urban.org/sites/default/files/publication/104148/eviction-prevention-and-diversion-programs-early-lessons-from-the-pandemic.pdf>.
- ¹² Tokarz, Karen Louise and Stragand, Sam and Geigerman, Michael and Smith, Wolf, *Addressing the Eviction Crisis and Housing Instability Through Mediation* (April 27, 2020). 63 Wash. U. J. L. & Pol'y 243, Washington University in St. Louis Legal Studies Research Paper No. 20-04-03, Available at SSRN: <https://ssrn.com/abstract=3586620>
- ¹³ 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>.
- ¹⁴ *Report of the Access to Counsel in Evictions Task Force*, Md.Att'y Gen. (2022), https://www.marylandattorneygeneral.gov/A2C_Docs/ATC_Task_Force_Report.pdf