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SB0564 – Landlord and Tenant and Wrongful Detainer Actions – Eviction Prevention Services

**Hearing before the Senate Judicial Proceedings Committee,
Feb. 22, 2022**

Position: SUPPORT (FAV)

Public Justice Center (PJC) is a nonprofit public interest law firm that serves over 600 renters each year. We stand with tenants to protect and expand their rights to safe, habitable, affordable, and non-discriminatory housing. PJC seeks the Committee's Favorable report on SB0564.

SB0564 would make effective use of existing eviction prevention services when they are needed most: at court, on the day of trial of an eviction case. Under SB0564, "eviction prevention service provider" is defined to include legal assistance, financial assistance, mediation, and social or counseling services. The bill targets Maryland's rapid "summary" court procedures for evicting renters – Failure to Pay Rent, Tenant Holding Over, and Breach of Lease – as well as Wrongful Detainer, which is intended for removing guests/invitees but may sometimes involve renters.

In these court proceedings, SB0564 would provide parties predictable access to eviction prevention supports via a recess or continuance, which would allow them to become better prepared for trial or to engage with mediation or rental assistance programs that could avoid trial and eviction altogether.

Without SB0564, 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.

SB0564 addresses rampant inconsistency among Maryland judges in allowing tenants time to engage eviction prevention services on day of trial.

In January 2022, Public Justice Center surveyed 30 pro bono housing attorneys from 12 offices operating in 15 Maryland jurisdictions. Attorneys were asked about how their local court treats continuance requests in most or all cases:

- Less than **30%** of attorneys reported that they could rely on their local courts in all or most cases to continue an eviction proceeding so that the tenant could seek representation from their pro bono program.

- Only **17%** of attorneys said that their local courts mostly or always continue trial to allow a tenant to come back with necessary evidence or witnesses.
- In contrast, **50%** of attorneys reported that the courts mostly or always grant continuances to allow landlords to obtain necessary evidence or witnesses.

Additionally, 24 attorneys who provide free legal services at court concurrently with eviction dockets were asked about the need for a recess:

- **29 percent** said they have sufficient time in most or all cases to interview tenants for representation purposes before the start of the docket.
- **33 percent** said they have sufficient time in most or all cases to interview tenants for representation purposes *during* the docket.
- **54 percent** reported feeling rushed when providing legal assistance at the start of or during the docket.

This limited sampling points to simple fact: district court **judges grant continuances or recesses sometimes, but they do not grant them all the time.** This leaves litigants, especially tenants, unsure how to proceed on day of trial. Unpredictable access to these services limits the effectiveness of already funded, staffed, and available eviction prevention efforts.

Continuances under SB0564

Foremost, the continuance provision in this bill 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, SB0564 would require the judge to grant a delay "for a reasonable time not less than 5 business days."

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.

SB0564 fills an important access-to-justice gap by creating a mandatory-if-requested continuance of at least 5 workdays 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.

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Recesses under SB0564

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.

SB0564 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.

SB0564 is about the future of Maryland’s eviction process.

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 kept up. 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 falter because of how fundamentally limited our eviction procedures currently are. For instance, the Failure to Pay Rent procedure (Real Property § 8-401(e)(1)) allows judges the authority to continue a trial proceeding for one day only, to allow a party to procure a witness. Other eviction procedures do not provide even that.

SB0564 provides the building blocks for a fairer, more preventative eviction court procedure. This bill looks to the future – when there will not be pandemic protocols that delay trial or hundreds of millions in federal assistance to cover rental debt.

Public Justice Center is a member of the Renters United Maryland coalition and asks that the Committee **issue a FAVORABLE report on SB0564**. If you have any questions, please contact Zafar Shah, shahz@publicjustice.org, (410) 625-9409 Ext. 237.

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