

SB521_MLSC_Fav.pdf

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Position: FAV



MLSC

MARYLAND LEGAL SERVICES CORPORATION

IOLTA - INTEREST ON LAWYER TRUST ACCOUNTS

Testimony Concerning SB 521
“Landlord and Tenant - Access to Counsel in Evictions Special Fund –
Mandatory Appropriation”
Submitted to the Senate Judicial Proceedings Committee
Hearing Date: February 15, 2022

Position: Favorable

Contact: Deb Seltzer, Executive Director, 410-576-9494 x1009, dseltzer@mlsc.org

Maryland Legal Services Corporation requests a favorable report on Senate Bill 521, enactment of which would direct any allowable portion of available federal rental assistance money to the Access to Counsel in Evictions Special Fund.

MLSC is a legislatively created nonprofit organization with a mission to ensure low-income Marylanders have access to stable, efficient and effective civil legal assistance through the distribution of funds to nonprofit legal services organizations. The Maryland General Assembly recognized the importance of civil legal services in rent court by passing the Access to Counsel in Evictions Program during the 2021 session. When funded, the Program will provide legal representation as well as related tenant outreach and education, ensuring low-income tenants facing loss of housing know their rights and have an advocate to guide them through the court process.

As the administrator of the Access to Counsel in Evictions Program, MLSC looks forward to building on our previous eviction prevention grants to ensure the Program proceeds effectively and efficiently, once funding is provided.

Legal aid attorneys working with current MLSC grantees have helped clients achieve a range of outcomes in their cases, including avoiding eviction, delaying eviction so the tenant has additional time to move, avoiding a loss of a housing subsidy, enforcing a tenant’s rights under a lease and more. However, the large volume of eviction filings in Maryland paired with a lack of dedicated resources means that providers have never been able to reach more than a few thousand clients with full representation each year. The Access to Counsel in Evictions Program offers a chance to change that paradigm – but only with appropriate funding.

The State has demonstrated a commitment to using federal funds in this manner with the recent announcement that approximately \$5.4 million of the second round of Emergency Rental Assistance Program (ERAP 2) funding will be earmarked for the Program. The federal government has encouraged states to use the ERAP 2 funding for eviction prevention legal services, dedicating up to 10% of these funds for housing stability services. If additional funds remain in Maryland’s ERAP 2 allocation, we encourage their deposit in the Access to Counsel in Evictions Special Fund so that the Program has a known funding source for its implementation period. In fact, the deadline for allocation of ERAP 2 funds (September 30, 2025) dovetails almost exactly with the implementation timeline proposed for the Program (October 1, 2025).

While related federal funding will likely not be enough to fund the Program in its entirety or on a continual basis, money received through this instrument will be an important supplement to an ongoing, stable funding source. The Access to Counsel in Evictions Task Force also supported the concept of this legislation, paired with an appropriation, in its final report.

MLSC asks for favorable consideration of Senate Bill 521.

SB 521_Emily Ordakowski_fav.pdf

Uploaded by: Emily Ordakowski

Position: FAV

Testimony in Support of SB521 – FAVORABLE

Landlord and Tenant – Access to Counsel in Evictions Special Fund – Mandatory Appropriation
Before the Judicial Proceedings Committee – February 15, 2022

Senate Bill 521, cross-filed with House Bill 712, will help Marylanders who are vulnerable access counsel in eviction proceedings, which the General Assembly prioritized when it passed House Bill 18 in 2021. The bill would provide funding to the Access to Counsel in Evictions Special Fund by requiring the Governor to appropriate federal rental assistance money to the Fund. Funding the Access to Counsel program is critical for the program to reach its full potential and give tenants the necessary tools to assert valid defenses already available to them under law. Evictions are damaging to individuals and public health. Giving tenants the opportunity to access counsel leads to fewer evictions, streamlined proceedings, and better outcomes for tenants. Eviction defense is an effective public health measure, proven to prevent disruptive displacement of individuals and families and bring cohesion to communities. Senate Bill 521 is necessary to implement the Access to Counsel program and it is worth repeating why the General Assembly created the Access to Counsel Fund last session.

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

Housing stability and health are directly correlated—a stable home is a basis for a healthy life. Many organizations, including the World Health Organization and the Centers for Disease Control and Prevention, recognize that housing is a “social determinant of health,”¹ meaning where you live plays a role in your health and longevity. Housing instability comes with long-lasting and significant damaging health consequences to individuals and families. 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 Moreover, young adults who have

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/>.

experienced eviction are at higher risk of teen pregnancy, drug use, and depression.⁴ 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.⁵ Notably, the consequences are not experienced equally—Black female renters face eviction twice as often as white tenants.⁶

The ramifications of an eviction multiply over time, affecting all aspects of an individual's life.⁷ An eviction record can create economic hardships and health problems. Its consequences are like having a criminal record—an eviction record remains public for seven years and remains visible to landlords, rental agencies, and potential employers during the screening process. Thus, it is difficult for individuals to find subsequent housing and jobs.⁸ The working poor often lose their jobs because of eviction⁹ and, once unemployed, have difficulty finding new jobs, particularly without a stable address. After displacement, many families must move to lower-quality homes, often with unsafe conditions, and into neighborhoods with higher rates of poverty and crime.¹⁰ Consequently, because eviction is so detrimental to individuals and Maryland communities, it should be avoided whenever there are other viable options.

Legal Representation in Eviction Proceedings Reduces Eviction Rates

The average tenant is unprepared and often unaware of how to advocate for themselves or assert the valid defenses to which they are entitled under law; therefore, without legal representation most tenants lose their cases and face eviction.¹¹ Moreover, when parties are

⁴ Lauren Taylor, *Housing and Health: An Overview of The Literature*, HEALTH AFFAIRS (June 7, 2018), <https://www.healthaffairs.org/doi/10.1377/hpb20180313.396577/>.

⁵ 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>.

⁶ Sophie Beiers et al., *Clearing the Record: How Eviction Sealing Laws Can Advance Housing Access for Women of Color* (Jan. 10, 2020), <https://www.aclu.org/news/racial-justice/clearing-the-record-how-eviction-sealing-laws-can-advance-housing-access-for-women-of-color/>.

⁷ 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/>.

⁸ Jake Blumgart, *To Reduce Unfair Evictions, Tenants Need Lawyers*, PLAN PHILLY (Mar. 16, 2017), <https://why.org/articles/to-reduce-unfair-evictions-tenants-need-lawyers/>.

⁹ *Housing Instability Increases Likelihood of Job Loss*, NAT'L LOW INCOME HOUSING COAL. (Feb. 20, 2018), <https://nlihc.org/resource/housing-instability-increases-likelihood-job-loss>, summarizing Matthew Desmond & Carl Gershenson, *Housing and Employment Insecurity among the Working Poor*, SOC. PROBS. (Jan. 11, 2016), <https://scholar.harvard.edu/files/mdesmond/files/desmondgershenson.sp2016.pdf?m=1452638824>.

¹⁰ 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/>.

¹¹ Schultheis & Rooney, *supra* note 10.

represented during an eviction case, attorneys help cases move quickly and efficiently through the court system, saving the State administrative costs and allowing courts to run more efficiently. Last year, Maryland took an important step to address this issue and became one of three states that have a categorical right to counsel. Earlier this year, New York introduced a statewide bill that provides a right to counsel in eviction proceedings. Additionally, at least sixteen local jurisdictions have a right to counsel for tenants, including Kansas City, Minneapolis, Toledo, and Louisville.

Research shows that one of the ways to reduce evictions for low-income tenants is to level the playing field between tenants and landlords—guaranteeing legal representation for tenants.¹² In 2020, one study found that 92% of tenants were able to prevent disruptive displacement when they had legal representation.¹³ After New York City passed access to counsel, 100% of tenants who had scheduled eviction cases had full access to legal services, and 84% of tenants were able to stay in their homes.¹⁴ In Cleveland, 93% of tenants represented by legal counsel avoided eviction or involuntary moves, and 83% who were seeking additional time to move were able to do so.¹⁵ Even in situations when eviction is warranted, attorneys are still able to mitigate the severe impacts of eviction. An attorney may be able to keep eviction filings off a tenant’s record, negotiate a payment plan or moveout date, help a tenant apply for rental assistance, or reduce the amount of money owed to a landlord.¹⁶ Indeed, recent data ranging from March 2020 to December 2021 from San Francisco shows that 59% of represented tenants were able to remain in their homes and, of the 30% who did not remain in their homes, 70% received a favorable settlements such as a moveout with sufficient time.¹⁷ These kinds of interventions by attorneys are critical to ensuring that tenants may be able to secure healthy, safe housing later.

¹² Schultheis & Rooney, *supra* note 10.

¹³ *Access to Counsel Funding*, RENTERS UNITED MARYLAND (Jan. 31, 2022), <http://rentersunitedmaryland.org/housing-justice-22/>.

¹⁴ Office of Civil Justice, *Universal Access to Legal Services*, NYC.GOV (2021), https://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ_UA_Annual_Report_2021.pdf.

¹⁵ *Right to Counsel, Free Eviction Help*, THE LEGAL AID SOC’Y OF CLEVELAND (Jan. 31, 2021), <https://lasclev.org/wp-content/uploads/January-2021-report-on-initial-6-months-of-Right-to-Counsel-Cleveland-high-res.pdf>.

¹⁶ Schultheis & Rooney, *supra* note 10.

¹⁷ *All about the Right to Counsel for Tenants in San Francisco*, NAT’L COAL. CIV. RT. COUNS. (Feb. 3, 2022), http://civilrighttocounsel.org/major_developments/1179.

Senate Bill 521 is Necessary for Implementation of the Access to Counsel Program

You acknowledged the need for access to counsel in eviction proceedings last year and that need has only grown since. Maryland’s legal services providers are unable to keep up with the current demand for legal representation.¹⁸ Funding Maryland’s new Access to Counsel in Evictions Special Funds is necessary to fully implement the program throughout Maryland and keep pace with the demand for legal representation. Although there are concerns about the cost of implementation, the program will result in substantial savings to the State. In passing House Bill 18, the General Assembly recognized that evictions create significant costs to the State—including emergency shelters, temporary housing, mental health care, transportation costs, foster care, and costs associated with children changing schools. These costs could be avoided by funding and implementing the Access to Counsel program.

The Maryland Access to Counsel in Evictions Tasks Force reported that about \$12 million in funding for fiscal year 2023 is required for the program to realize its full impact.¹⁹ This bill’s use of federal funding is an approach several jurisdictions have already implemented. For example, Connecticut has allocated \$20 million of Coronavirus State Fiscal Recovery Funds for tenant representation.²⁰ Louisville, Denver, and Toledo all rely on federal funding for their access to counsel in eviction programs as well.²¹ If Senate Bill 521 passes, the funds received would be used to keep people in their homes and avoid the negative consequences of displacement, where appropriate, by providing legal representation to tenants facing eviction. Having decided last year that access to counsel for tenants is a priority, it is time for the State to ensure the program’s success by seeking all viable sources of funding to put House Bill 18 into effect. Senate Bill 521 is one step in the right direction.

¹⁸ *Access to Counsel Funding*, *supra* note 13.

¹⁹ Reena K. Shah, *It’s Time to Fund the Access to Counsel in Eviction Fund*, THE DAILY REC. (Jan. 12, 2022), <https://thedailyrecord.com/2022/01/12/its-time-to-fund-the-access-to-counsel-in-eviction-law/>.

²⁰ Ginny Monk, *CT Offers Legal Help to Tenants Facing Eviction in These 14 Neighborhoods*, CT INSIDER (Jan. 31, 2022), <https://www.ctinsider.com/news/article/CT-offers-legal-help-to-tenants-facing-eviction-16818534.php>.

²¹ *The Right to Counsel for Tenants Facing Eviction: Enacted Legislation*, NAT’L COAL. CIV. RT. COUNS. (last updated Jan. 2022), http://civilrighttocounsel.org/uploaded_files/283/RTC_Enacted_Legislation_in_Eviction_Proceedings_FINAL.pdf.

Conclusion

“Without access to justice, the promise of equal justice rings hollow.”²² Maryland took the critical step to provide tenants with access to counsel; however, the program cannot be fully implemented and reach its full potential without sufficient funding. Eviction leaves tenants and families with long-lasting and significant negative health impacts. Eviction generates avoidable costs for the State. Providing legal representation can avoid unwarranted evictions and result in positive outcomes for Maryland tenants. Senate Bill 521 is essential legislation to create a stable funding source for a new and vital program that provides the right to access counsel in eviction proceedings.

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

²² Attorney General Merrick B. Garland Delivers Remarks at the White House—Justice Department Convening with Law Schools: A Call to Action for Access to Justice, DEP’T OF JUST. (Jan. 28, 2022), <https://www.justice.gov/opa/speech/attorney-general-merrick-b-garland-delivers-remarks-white-house-justice-department>.

SB 521 Testimony.pdf

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Position: FAV



**MARYLAND
LEGAL AID**

Advancing
**Human Rights and
Justice for All**

**STATEWIDE
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February 15, 2022

The Honorable William C. Smith, Jr.
2 East Miller Senate Office Building
Annapolis, Maryland 21401

**RE: Testimony of Maryland Legal Aid in Support of Senate Bill 521 –
Landlord and Tenant- Access to Counsel in Evictions Special Fund-
Mandatory Appropriations**

Dear Chairmen Smith and Members of Committee:

Thank you for the opportunity to provide testimony on this important bill. Maryland Legal Aid (MLA) is a non-profit law firm that provides free legal services to Maryland's low-income and vulnerable residents. MLA handles civil legal cases involving a wide range of issues, including family law, housing, public benefits, consumer law (e.g., bankruptcy and debt collection), and criminal record expungements to remove barriers to obtaining child custody and housing a driver's license, and employment. Maryland Legal Aid supports SB 521 and asks that this committee give it a favorable report. This letter serves as notice that Gregory Countess, Esq., will testify in support of S B 521 on behalf of Maryland Legal Aid.

In 2010, the Maryland Access to Justice Commission recommended in its 2009 Interim Report the establishment of a right to counsel poor persons in this state. The Commission supported the principle that low-income Marylanders should have a right to counsel at public expense for adversarial proceedings where basic human needs are at stake, including shelter.¹ In 2021, the Maryland General Assembly supported this principle by enacting legislation that would provide counsel access in certain cases. The bill did not guarantee a right to counsel or provide funding to support the Access to Counsel program. Though the enacted statute did not create a right to counsel, it took another step toward providing meaningful access to justice for poor Maryland renters.

While MLA represents thousands of poor Marylanders each year in Landlord/Tenant matters, a report from the Legal Service Corporation programs reveals that 86% of the civil legal needs of low-income Americans receive

¹ <https://www.mdcourts.gov/mdatjc/civilrightscounsel>

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inadequate or no legal help.² The Legal Services Corporation, which provides some funding to MLA, reported that 98% of tenants were unrepresented in eviction cases across the country.³ The story is little different in Maryland. A recent report found that 99% of Baltimore renters were unrepresented in eviction cases while only 4% of Landlords were unrepresented.⁴ This bill will provide dedicated funding for the Access to Counsel Program by making unspent Federal Rental Assistance funds available.

The right to housing is a principle established in the Universal Declaration of Human Rights, and access to counsel to protect that right from arbitrary deprivation is also a precept propounded in the Declaration.⁵ Under the current scheme, tenants cannot effectively protect their right to housing. They face an unfamiliar court system and landlords who are experts in ensuring evictions. Tenants need representation for fundamental fairness and justice in this process. Thus, providing funding for access to counsel is necessary. For these reasons, MLA asks for a favorable report on SB 521.

/S/ Gregory Countess

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² <https://www.lsc.gov/our-impact/publications/other-publications-and-reports/justice-gap-report>

³ <https://www.lsc.gov/our-impact/publications/other-publications-and-reports/justice-gap-report>

⁴ <https://bmorerentersunited.org/rtc/stoutreport/>

⁵ https://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf

BaltimoreCounty_FAV_SB0521.pdf

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JOHN A. OLSZEWSKI, JR.
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Associate Director of Government Affairs

BILL NO.: **SB 521**

TITLE: **Landlord and Tenant - Access to Counsel in Evictions Special Fund - Mandatory Appropriation**

SPONSOR: **Senator Hettleman**

COMMITTEE: **Judicial Proceedings**

POSITION: **SUPPORT**

DATE: **February 15, 2022**

Baltimore County **SUPPORTS** Senate Bill 521 – Landlord and Tenant - Access to Counsel in Evictions Special Fund - Mandatory Appropriation. This bill would require the Governor to appropriate excess federal rental assistance funds to be appropriated to the Access to Counsel in Special Evictions Fund.

At the onset of the COVID-19 Pandemic, County Executive Olszewski acted quickly in the face of rising rates of unemployment and growing economic insecurity to keep Baltimore County residents in their homes. The County created its first Department of Housing and Community Development, bringing its housing resources together to ensure a concerted and coordinated effort to prevent evictions throughout the pandemic and in years to come. With assistance from the State and Federal governments, and through innovative partnerships such as the STEP Program with United Way, the County has prevented thousands of resident evictions to date.

Residents who are facing eviction currently often do not have the disposable income required to hire representation in the event of an eviction proceeding. The Access to Counsel in Special Evictions fund was created to make resources available for those residents engaged in an eviction proceeding who cannot afford representation. By appropriating excess federal rental assistance funding to this new fund, SB 521 furthers Baltimore County’s eviction prevention efforts by expanding the reach of this critical program.

Accordingly, Baltimore County requests a **FAVORABLE** report on SB 521. For more information, please contact Joel Beller, Acting Director of Government Affairs at jbeller@baltimorecountymd.gov.

SB 521_OAG_Fav_2022.pdf

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February 14, 2022

To: The Honorable William C. Smith, Jr.
Chair, Judicial Proceedings Committee

From: Brian E. Frosh
Attorney General

Re: Senate Bill 521 – Landlord and Tenant - Access to Counsel in Evictions Special Fund -
Mandatory Appropriation (SUPPORT)

The Office of the Attorney General supports Senate Bill 521 sponsored by Senators Hettleman, Smith, Waldstreicher, West and Zucker. Senate Bill 521 would appropriate annual funding for the Access to Counsel in Evictions Special Fund (the “Fund”). Providing the Fund with annual appropriations is essential to fulfilling the aims and goals of the General Assembly in enacting House Bill 18 in 2021.

Absent funding, renters will continue to overwhelmingly face eviction actions without counsel. As of January 2022, 62% of Maryland renters believe they are somewhat or very likely to be evicted within the next two months.¹ Eviction, or a mere threat of eviction, is “associated with numerous mental health conditions including anxiety, depression, exposure to violence, mental health hospitalization, and suicide.”² Eviction is particularly “traumatizing to children and affects emotional and physical well-being and development for years, if not for lifetimes.”³ Without adequate funding for access to counsel, Maryland renters will continue to experience the detrimental emotional and physical effects the General Assembly sought to avoid last session by enacting House Bill 18. Accordingly, the Office of the Attorney General requests that the Judiciary Committee give Senate Bill 521 a favorable report.

cc: The Honorable Shelly Hettleman, *et al.*
Members, Judicial Proceedings Committee

¹ January 2022, US Census Household Pulse Survey Week 42 Housing Tab 3b,
<https://www.census.gov/data/tables/2021/demo/hhp/hhp41.html>

² Emily A. Benefer et al., *Eviction, Health Inequity, and the Spread of COVID-19: Housing Policy as a Primary Pandemic Mitigation Strategy*, J. URB. HEALTH 1, 4 (last revised Dec. 7, 2020).

³ *Id.*

SB521 PJC Testimony ATC Funding Rent Assist FAV.pd

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SB 521, Landlord and Tenant - Access to Counsel in Evictions Special Fund - Mandatory Appropriation

Hearing before the Senate Judicial Proceedings Committee, February 15, 2022

Position: FAVORABLE

The Public Justice Center (PJC) is a nonprofit public interest law firm that stands with tenants to expand their rights to safe, habitable, affordable, and non-discriminatory housing.

We support SB 521 as part of a larger plan to fully fund implementation of the Access to Counsel in Evictions legislation.

SB 521 provides that if the Governor appropriates federal rental assistance funds for FY 23 in a budget amendment after July 1, 2022, approximately 10% of those funds be appropriated to the Access to Counsel in Evictions Fund, with a similar framework for FY 24 and beyond. It is our understanding that most federal rental assistance funds have been appropriated or will be appropriated before July 1, 2022. For that reason, SB 521 is not sufficient by itself to provide a consistent source of funding for implementation, but it would be an important part of a comprehensive plan.

92% of eviction cases in which the renter had legal representation resulted in prevention of disruptive displacement, in a 2020 study by Stout Risius Ross.

\$62M of state costs could be avoided through Access to Counsel in eviction cases, by preventing emergency room, shelter, and foster care costs.

The Access to Counsel in Evictions Task Force recommended an allocation of \$11.8 million in FY 23, which would help 9,762 Maryland families avoid disruptive displacement in eviction actions. The Access to Counsel in Evictions Task Force issued a [report](#) laying out a framework for equitable, effective implementation. The Task Force called on the State to allocate \$11.8 million in FY 23, moving to full implementation by 2025. The General Assembly's Spending Affordability Committee recommended [\\$14 million for FY 23](#) for implementation. Relying on court data and analysis from Stout Risius Ross, the MD Legal Services Corp. (MLSC) estimates that there are 29,683 limited-income residents who have an unmet need for legal representation in eviction cases. MLSC estimates that with an additional allocation of \$11.8 million for FY 23, the State can meet approximately 1/3 of that need.

The \$5.4 million proposed by Governor Hogan for counsel in eviction cases is insufficient because local jurisdictions are slated to lose about \$4.4M in one-time, federal funding for

The Public Justice Center is a 501(c)(3) charitable organization and as such does not endorse or oppose any political party or candidate for elected office.

eviction representation that is running out. The State and local jurisdictions have used mostly federal money to expand access to counsel in FY 21 & 22.

In the last six months of 2021, just four legal services providers represented 1,284 MD residents facing eviction and prevented the disruptive displacement of residents in 88% of those cases. These organizations provided advice to another 2,626 facing eviction-related issues. Lawyers from these orgs assisted tenants with many defenses including: severe conditions of disrepair, retaliation, lack of landlord licensing/lead paint compliance, illegal/excessive fees or non-rent charges, payment already made, not a substantial breach of the lease, and others. A significant part of the funding for these cases will be spent in FY 22 and tenants will lose current levels of representation if implementation of Access to Counsel in Evictions is not fully funded. Further, implementing Access to Counsel also means increased tenant outreach and education so that residents can know their rights and access resources such as rental assistance.

Legal services providers report being unable to meet current demand. Legal services providers such as Community Legal Services of Prince George's County and Public Justice Center report that in the last 6 months, they have only been able to provide representation to appx. 1/3 of renter clients due to lack of capacity. Similarly, for same-day in-court services, Pro Bono Resource Center of Md. estimates that – due to limited capacity - it has reached less than 1/3 of renters who are in need of legal representation in Baltimore County.

Representation balances the scales and saves the state money. Over 90% of landlords are represented by an attorney or specialized agent while over 90% of tenants are not. [Counsel is 92% effective in preventing disruptive displacement in evictions according to a study of one jurisdiction in Maryland.](#) By fully implementing Access to Counsel, the State can help level the scales and save an estimated \$62M from reduced emergency room, shelter, and foster care costs. It is much less expensive to keep people housed than provide services when they are homeless.

The General Assembly must act to fully fund Access to Counsel in Evictions to prevent the law from becoming an empty promise.

Public Justice Center is a member of the Renters United Maryland coalition and asks that the Committee **issue a report of FAVORABLE on SB 521.** If you have any questions, please contact: Matt Hill, hillm@publicjustice.org, 410-625-9409, ext. 229.

SB 521_MNADV_FAV.pdf

Uploaded by: Melanie Shapiro

Position: FAV



BILL NO: Senate Bill 521
TITLE: Landlord and Tenant - Access to Counsel in Evictions Special Fund -
Mandatory Appropriation
COMMITTEE: Judicial Proceedings
HEARING DATE: February 15, 2022
POSITION: **SUPPORT**

The Maryland Network Against Domestic Violence (MNADV) is the state domestic violence coalition that brings together victim service providers, allied professionals, and concerned individuals for the common purpose of reducing intimate partner and family violence and its harmful effects on our citizens. **MNADV urges the Senate Judicial Proceedings Committee to issue a favorable report on SB 521.**

With more than a third of domestic violence victims experiencing homelessness after leaving their abuser, the ability to access safe and affordable housing is paramount for victims and survivors of domestic violence. An inability to access safe and affordable housing is often an insurmountable barrier for a victim attempting to leave a domestic violence situation. Victims often remain in abusive relationships and children are exposed to ongoing violence because they have nowhere safe to go and are at risk of homelessness or housing instability.

Despite federal and state protections intended to prevent eviction for victims of domestic violence and support them in obtaining safe and affordable housing, victims often find themselves homeless. Victims face punishment or discrimination for an abusive partners violence. Often, victims experience financial abuse and may have insufficient funds and poor credit both necessary to secure housing.

SB 521 requires a mandatory appropriation that is necessary to financially support counsel for tenants facing eviction proceedings. Victims of domestic violence would greatly benefit from counsel at evictions proceedings to ensure that federal and state law is followed and they are not being discriminated against or wrongfully evicted.

For the above stated reasons, the **Maryland Network Against Domestic Violence urges a favorable report on SB 521.**

SB 521--AOBA Statement--FAV.pdf

Uploaded by: Ryan Washington

Position: FAV



Bill No: SB 521-- Landlord and Tenant - Access to Counsel in Evictions Special Fund - Mandatory Appropriation

Committee: Judicial Proceedings

Date: 2/15/22

Position: Favorable

The Apartment and Office Building Association of Metropolitan Washington (AOBA) represents members that own or manage more than 23 million square feet of commercial office space and 133,000 apartment rental units in Montgomery and Prince George's Counties.

Senate Bill 521 requires the Governor to appropriate money from federal rental assistance money to the Access to Counsel in Evictions Special Fund.

AOBA supports a dedicated funding source for the Access to Counsel in Evictions Special Fund that does not increase fees, or impose new fees, on housing providers or the rental housing industry.

For these reasons AOBA requests a favorable report on SB 521.

For further information contact Erin Bradley, AOBA Vice President of Government Affairs, at 301-904-0814 or erBradley@aoba-metro.org.

SB521_FAV_Hettleman.pdf

Uploaded by: Shelly Hettleman

Position: FAV

SHELLY HETTLEMAN
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Judicial Proceedings Committee

Joint Committee on Children, Youth,
and Families

Joint Committee on the Chesapeake
and Atlantic Coastal Bays Critical Area



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The Senate of Maryland
ANNAPOLIS, MARYLAND 21401

TESTIMONY OF SENATOR SHELLY HETTLEMAN
SB521 Landlord and Tenant - Access to Counsel in Evictions Special Fund –
Mandatory Appropriation

The Access to Counsel bill (HB 18) enacted into law this past October mandates that eligible tenants “shall have access to counsel” when faced with the possibility of eviction. We have learned much about the dramatic consequences of displacing someone from their home: the public health effects, the increased costs of education, shelter, transportation for homeless youth. And, the disparate impact of eviction on Black and Brown households.

We have also learned that tenants who have counsel are substantially more likely to avoid displacement than those who do not. Having counsel creates a more level playing field before a court where over 90% of landlords have either attorneys or highly trained agents to represent them while barely 10% do.

While we made substantial progress ensuring Access to Counsel in last year’s General Assembly, we did not provide a sustainable funding source for the program. Sb 521 is meant to address that issue.

The Maryland Legal Services Corporation (MLSC) estimates that full implementation of Access to Counsel will cost approximately \$30 million per year based on an extrapolation of a consulting firm’s study of access to counsel in Baltimore City.

SB521 requires, beginning in fiscal 2023, that if the Governor appropriates federal rental assistance through a budget amendment, the maximum amount of any assistance that may be used for legal representation must be appropriated to the Access to Counsel in Evictions (ACE) Special Fund. In fiscal 2024, the Governor must include in the annual budget bill an appropriation to the ACE Special Fund that is equal to the maximum amount of any federal rental assistance money that may be used for legal representation that is (1) available to the State but unappropriated or (2) anticipated to be received by the State before the end of the fiscal year for which the appropriation is proposed. Finally, subject to federal law, any excess federal rental assistance money received by the State in fiscal 2022 must be appropriated to the ACE Special Fund.

This bill ensures that the maximum allowable appropriation that can be directed to the ACE fund is directed there. Legal services providers across Maryland have represented tenants in and out of the courtroom to prevent homelessness and evictions. This bill ensures that a reliable funding source is maximized to support the ACE fund.

A2C Task Force - SB 521 (support).pdf

Uploaded by: Vicki Schultz

Position: FAV



ACCESS TO COUNSEL IN EVICTIONS TASK FORCE



February 15, 2022

To: The Honorable William C. Smith, Jr.
Chair, Senate Judicial Proceedings Committee

From: Vicki Schultz
Chair, Access to Counsel in Evictions Task Force

Re: Senate Bill 521 – Landlord and Tenant – Access to Counsel in Evictions Special Fund –
Mandatory Appropriation (SUPPORT)

The Maryland Access to Counsel in Evictions Task Force strongly supports Senate Bill 521, which directs the Governor to appropriate federal rental assistance money that may be used for legal representation to the Access to Counsel in Evictions Special Fund. The Access to Counsel in Evictions Program is an effective strategy to prevent evictions, promote housing stability and address the disproportionate impact evictions have on people and communities of color.

As noted in the Task Force’s first annual report in January 2022, funding the Access to Counsel in Evictions Program is an “urgent and critical need.” Maryland Legal Services Corporation, the administrator of the Program, has projected that full implementation of the Program will require \$30 million per year.¹ As yet, no money has been deposited into the Special Fund, delaying implementation of the Program and depriving low-income Marylanders facing eviction of the legal representation that they desperately need and the General Assembly intended to provide.

The Task Force has recommended an annual appropriation in the State’s operating budget as the primary source of funding for the Special Fund, because stable funding is crucial to ensure the Program’s success. As the Task Force explained, “[f]luctuations that come from relying on intermittent funding sources could have deleterious impacts on staffing levels, outreach efforts, and more.” The Task Force also recommended that federal rental assistance funds be used to help jumpstart the Access to Counsel in Evictions Program.² The federal government has encouraged the use of these funds to provide legal services to tenants facing eviction. Senate Bill 521 is consistent with both of those recommendations, and the Task Force therefore respectfully requests that the Judicial Proceedings Committee issue a favorable report on the bill.

¹ That projection—which includes funding for legal services, required outreach and education, administration, and evaluation of the Program—will be revisited and changed as needed as implementation progresses.

² Accounting for a phased implementation period, the Task Force asked Governor Hogan to allocate approximately \$12 million to the Special Fund for this fiscal year. Although the Department of Housing and Community Development recently announced that approximately \$5.4 million of the second phase of federal emergency rental assistance (ERAP 2) funds will be used for legal services, those funds have not yet been deposited into the Special Fund and there has been no formal announcement that they will ultimately be directed there.

SB 521_realtors_fav.pdf

Uploaded by: William Castelli

Position: FAV



Senate Bill 521 – Landlord and Tenant – Access to Counsel in Evictions Special Fund – Mandatory Appropriation

Position: Favorable

The Maryland REALTORS® supports SB 521 which would mandate an appropriation in the budget equal to the amount of federal rental assistance money that may be used for legal representation.

The REALTORS® have opposed other access to counsel legislation because those bills both increase the costs of the eviction surcharge and make it unrecoverable. This legislation identifies a portion of the federal rental assistance money for these purposes and mandates its use for access to counsel. It is also important to note, that some lower-income owners of real property who are not represented by our members or others, could also use help before the courts. Like some tenants, these Marylanders can also be intimidated by the court process and may not be able to represent themselves in a competent way.

The Maryland REALTORS® recommends a favorable report.

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MMHA - 2022 - SB 521 Favorable w Amendments.pdf

Uploaded by: Grason Wiggins

Position: FWA



Senate Bill 521

Committee: Judicial Proceedings
Date: February 15, 2022
Position: Favorable with Amendments

This testimony is offered on behalf of the Maryland Multi-Housing Association (MMHA). MMHA is a professional trade association established in 1996, whose members consist of owners and managers of more than 210,000 rental housing homes in over 958 apartment communities. Our members house over 538,000 residents of the State of Maryland. MMHA also represents over 250 associate member companies who supply goods and services to the multi-housing industry.

Senate Bill 521 (“SB 521”) directs federal rental assistance funding to the Access to Counsel in Evictions Program (“A2C Program”). MMHA’s position on funding for the Access to Counsel in Evictions Program (“A2C Program”) has been consistent. MMHA is supportive of funds that do not burden housing providers who provide critical services to Maryland’s residents, and MMHA is supportive of those funds being allocated to the program based on a sound budget development process. While MMHA has significant questions regarding the budget proposed by certain organizations for the A2C Program, **SB 521 is certainly a more appropriate method to fund the A2C Program than unrecoverable court costs being levied against housing providers that are exercising their right to access the impartial judicial system.**

Amendment

Section 2 of SB 521 states that “excess” federal rental assistance money received by Maryland in fiscal year 2022 shall be appropriated to the Access to Counsel in Evictions Special Fund (see page 3, line 12). MMHA has had conversations with stakeholders regarding SB 521, and MMHA has been provided with significantly different estimates of the amount of federal funds that SB 521 allocates to the Access to Counsel in Evictions Special Fund. Since SB 521 is one of at least three separate bills that would direct funding to the program, MMHA respectfully requests that the committee amend Section 2 of the bill to be more specific about how much funding is being directed to the program under SB 521.

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Uploaded by: Graham Shaffer

Position: INFO

DATE: February 15, 2022

BILL NO.: SB 521

COMMITTEE: Senate Judicial Proceedings Committee

TITLE: Landlord and Tenant - Access to Counsel in Evictions Special Fund - Mandatory
Appropriation

SPONSORS: Senators Hettleman, Smith, Waldstreicher, West, and Zucker

Letter of Information

Description of Bill:

SB 521 would require the Governor to appropriate an indeterminate amount of hypothetical future federal rental assistance money to provide legal services to the Access to Counsel in Evictions Special Fund. This bill does not specify the particular fund source, but describes it as federal rental assistance funding for which legal services is an allowable purpose.

Background:

SB 521 would require the Administration to redirect to the Access to Counsel in Evictions program all federal rental assistance funding that is eligible to support legal services from any future federal appropriations. If this is intended to be funding for which both rental assistance and legal services are eligible, but which is not a clearly defined federal “rental assistance” program, then this program could have a significantly detrimental impact on the agency’s homelessness and anti-poverty programs. The following analysis is based on the assumption that the federal funds intended to be targeted are those that are more similar to the recent Emergency Rental Assistance Program (ERAP).

ERAP was established by the Consolidated Appropriations Act, 2021 and received a second round of funding (referred to as ERAP 2) through the American Rescue Plan Act. ERAP was designed as a rental assistance plan from the ground up, and allowed for up to 10% of funds to be used for housing stability services. Housing stability services include case management activities for low and moderate income households, specialized services for individuals with disabilities and seniors, housing-related services for survivors of domestic abuse or human trafficking, and housing counseling, as well as legal services.

The funds being used by our local government and nonprofit partners to support those other housing stability services serve the most vulnerable populations and are a necessary part of the support system provided by the State.



MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

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While we do not believe that this bill would affect existing ERAP funds due to the award timeline for these funds, it is also worth noting that we are not aware of any intention on the part of Congress to extend or expand further funds for this purpose. This leaves the possibility that this bill could redirect future funds, without knowing the opportunity cost of those funds, which we believe is a poor approach to fiscal management, and could harm individuals at risk of homelessness, persons with disabilities, survivors of domestic abuse and human trafficking, as well as other low income populations with special needs.

Over the course of the pandemic, this agency has allocated significant funding to support both the Access to Counsel in Evictions program, as well as legal services to support other vulnerable populations, including those at risk of foreclosure. Our nonprofit and local government partners have also provided support for legal services through funds that flow from our Department. We recently announced that we have set aside \$5.4 million to support Access to Counsel in Evictions, as well as a further \$4.4 million from the Homeowner Assistance Fund, which will support legal services for households facing foreclosure risk.

The Department reviews all funding decisions with a data-focused approach. Based on our analysis of eviction statistics, we believe the existing funds committed to legal services are sufficient for the present need, and we will continue to monitor and evaluate on an ongoing basis.

In addition, Congress frequently develops set asides for local jurisdictions with large populations, as was done for ERAP and as is the case for U.S. Department of Housing and Community Development Community Planning and Development (CPD) programs. To the extent that future funding may follow this model, this bill would disproportionately impact funding available to local jurisdictions with populations below that threshold who depend on the State for federal pass-through funding. In the case of ERAP, the county population threshold for direct funding was set at 200,000, encompassing eight jurisdictions, meaning that in a hypothetical third round of ERAP, assuming identical parameters, eight jurisdictions would receive direct funding from the federal government to administer as they please, while the remaining 16 counties would receive no funds for housing stability services for their most vulnerable populations.