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HB571

Access to Counsel in Evictions Special Fund - Alteration
House Judiciary 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 Maryland Access to Justice Commission Supports the Principle of Funding the Access to Counsel in Evictions Fund

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. However, the Program remains unfunded. The law mandated the [Access to Counsel in Evictions Task Force](#), whose leadership was composed of members of the Access to Justice Commission, started its work on October 1, 2021 and delivered its [final report](#) on January 1, 2022. The report is clear to highlight that **“[f]unding is the most urgent and critical need.”**

Indeed, the report goes on to state the following:

Without [funding], this Program cannot be implemented and nothing will change for the many low-income Marylanders who face eviction. The Task Force strongly recommends that the necessary funding be identified and deposited into the Fund so that phased implementation for the Program can begin. The recommendations for sufficient Program funding begin with the gold standard and most stable source of funding—an annual state appropriation for the Program—and progress to recommend other sources as well.

The Task Force supports, in concept, legislation that would direct money to the Fund through Consumer Protection Act penalties, federal rental assistance programs, or other sources. . . . Although the Task Force has not yet seen the text of these bills, it generally supports such efforts to direct external and federal money to the Fund in order to supplement a State appropriation.

Following the recommendation of the Access to Counsel Task Force, the Commission also supports additional funding sources to the Access to Counsel Fund, such as the one identified in HB571.

Funding the Access to Counsel Program is a Cost-Effective Way to Prevent Evictions

Evictions involve a legal process that can be complex, especially for low-income renters, where federal, state and local laws are implicated, in addition to contract law and case law. Funding this Access to Counsel in Eviction Program is crucial to the Program's implementation. HB18 was passed last year on the premise that providing access to counsel to tenants facing eviction "is a proven means of preventing the disruptive displacement of families and the resulting social, economic, and public health costs of such displacement." Lawyers not only help prevent evictions, but can also help in "delaying evictions, providing their clients more time to move, securing access to housing, . . . overcoming a denial of a tenant's rights under a lease, enforcing rights to decent, habitable housing, . . . [and] obtaining repairs."

Indeed, even as Congress exhibited a significant commitment of emergency rental assistance funds, the federal government has also strongly recognized that tenants are more likely to avoid eviction when they have access to legal representation and that counsel can help tenants navigate the process of seeking and obtaining rental assistance.

Given the various ways in which lawyers can help tenants avoid eviction, it is unsurprising that numerous studies show that tenants who have counsel fare better than those who do not. For example, in New York City, the first jurisdiction in the country to implement a right to counsel in evictions program, the rate of tenants represented by counsel went from 1% before the program began to more than 71% in the fourth quarter of 2021. The program has delivered enormously successful results: during the last fiscal year, "84% of households represented in court by lawyers [provided through the program] were able to remain in their homes, preserving these tenancies and promoting the preservation of affordable housing and neighborhood stability."

Similarly in Maryland, we need to ensure funding for the Access to Counsel Program and thus support the inclusion of funds from Consumer Protection settlements as a means to fund the program.

For the reasons stated, the Maryland Access to Justice Commission requests the House Judiciary Committee to issue a FAVORABLE report on HB571. For more information, please contact Reena K. Shah, Executive Director of the Maryland Access to Justice Commission, at reena@msba.org.