

BEYOND THE BOUNDARIES

SB0564 - Landlord and Tenant – Eviction Prevention Services

Hearing before the House Judiciary Committee,
March 30, 2022

Position: SUPPORT (FAV)

Beyond the Boundaries is an Archdiocesan program advocating for equity in rental housing and owner occupied housing in Maryland especially in Baltimore City and the surrounding Counties.

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. In these court proceedings, SB0564 would provide consistency in allowing parties’ a reasonable time, through recess or continuance, to become better prepared for trial or to engage with services aimed at avoiding trial and eviction altogether.

The policy objectives of SB0564 are reflected in the American Bar Association’s recently adopted [Ten Guidelines for Residential Eviction Laws](#). The ABA urges states “to promulgate law and policy consistent with and otherwise adhere to, the proposed guidelines for residential eviction laws.” Among these guidelines are the assurance of an opportunity to participate in pre-litigation eviction diversion, to obtain assistance of counsel, and to prepare an eviction defense.

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.

Summary of Senate amendments

SB0564 was amended in the Senate Judicial Proceedings Committee. A workgroup that included Chair Will Smith, Sen. Shelly Hettleman, Sen. Ron Watson, Sen. Chris West, and representatives of both Public Justice Center and Maryland Multi-Housing Association reached consensus on these changes:

1. Strike wrongful detainer actions from the scope of the bill
2. Require a showing of good cause for continuances
3. Lower the duration of a continuance from “not *less* than 5 business days” to “not *more* than 5 business days, except for purposes of subpoena or by consent of the parties

JPR adopted those amendments and additionally changed the bill to limit a party to a one-time continuance.

While these amendments weaken SB0564, Renters United Maryland believes the bill will advance due process in Maryland’s eviction procedures.

We urge the House not to weaken SB0564 any further.

Continuances under SB0564

Foremost, this bill operationalizes tenants' access to counsel in eviction proceedings. When a self-represented litigant comes before a judge in an eviction case and shows good cause for additional time to seek attorney representation, SB0564 would require the judge to grant a one-time continuance "for a reasonable time not more 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 providing a continuance of at least five workdays. This continuance provision also applies to litigants who show good cause to return to court with 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. The bill permits judges to grant a longer continuance, beyond five business days, for purposes of subpoena or by consent of the parties.

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

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 SB0564? SB0564 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. 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 SB0564.

SB0564 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.

Beyond the Boundaries is a member of the Renters United Maryland, a statewide coalition of renters, organizers, and advocates, and **we urge the Committee’s report of Favorable on SB0564.**

Contact:
Charles Michaels, Esq.
Program Manager
cwmichaels@igc.org