



House Bill 1076

Residential Real Property - Landlord and Tenant - Notice of Landlord Entry

Hearing in the House Environment and Transportation Committee

On February 25, 2025

Position: FAVORABLE

Maryland Legal Aid submits its written and oral testimony on HB1076 at the request of bill sponsor Delegate Jen Terrasa.

Maryland Legal Aid (MLA) is a non-profit law firm that provides free legal services to the State's low-income and vulnerable residents. Our 12 offices serve residents in each of Maryland's 24 jurisdictions and handle a range of civil legal matters, including for Marylanders struggling with substandard housing conditions. We urge the Committee's favorable report on House Bill 1076.

Maryland law does not prescribe the reasonable amount of notice a tenant is due when their landlord seeks to enter the rental unit. This gap in the law sets Maryland apart from 38 other jurisdictions, including neighboring District of Columbia and Virginia. HB1076 will fill a gap in the law that otherwise leads to conflicts between landlords and tenants.

HB1076 requires landlords to provide 48-hour written notice to tenants prior to entry, except in emergency scenarios in which the landlord must "ensure the imminent protection or preservation of the property or the imminent protection and safety of any occupants." The bill also allows for electronic notice – by text message, e-mail, or web portal – if a tenant has opted into that method of delivery.

Tenants reasonably believe that they are entitled to privacy under the terms of their lease, even when the landlord or an agent of the landlord desires to intrude on that privacy. Indeed, Real Property Art. § 2-115.8 states that a "covenant of quiet enjoyment applies to residential, as well as commercial, leases." This covenant requires landlords to take affirmative steps to avoid undue interference with the tenant's possession of the rental property.

In many of MLA's cases, landlords provide our clients only a few hours' notice, typically over text message, and when our clients are unable to allow entry, they face accusations of unreasonably refusing the landlord's access. In other instances, our clients find that the landlord or its contractors entered the property despite knowing they would not be home. In many instances, our clients' children have been unable to prevent the landlords' or contractors' entry, thereby exposing these children to uncomfortable interactions with unfamiliar adults outside the presence of their parents.

HB1076 will set a clear standard of notice that reduces conflict and promotes clear expectations of conduct. Importantly, too, the bill includes enforcement provision by which a tenant may seek damages or an injunction against a landlord that refuses to follow notice requirements.

For all these reasons, Maryland Legal Aid urges the Committee's **FAVORABLE** report on House Bill 1076.

If you have any questions, please contact:

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APPENDIX A: Lease Application Process in HB 1077

STAGE 1

1. Application Submission and Initial Screening

- Prospective tenant submits a lease application.
- Landlord assesses the applicant based on consumer reports, rental history, debts, and many other non-criminal factors.
- Landlord may not inquire about criminal history before extending a conditional offer – except for federally assisted housing.

2. Conditional Offer to Applicant

- If Landlord decides to move forward with the applicant, they extend a *conditional offer*, contingent on additional screening of conviction history.

STAGE 2

3. Conviction History Check

- After the conditional offer, the landlord may check for specific *conviction* history:
 - First-degree murder convictions
 - Human trafficking convictions
 - Lifetime sex offender registry crimes
 - Convictions within prior 2 years for sex crimes, child pornography, kidnapping, and arson.

4. Landlord Decision (Continue or Withdraw)

- If no disqualifying convictions are found, lease is approved.

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- If disqualifying convictions are found, landlord may withdraw the conditional offer **only if** necessary for a "substantial, legitimate, and nondiscriminatory interest."

5. **Written Notice**

- If applicant is denied, the landlord must provide a written notice stating:
 - The specific reason for withdrawal.
 - The applicant's right to request additional information about the withdrawal and to appeal.

STAGE 3

5. **Applicant's Response to Withdrawal** (Optional)

- Prospective tenant may request all information used in the decision to withdraw the conditional offer within 30 days after receiving notice of the withdrawal.
 - They may submit evidence to the landlord showing, inaccuracies in the criminal records, evidence of rehabilitation, and other mitigating factors.

6. **Reassessment by Landlord**

- Landlord reviews tenant's evidence in light of multiple factors, such as:
 - Severity and nature of the offense.
 - Time elapsed since conviction.
 - Tenant's rehabilitation efforts.
 - Potential risk to other tenants.

7. **Final Decision**

- If the appeal is successful, lease is approved.

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- If denied again, the tenant has the right to file a complaint with the Office of the Attorney General.



APPENDIX B:

DEFINITIONS FOR CRIMINAL OFFENSES COVERED UNDER HB 1077

“FOREVER” LOOKBACK CONVICTIONS

First Degree Murder - Criminal Law Art. §2-201

- (a) A murder is in the first degree if it is:
- (1) a deliberate, premeditated, and willful killing;
 - (2) committed by lying in wait;
 - (3) committed by poison; or
 - (4) committed in the perpetration of or an attempt to perpetrate:
 - (i) arson in the first degree;
 - (ii) burning a barn, stable, tobacco house, warehouse, or other outbuilding that:
 1. is not parcel to a dwelling; and
 2. contains cattle, goods, wares, merchandise, horses, grain, hay, or tobacco;
 - (iii) burglary in the first, second, or third degree;
 - (iv) carjacking or armed carjacking;
 - (v) escape in the first degree from a State correctional facility or a local correctional facility;
 - (vi) kidnapping under § 3-502 or § 3-503(a)(2) of this article;
 - (vii) mayhem;

(viii) rape;

(ix) robbery under § 3–402 or § 3–403 of this article;

(x) sexual offense in the first or second degree;

(xi) sodomy as that crime existed before October 1, 2020; or

(xii) a violation of § 4–503 of this article concerning destructive devices.

(b) (1) A person who commits a murder in the first degree is guilty of a felony and on conviction shall be sentenced to:

(i) imprisonment for life without the possibility of parole; or

(ii) imprisonment for life.

(2) Unless a sentence of imprisonment for life without the possibility of parole is imposed in compliance with § 2–203 of this subtitle and § 2–304 of this title, the sentence shall be imprisonment for life.

(c) A person who solicits another or conspires with another to commit murder in the first degree is guilty of murder in the first degree if the death of another occurs as a result of the solicitation or conspiracy.

Human Trafficking – Criminal Law Art. §3–1102.

(a) (1) A person may not knowingly:

(i) take or cause another to be taken to any place for prostitution;

(ii) place, cause to be placed, or harbor another in any place for prostitution;

(iii) persuade, induce, entice, or encourage another to be taken to or placed in any place for prostitution;

(iv) receive consideration to procure for or place in a house of prostitution or elsewhere another with the intent of causing the other to engage in prostitution or assignation;

(v) engage in a device, scheme, or continuing course of conduct intended to cause another to

believe that if the other did not take part in a sexually explicit performance, the other or a third person would suffer physical restraint or serious physical harm; or

(vi) destroy, conceal, remove, confiscate, or possess an actual or purported passport, immigration document, or government identification document of another while otherwise violating or attempting to violate this subsection.

(2) A parent, guardian, or person who has permanent or temporary care or custody or responsibility for supervision of another may not consent to the taking or detention of the other for prostitution.

(b) (1) A person may not violate subsection (a) of this section involving a victim who is a minor.

(2) A person may not violate subsection (a) of this section with the use of or intent to use force, threat, coercion, or fraud.

(c) (1) (i) Except as provided in paragraph (2) of this subsection, a person who violates subsection (a) of this section is guilty of the misdemeanor of sex trafficking and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$5,000 or both.

(ii) A person who violates subsection (a) of this section is subject to § 5-106(b) of the Courts Article.

(2) A person who violates subsection (b) of this section is guilty of the felony of sex trafficking and on conviction is subject to imprisonment not exceeding 25 years or a fine not exceeding \$15,000 or both.

(d) A person who violates this section may be charged, tried, and sentenced in any county in or through which the person transported or attempted to transport the other.

(e) (1) A person who knowingly benefits financially or by receiving anything of value from participation in a venture that includes an act described in subsection (a) or (b) of this section is subject to the same penalties that would apply if the person had violated that subsection.

(2) A person who knowingly aids, abets, or conspires with one or more other persons to violate any subsection of this section is subject to the same penalties that apply for a violation of that subsection.

(f) It is not a defense to a prosecution under subsection (b)(1) or (e) of this section that the person did not know the age of the victim.

TWO-YEAR LOOKBACK CONVICTIONS

Sexual Offenses – Criminal Law Art. Title 3, Subtitle 3

1. § 3–303. Rape in the First Degree
2. § 3–304. Rape in the Second Degree
3. § 3–307. Sexual Offense in the Third Degree
4. § 3–308. Sexual Offense in the Fourth Degree
5. § 3–309. Attempted Rape in the First Degree
6. § 3–310. Attempted Rape in the Second Degree
7. § 3–314. Sexual Conduct Between Correctional or Juvenile Justice Employee, Court-Order Service Provider, or Law Enforcement Officer and Person Responding to Employee During Employee's Official Duties
8. § 3–315. Continuing Course of Conduct Against Child
9. § 3–316. Rape and Sexual Offense—Venue
10. § 3–317. Rape and Sexual Offense—Charging Document
11. § 3–319.1. Evidence of Physical Resistance Not Required
12. § 3–323. Incest
13. § 3–324. Sexual Solicitation of Minors
14. § 3–325. Use of Personal Identifying Information to Invite, Encourage, or Solicit Another to Commit Sexual Crime

Child Pornography – Criminal Law Art. §11–207

(a) A person may not:

(1) cause, induce, solicit, or knowingly allow a minor to engage as a subject in the production of obscene matter or a visual representation or performance that depicts a minor engaged as a subject in sadomasochistic abuse or sexual conduct;

(2) photograph or film a minor engaging in an obscene act, sadomasochistic abuse, or sexual conduct;

(3) use a computer to depict or describe a minor engaging in an obscene act, sadomasochistic abuse, or sexual conduct;

(4) knowingly promote, advertise, solicit, distribute, or possess with the intent to distribute any matter, visual representation, or performance:

(i) that depicts a minor engaged as a subject in sadomasochistic abuse or sexual conduct; or

(ii) in a manner that reflects the belief, or that is intended to cause another to believe, that the matter, visual representation, or performance depicts a minor engaged as a subject of sadomasochistic abuse or sexual conduct; or

(5) use a computer to knowingly compile, enter, transmit, make, print, publish, reproduce, cause, allow, buy, sell, receive, exchange, or disseminate any notice, statement, advertisement, or minor's name, telephone number, place of residence, physical characteristics, or other descriptive or identifying information for the purpose of engaging in, facilitating, encouraging, offering, or soliciting unlawful sadomasochistic abuse or sexual conduct of or with a minor.

(b) A person who violates this section is guilty of a felony and on conviction is subject to:

(1) for a first violation, imprisonment not exceeding 10 years or a fine not exceeding \$25,000 or both; and

(2) for each subsequent violation, imprisonment not exceeding 20 years or a fine not exceeding \$50,000 or both.

(c) (1) (i) This paragraph applies only if the minor's identity is unknown or the minor is outside the jurisdiction of the State.

(ii) In an action brought under this section, the State is not required to identify or produce testimony from the minor who is depicted in the obscene matter or in any visual representation or performance that depicts the minor engaged as a subject in sadomasochistic abuse or sexual conduct.

(2) The trier of fact may determine whether an individual who is depicted in an obscene matter, or any visual representation or performance as the subject in sadomasochistic abuse or sexual conduct, was a minor by:

(i) observation of the matter depicting the individual;

(ii) oral testimony by a witness to the production of the matter, representation, or performance;

(iii) expert medical testimony; or

(iv) any other method authorized by an applicable provision of law or rule of evidence.

Kidnapping – Criminal Law Art. §3–502

(a) A person may not, by force or fraud, carry or cause a person to be carried in or outside the State with the intent to have the person carried or concealed in or outside the State.

(b) A person who violates this section is guilty of the felony of kidnapping and on conviction is subject to imprisonment not exceeding 30 years.

(c) Kidnapping does not include the act of a parent in carrying a minor child of that parent in or outside the State.

Arson – Criminal Law Art. 6–102

(a) A person may not willfully and maliciously set fire to or burn:

(1) a dwelling; or

(2) a structure in or on which an individual who is not a participant is present.

(b) A person who violates this section is guilty of the felony of arson in the first degree and on conviction is subject to imprisonment not exceeding 30 years or a fine not exceeding \$50,000 or both.

(c) It is not a defense to a prosecution under this section that the person owns the property.

Arson – Criminal Law Art. §6–103

(a) A person may not willfully and maliciously set fire to or burn a structure that belongs to the person or to another.

(b) A person who violates this section is guilty of the felony of arson in the second degree and on conviction is subject to imprisonment not exceeding 20 years or a fine not exceeding \$30,000 or both.

(c) It is not a defense to a prosecution under this section that the person owns the property.
