

To: Maryland House of Delegates, Judiciary Committee
Date: March 1, 2021
From: Dan Sparaco, 1600 Latrobe Street, Baltimore, MD 21202

As a private citizen, **I write in support of HB 1070 sponsored by Delegate Boyce.** I believe this legislation could have significant, permanent impact by requiring – for the first time in Maryland – that landlords provide tenants of notice of rent due before commencing a nonpayment of rent proceeding.

Maryland is almost alone in *not* requiring such notice for residential eviction. New York, Massachusetts and similar states have long required it. During my three years as an anti-eviction attorney at the Legal Aid Society in Brooklyn, New York, the requirement was 5 days. Today, it is 14 days, and New York City has established a right to counsel for tenants (in large part because my old boss at Legal Aid went to work for the mayor).

I hope this Committee reflects upon this question: **does Maryland want to continue to be in league with the handful of states who have no such requirement, like West Virginia, Louisiana, and Missouri?** I have not yet researched this, but it is notable that these are either high-poverty states, or, in the case of Missouri, conservative, largely rural states with high-poverty, majority-Black cities like St. Louis and Kansas City. Even New Jersey lacks a notice requirement, and when I look at Camden, Trenton, and Newark, it makes me suspicious why.

We should care about process because eviction is a catastrophe, not only for the family and the children permanently marked by the experience, but for a variety of public institutions that must bear its costs. In addition to having modern procedural requirements, New York spends significant sums on eviction prevention, because it's a net cost-saver.

I suspect that establishing a simple notice requirement will change the entire culture of the courthouse by **drastically reducing the number of nonpayment filings in the District Court – perhaps even by half**, because as we have heard in hearings to date, many landlords make filings *en masse* each month, creating chaos in the court and unnecessarily disrupting the life of tenants who are about to pay their rent anyway.

In tandem with HB 729 – Attorney General Frosh's bill to increase filing fees – the notice requirement in HB 1070 means less-clogged courts and no revenue loss for the court system.

The key concepts in HB 1070 are *notice*, *service*, and the *pleading requirement*. Any bill that addresses this issue must, in my view, contain all three elements. (Please note that the changes proposed look more extensive because time was taken during the drafting process to modernize century-old language in the Public Local Laws.)

1. Landlord provides a notice of default by personally delivering it to the tenant, leaving it with someone at the premises (plus mailing a copy to the tenant), or posting it (plus mailing a copy to the tenant).
2. The notice describes the rent due and how the tenant can pay, and, that if they do not pay within 14 days, the landlord will sue.
3. If the landlord commences a proceeding, they must plead that this notice was served upon the tenant, and attach a copy of it to the complaint.

Each element is critical – the landlord must formally notify tell the tenant what is owed, provide an opportunity to pay, and affirm to the court that they have properly followed these steps to enter the courthouse. **It is reasonable to require landlords to meet threshold requirements in order to get the benefit of the District Court’s expedited eviction process.** Normally, lawsuits take quite some time. Proceedings for nonpayment of rent are much, much faster than the average court case, and should be viewed as a privilege, not an inherent right.

There is some question as to which law must be amended to make the change called for in HB 1070 effective in Baltimore City. It is my understanding that the Public Local Laws have to be amended, but several other bills amend the real Property Article. I suspect it’s both. (The PLL is obscure, but still in effect, and elsewhere the General Assembly is being asked to amend it to change the city’s control over it’s police department.)

I realize there are several bills relevant to eviction proceedings and I encourage you to consider the sequencing of proposed reforms. If it is correct that establishing notice (plus increasing fees) will lead to a significant reduction in cases, then we do not currently know the precise scope of remaining need for a right-to-counsel or eviction diversion – both of which I support. Notice has priority over these other proposals.

For context, other legislation addressing pre-commencement notices have also been introduced this session.

- HB 523, Delegate Attar – this amends the Public Local Laws to require the landlord prove that the subject rental unit has been duly inspected and licensed by local authorities. While I would prefer this include a *pleading requirement* (e.g., landlord says in the complaint it’s registered, and attached a copy to the complaint), this is a good idea and works in harmony with HB 1070.
- HB 785, Delegate Terrasa – this creates a kind of 10-day notice requirement by amending the Real Property Article, but I don’t think it includes the service and pleading requirements of HB 1070, making the latter far preferable for the sake of protecting Baltimore City tenants.
- HB 52, Delegate Wells – Conceptually, I view this as separate from, and in harmony with, HB 1070, except on notice. As I read it, this establishes an

eviction diversion program in the Courts and Judicial Proceedings Article, and in the Real Property Article, establishes a process for the tenant to demand an account of rent due, and addresses procedures *post-filing* of a nonpayment proceeding. There is a 10-day pre-suit notice requirement in HB 52 as well as good service requirements, but creating that may (or may not) be contingent on the creation of the diversion and other processes called for in that legislation.

Thank you for the opportunity to submit this testimony.