

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Mary Ellen Barbera
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: House Judiciary Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 1312
COVID-19 Eviction and Housing Relief Act of 2021
DATE: February 10, 2021
(2/17)
POSITION: Oppose

The Maryland Judiciary opposes House Bill 1312. This bill requires the Department of Housing and Community Development (DHCD), in consultation with the Maryland Judiciary and local sheriffs and constables, to collect, maintain, and publish on the Department's website certain information on eviction actions. It also requires certain local sheriffs and constables to compile certain information in a certain manner designated by the Department and to report the information to the Department monthly.

The Judiciary opposes the requirement that the Judiciary post the information collected and compiled by the Department of Housing and Community Development, pursuant to Real Property § 8-407(a), on the Judiciary's website. The Maryland Judiciary currently publishes data on evictions, so this requirement is unnecessary. See: <https://www.courts.state.md.us/sites/default/files/import/district/statistics/2019/Calendar19.pdf>

In Baltimore County (only), constables, rather than sheriffs, process evictions. The constables in Baltimore County are employees of the Judiciary. The bill requires these constables to post a notice of the eviction 48 hours prior to the eviction. Currently, the practice in Baltimore County is that the constables request the landlords to notify the tenants of the eviction date and the constables report good compliance with such practice by the landlords. If this bill is adopted, three (3) additional constables and the related funding would be necessary. Without these positions and funding, this bill will impose an operational burden on the District Court.

This bill also requires the Judiciary to publish on its website certain information about tenant's rights under the law as prepared by DHCD. The Maryland Judiciary currently provides information for tenants and landlords alike about the rent court process. That information is available on the Judiciary website at

www.mdcourts.gov/legalhelp/housing. Basic legal information and forms are available through the [Language Portals](#) in Chinese, French, Korean, Russian, and Spanish.

In addition, at Housing and Community Development § 12-802(e), the bill provides that if the landlord receives funds under a local government’s rent relief program to “waive all fees and costs incurred by the tenant for failure to pay rent” and “not file for eviction[.]” The bill, however, does not give any time limitation for those provisions so courts will have insufficient detail when attempting to correctly apply the statute.

The bill also at Real Property Article, § 8-401(b-2)(3) and (6), requires landlords to notify tenants, before initiating a failure to pay rent case, of a right to request mediation through the District Court Alternative Dispute Resolution (ADR) office and, if the tenant requests such mediation, negotiate a payment plan in good faith if the tenant requests mediation. The Judiciary is concerned that, due to the high volume of failure to pay rent cases heard by the District Court throughout the State, the burden on the District Court ADR office in attempting to carry out such mediations would be overwhelming.

Further, the bill’s requirement that the tenant owe at least \$600 before the landlord may file (Real Property § 8-401(a)(2)) raises due process and Article 19 concerns.

Finally, the bill creates a moratorium on evictions during the period of the Governor’s declared state of emergency. The District Court is already applying the Governor’s current eviction order as well as the CDC Agency Order. Both orders provide an affirmative defense to qualifying individuals who have suffered losses due to COVID. An absolute mortarium as provided in the bill would likely cause a flood of cases filed with the court once such mortarium was lifted.

cc. Hon. Jheanelle Wilkins
Judicial Council
Legislative Committee
Kelley O’Connor