



HB 52/SB 454: Eviction Diversion and Defense

Housing-cost “burdened” households are those that spend at least 35% of their monthly income on housing costs. Among 714,875 renter households in Maryland, 120,170 (41%) are burdened.

- There were **669,778 eviction cases filed** in Maryland in FY 2019. That’s nearly 1 case filed per renter household and **5 cases filed per burdened household**.
- An average of **22,369 households were evicted** throughout Maryland in the years 2017-2019. Although 22,369 evicted households make up 3% of all renter households, they are 18% of the housing-cost burdened households. That’s **nearly 1 eviction for every 5 burdened households**.

The Washington Post **Opinion:** Maryland’s laws skew mercilessly in landlords’ favor, and evictions are out of control. Here’s a fix.

Nutshell

HB 52/SB 454 proposes procedural changes to make Maryland’s high-volume “Failure to Pay Rent” (“FTPR”) evictions fairer. The bill emphasizes up-stream diversion from eviction:

- requiring attempts at alternative resolutions (rental assistance, mediated payment plans) before an eviction case can be filed, and
- establishing a 2-part court process that uses a status conference, before any trial date, to prioritize mediation, legal assistance, and rental assistance.

Highlights

Notice to tenant before an eviction is filed in court.....	2
Pre-conditions to bringing eviction action.....	2
Altering the court process to focus on eviction diversion	3
Giving judges greater discretion to stay eviction in critical circumstances	4
Increasing the appeal period to 10 days.....	4
On-demand access to a landlord’s accounting	5
Changing the eviction timeline with purpose	5

Notice to tenant before an eviction is filed in court

Current status: Notice is not required before filing an “FTPR” eviction. Maryland is one of 5 states that allowing filing without any prior notice. This is unique to Maryland’s extraordinarily high-volume “FTPR” docket – lesser-used eviction process for holdover (30 or 60 days) and breach of lease (14 or 30 days) already require pre-filing notice. In the current process, “notice” is actually a summons for a trial date.

Changes: HB 52/SB 454 creates a 10-day notice, called the “Notice of Delinquency and Legal Rights,” in the “FTPR” process. The landlord must send this notice, which does the following:

- describes the rent that is past due
- requests that tenant apply for rental assistance or negotiate a payment plan
- provides information for financial and legal resources and the court’s mediation program
- informs the tenant that if they do not respond within 10 days, the landlord may initiate an eviction action in court.

Pre-conditions to bringing eviction action

Current status: Maryland’s “FTPR” eviction process has zero preconditions before the court process begins – no waiting time, no notice of delinquency, no steps to avoid litigation through a payment plan, mediation, or rental assistance application.

Changes: HB 52/SB 454 requires a 10-day “Notice of Delinquency and Legal Rights,” sent to a tenant by 2 methods (by regular mail, plus either by posting at door or by e-mail, as opted by the tenant).

During the 10-day notice period, a landlord is required to make “affirmative, good-faith efforts” to attempt a resolution via a rental assistance program or negotiation of a payment plan via a neutral third-party mediator.

- If a tenant does not respond during the 10-day notice period, then the landlord may initiate their eviction action by filing the court complaint.
- If a tenant responds, then the landlord is obligated to complete the process of applying for rental assistance or using the negotiated payment plan. An unsuccessful application, a failed negotiation, or a defaulted payment plan still counts as completing this pre-filing step. However, in cases where rental assistance is pending or a payment plan is ongoing, this pre-filing step is not “complete” for the purpose of a “FTPR” complaint.
- After these steps are complete, if a dispute remains, then the landlord may file their “FTPR” court complaint with a certifying statement about these steps taken to avoid litigation.

Altering the court process to focus on eviction diversion

Current status: Today's "FTPR" court process has 3 key features: summary procedure, minimized opportunity to engage mediation or legal assistance, and a post-judgment emergency assistance process:

- "Summary procedure" - A trial in an "FTPR" eviction action is typically held within in 7-14 days after a complaint is filed in court. In that timeline, tenants have no pre-trial opportunity to submit a defense, and there is no status hearing before trial.
- Minimized legal services and mediation - In some courts around Maryland, tenants can engage free legal assistance and/or mediation, if available during the "FTPR" docket. However, these opportunities can be cut short and made less effective because they take place outside the court's fast-moving trial process. The availability and quality of these opportunities are subject to court discretion.
- "Emergency assistance" - In the current process, rental assistance is actually emergency assistance: it is available only after an eviction is pending. First, the court enters judgment to allow eviction and, only then, can the tenant begin an application for emergency rental assistance. This means that, after trial, renters often land in between a rock (rental assistance processing and delays) and a hard place (looming eviction date). Further, the current eviction process does not obligate landlords to utilize available rental assistance money – an eviction may proceed if the landlord wants it to.

Changes: HB 52/SB 454 establishes an Eviction Diversion Program in the court's process and splits the "summary procedure" into 2 parts – first, a status conference, and then, if needed, a trial. This adapts the New York City Housing Court's model. The status conference must occur 10-15 days after the "FTPR" court complaint is filed.

The status conference gives a formal place in the court's process for the following:

- Tenant or landlord may ask for a recess to engage on-site or remote service providers – including for legal assistance, mediation, or rental assistance – via an Eviction Diversion Program and may also ask for time to obtain attorney representation.
- Judge may order parties to participate in mediation/settlement conference for 10 days or longer if requested.
- Tenant may raise a defense or counterclaim.
- If the judge is satisfied that the tenant has raised a meritorious defense/counterclaim, the judge schedules a trial within 10 days and may order parties to exchange documents that will be used as evidence at trial.

Under HB 52/SB 454, when a tenant fails to appear at the status conference, the court may proceed to enter a default judgment in favor of the landlord. Similarly, when a landlord fails to appear at the status conference, the court may dismiss the “FTPR” action.



The 2-part court procedure is not automatic. A second proceeding for trial occurs only by court order, after the parties have had opportunities to engage services, including mediation, and the tenant has raised a meritorious defense/counterclaim.



HB 52/SB 454 change the process leading up to entry of judgment and leave alone the substance of an “FTPR” trial. These bills *do not* increase a landlord’s burden of proof or create new defenses for renters.

Giving judges greater discretion to stay eviction in critical circumstances

Current status: Judge may not consider the tenant’s possible homelessness as a basis for staying eviction and may stay eviction for health-related reasons only up to 15 days after trial if the tenant presents (before entry of judgment) a physician’s statement certifying that removal from the rental property would endanger the tenant’s life or health. The court may stay evictions on a day-to-day basis in an extreme weather event.

Changes: HB 52/SB 454 allows a tenant may, by motion, to request a stay (on the warrant of restitution) based on evidence that the eviction would

- endanger the tenant’s health or life or
- impede efforts by a government agency or charitable organization to help the tenant re-house and avoid certain homelessness.

For health-related stays, the bill allows tenants to submit evidence beyond a physician’s certifying statement. The court, in its discretion, could enter a stay of any number of days.

Increasing the appeal period to 10 days

Current status: A party may submit an appeal in an “FTPR” eviction action within 4 days after entry of judgment. This is by far the shortest appeal period in any type of litigation in Maryland. It is more than half the amount of time provided for filing an appeal in lesser-used eviction actions for tenant holdover (10 days) and breach of lease (10 days). Appeals in “FTPR” cases are rare, particularly because of excessive bond requirements. But where tenants do attempt an appeal, they are unfairly hindered by the 4-day rule. It is barely enough time to obtain records from the court, let alone seek advice or representation from an attorney.

Changes: HB 52/SB 454 increases the appeal period in “FTPR” eviction actions to 10 days after entry of judgment. This brings “FTPR” actions in line with other types of eviction actions in Maryland.

On-demand access to a landlord’s accounting

Current status: Although state law requires landlords to maintain accounting for each tenant, it does not require landlords to share that accounting. While many tenants at large, professionally managed properties have electronic access to this information via a “portal” site, many others are not so lucky. Often, these tenants cannot see “the ledger” of what they have paid and what they owe until they are actually in trial.

Changes: HB 52/SB 454 establishes a requirement for landlords to provide a written accounting to the tenant, in hard copy or electronically, within 5 days of a tenant’s request.

Changing the eviction timeline with purpose

Current status: The time period from court filing to entry of judgment is around 7-14 days in many Maryland jurisdictions. After 4 days from entry of judgment, a landlord may petition for a warrant of restitution, typically issued within 5-7 days. From there, the eviction timeline depends on (1) the landlord’s choice to exercise it and (2) the sheriff or constable’s capacity to schedule the eviction.

Many landlords wonder, why does it take so long to evict someone? This concern relates primarily to the sheriff or constable’s role – after the court process is over.

Changes: HB 52/SB 454 changes only the court process that precedes the landlord’s petition for a warrant. This bill makes no changes to any process that occurs once a landlord petitions for the warrant.

The procedural changes in this bill are as follows:

1. “Notice of Delinquency and Legal Rights”: 10-day period
2. Status conference: 10-15 days after complaint filed in court
3. Trial: set no later than 10 days after status conference
4. Appeal: available up to 10 days after entry of judgment
5. Petition for warrant: after the appeal period ends (10 days after entry of judgment)

Does HB 52/SB 454 make the eviction process “take longer”? The answer is: yes, *marginally*. This timeline projects to take 40 days.

This is longer than the roughly two-week timeline seen in many parts of Maryland, in which, historically, 25-30% of “FTPR” actions are dismissed before or at trial (presumably because of payment). Under the new timeline, such cases likely would not be filed at all or would resolve at the status conference, shaving time off the 40-day estimate.