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Maryland Attorney General Brian E. Frosh's
COVID-19 Access to Justice Task Force



CONFRONTING THE COVID-19 ACCESS TO JUSTICE CRISIS

JANUARY 2021



Attorney General's COVID-19 Access to Justice Task Force

A partnership between the Maryland Office of the Attorney General and the Maryland Access to Justice Commission, the Task Force brought together high-level and diverse leaders from the health, disaster recovery, business, government, and many other sectors to confront the civil legal issues exacerbated by the COVID-19 pandemic, including housing, consumer fraud and debt, public benefits, the looming deficit in civil legal aid funding, and the disparities in outcomes among communities of color. The Task Force developed comprehensive strategies, reforms, and innovations to ensure equity, fairness, and access to justice for all Marylanders.

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Maryland Access to Justice Commission

The Maryland Access to Justice Commission (A2JC) is an independent umbrella entity backed by the Maryland State Bar Association (MSBA) that unites leaders to drive reforms and innovations to make the civil justice system accessible, equitable, and fair for all Marylanders. A2JC convenes and coordinates stakeholders and strategic partners, serves as a communications hub, and provides thought leadership to ensure civil justice for all in Maryland.

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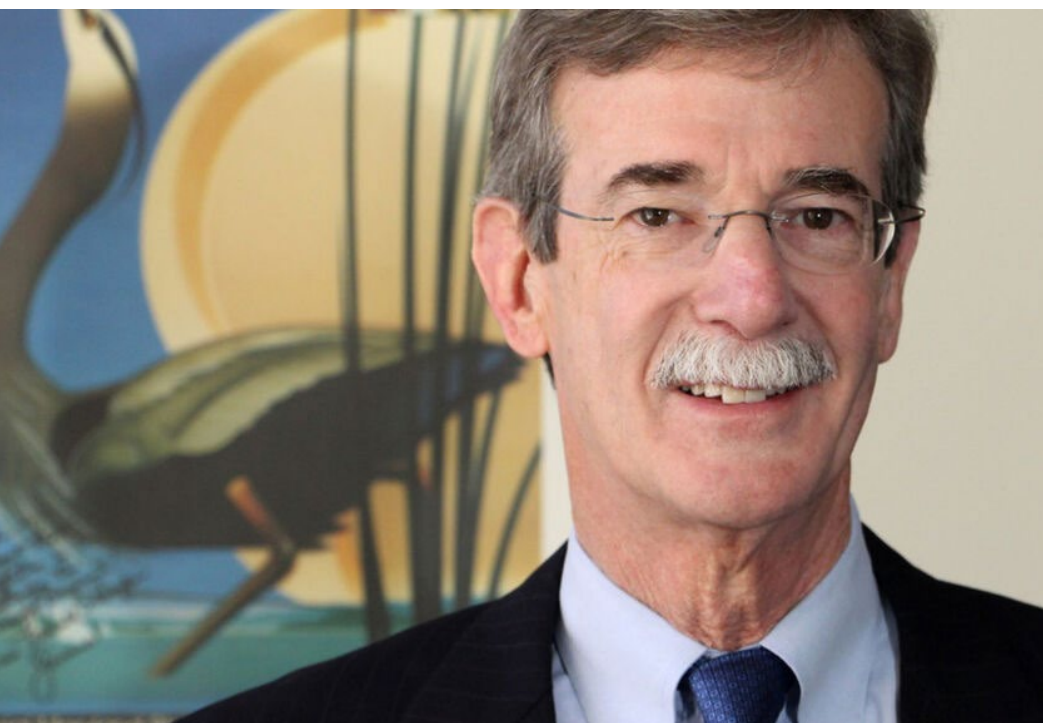
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LETTER FROM ATTORNEY GENERAL BRIAN FROSH

IT BEGAN IN JANUARY 2020 WITH REPORTS OF A DANGEROUS VIRUS SPREADING ACROSS THE GLOBE. BY LATE SPRING, COVID-19 HAD BECOME A CASCADE OF DEVASTATING LOSS AND HARDSHIP FOR HUNDREDS OF THOUSANDS OF MARYLANDERS.

Loved ones became ill and many died. Entire families lost jobs and livelihoods. Others continued to work in jobs that were suddenly fraught with risk. Households fell behind on rent or mortgage payments. Other debts began to mount. Children whose families lacked technology and resources to support online learning lost months of school. Frantic attempts to obtain unemployment, health insurance, and other public benefits were met with frustration, as safety net systems were overwhelmed. Abuse victims were forced into lockdown with their abusers, and older adults in congregate settings were cut off from families who could flag abuse or neglect.

As with so much else before the pandemic, these calamities fell most heavily on low-income persons, people of color, and those with disabilities. Already more vulnerable to any disruption in

their lives, these communities have suffered higher rates of COVID-19 infection and deaths, unemployment, hunger, loss of housing, disparities in health care, and other challenges.

In addition, the State's civil justice system—where problems like eviction, debt, abuse, and unemployment must often be resolved—was thrown into disarray. Already difficult to navigate for disadvantaged communities, the system was strained further by the pandemic, as emergency orders suspended court operations and shuttered public libraries, courthouse legal clinics, and social services and legal aid offices. Remote hearings presented novel barriers, especially for those lacking internet access or in-home technology. Established pathways for conducting outreach and disseminating information to people who needed it frayed.

**AS MUCH SUFFERING AND LOSS AS THIS PUBLIC HEALTH CRISIS
HAS WROUGHT, LET US NOT COMPOUND THAT TRAGEDY BY
FAILING TO ENSURE THAT IT PAVES THE WAY TO PROGRESS.**

Even before the pandemic, many Marylanders had to navigate the complexities of the civil justice system on their own, which often led to unjust results. COVID-19 exacerbated this inequity, with many more people forced to seek recourse from the system without legal assistance or basic information.

The pandemic also threatened the State's civil legal aid system, the network of organizations that provides critical social and legal services to vulnerable Marylanders. The system faced an unprecedented demand for help at the same time its funding declined sharply. Emergency orders also forced it to pivot overnight to a new remote service and outreach model that was ill-suited for the vulnerable Marylanders it was trying to serve. Underfunded in the best of times, the system simply could not meet the needs of so many Marylanders facing life-threatening adversity.

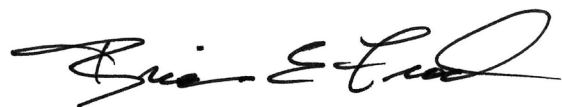
With this extraordinary crisis jeopardizing the well-being of Marylanders in ways I had never seen in 34 years of public service, I realized the State needed a more coordinated and urgent response. While Marylanders' problems ran the gamut from health care and housing to safety and economic security, the common thread running throughout was the importance of access to civil justice.

In June 2020, I partnered with the Maryland Access to Justice Commission to establish the Attorney General's COVID-19 Access to Justice Task Force. We brought together 43 leaders in the public, nonprofit, and philanthropic sectors; the legal and business communities; the judicial and legislative branches; and academia. In addition, most of Maryland's federal delegation served on our Congressional Advisory Committee. The Task Force's mission was to examine COVID-19's impact on

Marylanders and to make recommendations on how to deploy the legal system to ensure the State's most vulnerable remain housed, fed, safe, secure, employed, healthy, and connected to civil justice.

The Task Force was also charged expressly with developing its assessment and recommending solutions that would bolster racial equity. Its mandate was to craft policy responses with a clear-eyed view of the structural racism and inequities that have both deepened the challenges faced by communities of color and have denied access to the civil justice system so central to resolving those challenges.

COVID-19 did not create the systemic failings and inequities of our social safety net and civil justice system. Those most vulnerable to any setback have disproportionately experienced the effects of these deficiencies for generations. Yet the pandemic exacerbated and brought to light with painful clarity these deficiencies and the suffering that they cause. We must, therefore, seize this unprecedented chance and collectively work together to fix them. As much suffering and loss as this public health crisis has wrought, let us not compound that tragedy by failing to ensure that it paves the way to progress.





EXECUTIVE SUMMARY

THE COVID-19 PANDEMIC HAS GENERATED THE NATION'S WORST PUBLIC HEALTH AND ECONOMIC CRISES IN OVER A CENTURY. THE DEADLY DISEASE HAS DISRUPTED THE WELL-BEING OF HUNDREDS OF THOUSANDS OF MARYLANDERS. IT HAS ALSO CREATED AN EQUALLY DISASTROUS CIVIL JUSTICE CRISIS, WITH LEGAL AFTERSHOCKS LIKELY TO INDUCE MORE HARDSHIP AND FURTHER ENTRENCH LONGSTANDING INEQUITIES, UNLESS WE ACT NOW.

Many Marylanders now face momentous challenges in almost every aspect of their lives, from health, food, employment, and housing to finances, life and health planning, and family issues. Each of these challenges often has a legal component that can only be resolved within the civil justice system. Yet even before the pandemic, most low- and moderate-income Marylanders were navigating this system on their own, without legal help or assistance, and often with dire results. They frequently faced severe and unjust consequences—like eviction or the denial of protection from abuse—not because they did anything wrong, but because they did not understand their rights, did not know where to get help, or did not receive help when they sought it.

The COVID-19 pandemic has deepened this crisis of justice. As an unprecedented number of Marylanders are forced to seek legal resolution of their problems, they will find themselves

trying to navigate a civil justice system already strained by inadequate resources, challenges in access, and longstanding inequities.

When Marylanders seek legal recourse, the civil justice system should be accessible, fair, and equitable. Reforms are needed at every level to ensure this outcome for all. We must also take particular care that the system does not reinforce and exacerbate harms to those who have disproportionately borne the brunt of the virus, including Black and Hispanic Marylanders, the elderly, and people with disabilities. Strengthening and reforming the civil justice system will ensure that all Marylanders are housed, fed, healthy, safe, secure, and connected to justice.

COVID-19'S IMPACT ON MARYLAND

At the end of 2020, more than 5,700 Marylanders had died from COVID-19, and many more continue to face hospitalization and long-term health challenges.¹ Black and Hispanic Marylanders have fared the worst during COVID-19. Black residents in Maryland make up 31 percent of the population but account for nearly 40 percent of COVID-19 deaths; Hispanics account for 11 percent of the population but 19 percent of COVID cases.² Because of longstanding structural barriers and racism, Black and Hispanic communities are also more likely to face eviction, debt collection, and health disparities, which in turn make them more vulnerable to and exacerbate the collateral consequences of COVID-19.^{3,4,5}

This unimaginable pain and loss has been compounded by the economic devastation suffered by so many who have lost jobs and businesses. These current hardships could lead to generational loss of wealth with many people lacking information needed to guide their medical decisions or plan what happens to their home or personal property upon their passing. They are also less likely to engage in life and health planning that could provide some protection against these challenges.^{6,7}

Essential workers—first responders and health care, food,

transportation, and delivery workers who are lower-income and disproportionately people of color and women—have been hit hardest by the virus.⁸ Many have been forced to continue working despite lacking personal protective equipment and other recommended safeguards. These workers have also struggled to get critical legal information and advice about their rights, worker safety and protections, and retaliatory terminations.

Unemployment soared in the early months of the crisis, from 3.3 percent in March 2020 to 10.1 percent only a month later, with low-wage workers suffering the worst job losses. While employment has rebounded partially, roughly 182,000 fewer Marylanders were working in October than in February.⁹

The surge in unemployment led to an unprecedented number of unemployment applications that the system was incapable of handling. Stories were rampant about an unending backlog, with people waiting for hours to get through on the phone and going weeks or months without receiving benefits.¹⁰

Marylanders with language barriers or without internet access faced particular difficulties. Those filing applications were desperate for help with filling out the forms, getting through to the system, and appealing a wrongful denial.

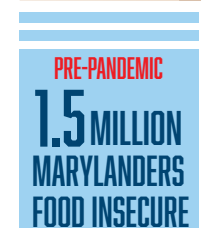
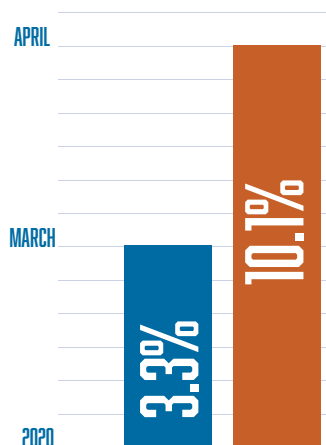
As people lost jobs or saw their incomes decline, their economic problems spiraled, setting up the specter of an avalanche of consumer debt civil legal actions. Many out-of-work Marylanders lost health insurance and were hit with mounting medical debts; many had no other option but to apply for Medicaid. Others struggled to deal with drained savings, other consumer debts, and ruined credit scores. Re-employment for those who could not conduct work remotely was complicated by lack of access to childcare for young children and older kids at home attending virtual school.

Without access to timely unemployment or food assistance, out-of-work or under-employed Marylanders have struggled to put food on the table. According to Maryland Food Bank's estimates, almost one million Marylanders could become food-insecure because of COVID-19, including an estimated 339,000 children, on top of the estimated 1.5 million in the State who were already food-insecure pre-pandemic.¹¹ Yet many Marylanders who qualified for food assistance faced similar hurdles as those filing for unemployment.

Across Maryland, many individuals and families stopped being able to pay their rent, utilities, or mortgage. With the reality that evictions would worsen the spread and death toll of COVID-19, the federal, State, and local governments imposed

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UNEMPLOYMENT RATE RISE 2020



moratoriums on evictions, created defenses for eviction actions, and established renter relief efforts. While these were welcome, the patchwork of protections created confusion for struggling Marylanders about their rights, how to exercise them, and even how and where to get accurate, up-to-date information. Particularly in eviction cases, the complex web of new protections made it even more difficult for people without legal representation to understand or exercise their rights.

While the moratoriums paused evictions temporarily, evictions resumed in Maryland by September. In 2021 and beyond, the State and nation will face a flood of eviction and foreclosure proceedings, as governmental moratoriums are lifted and the full financial impact of the COVID-related economic collapse crashes through our system. An estimated 160,000 to 240,000 renter households in Maryland could be unable to pay rent and be at risk of eviction by January 2021, according to the National Council of State Housing Agencies.¹² By the end of 2021, that number could reach a staggering 320,000.¹³ New policies and support are urgently needed to prevent mass displacement that is debilitating to families and communities.

The stress and anxiety caused by job loss and required social distancing have made life far more difficult for many, causing health care practitioners and victim advocates to predict an increase in domestic violence, child abuse, and elder abuse and neglect, even as reporting has dropped. Abuse victims were forced into lockdown with their abusers, and there was mass confusion about whether they could get legal relief. The

elderly, many in nursing homes and congregate care settings, were completely isolated from those who could monitor signs of abuse or neglect, including family and legal aid providers. Children, now homebound for school, in environments where stress was at an all-time high, faced increased threat of abuse and were cut off from adults who could report potential abuse.

The pandemic also interrupted treatment for substance use disorders and other behavioral health issues. State data shows

MANY MARYLANDERS ARE FACING HARSH NEW FINANCIAL HARDSHIPS AND COPING WITH ACUTE STRESS BROUGHT ON BY A ONCE-IN-A-LIFETIME PUBLIC HEALTH AND ECONOMIC CRISIS.

that drug- and alcohol-related deaths increased 9.1 percent across the State from January to June 2020, compared to the same period in 2019.¹⁴

In short, many Marylanders are facing harsh new financial hardships and coping with acute stress brought on by a once-in-a-lifetime public health and economic crisis. Strengthening the safety net and equitable access to the civil justice system will help avert or mitigate further harms to vulnerable Marylanders. Meeting this challenge must be our highest priority.

THE CIVIL JUSTICE SYSTEM AND COVID-19

MANY MARYLANDERS DEALING WITH LIFE-ALTERING CIVIL LEGAL PROBLEMS GENERATED BY THE PANDEMIC RELY ON CIVIL LEGAL AID TO UNDERSTAND THE LEGAL ISSUE THEY FACE, KNOW THEIR RIGHTS, GET ADVICE, AND HAVE COUNSEL AT THEIR SIDE WHEN NECESSARY.

Even before the pandemic, civil legal problems plagued low-income households. A pre-pandemic national study conducted by the Legal Services Corporation revealed that at least 71 percent of low-income households experience a civil legal problem every year. The number is even more staggering for survivors of domestic violence (97 percent) and persons with disabilities (80 percent). Moreover, seven out of 10 who experienced a civil legal problem said that it “significantly affected their lives.”

The State has a large ecosystem of civil legal aid and legal support service organizations to help low-income Marylanders deal with pressing concerns that only the civil justice system can resolve, like continuing to stay in their home, dealing with



EXPERIENCE A CIVIL LEGAL PROBLEM EVERY YEAR

2017 LSC STUDY ON CIVIL LEGAL NEEDS

soaring debt, navigating the probate process after the death of a loved one, appealing a denial of food or unemployment benefits, or getting protection from an abuser. For low-income people unable to afford to hire an attorney, access to civil justice through the support and counsel of these organizations

can often mean a life-saving difference between success and failure.

The COVID-19 crisis has increased the demand for civil legal aid and legal support services exponentially, and providers have had to adjust to new workplace realities.

But resource limitations and structural obstacles have prevented providers from meeting this burgeoning need, which has left many Marylanders without meaningful access to the civil justice system during the pandemic. For example, people facing the loss of a rental home have no legal right to counsel, which leaves many confused and ill-prepared to deal with a landlord who can afford to have an experienced advocate. In Baltimore City, about 1 percent of tenants have legal representation during eviction proceedings, while 96 percent of landlords are represented by an attorney or specialized agent.¹⁵

Maryland's civil legal aid and legal support services system is led and staffed by talented and committed people who work together to help people deal with their civil legal problems.

Yet the civil legal aid delivery system was underfunded and overtaxed before the pandemic hit, with the resources to meet only about 20 percent of the demand for services.¹⁶ In the absence of a right to counsel in civil legal cases, funding for legal assistance largely depends on revenue generated by court filing fees and Interest on Lawyers Trust Accounts (IOLTA),

both of which plummeted by mid-2020 as interest rates fell to historic lows and court closures led to steep declines in court filings. Other sources of funding, like private donations and grants, also declined during the pandemic, as did in-kind pro bono and "low bono" (reduced cost) assistance from private lawyers who scaled back the hours they could commit to civil legal aid. Similarly, legal support services organizations, like those that provide housing and consumer debt counseling which help people avert legal proceedings, saw a spike in demand for help, with no secure funding source to help meet the demand.

The funding problem threatened to constrain the work of many civil legal aid and legal support services providers at a time when countless Marylanders were falling into legal jeopardy. An emergency infusion of \$11.7 million in State funding resolved the immediate budget crisis for civil legal aid organizations, but a structural funding deficit remains.¹⁷

Cutbacks in civil legal aid services penalize people with the fewest means at their time of greatest need. With hundreds of thousands of Marylanders struggling financially, Maryland policymakers must strengthen the civil legal aid and legal support services system, strengthen protections, and ensure it can support the most vulnerable as they desperately try to survive and rebuild. Failing to do so will add new burdens and impede the State's ability to achieve an equitable recovery.



WITH HUNDREDS OF THOUSANDS OF MARYLANDERS STRUGGLING FINANCIALLY, MARYLAND POLICYMAKERS MUST STRENGTHEN THE CIVIL LEGAL AID SYSTEM TO SUPPORT THE MOST VULNERABLE.



SUMMARY OF KEY FINDINGS AND PRIORITY RECOMMENDATIONS

THE ACCESS TO JUSTICE TASK FORCE EXAMINED DATA AND INFORMATION ABOUT THE ACCESS TO JUSTICE CHALLENGES FACING MARYLANDERS, HEARD STORIES ABOUT THEIR EXPERIENCES, AND ENGAGED OVER 300 STAKEHOLDERS ACROSS THE PRIVATE AND PUBLIC SECTORS TO DEVELOP SOLUTIONS TO THESE CHALLENGES.

The Task Force, through its 10 committees, examined longstanding obstacles that hurt lower-income people within the legal system, weaknesses in the State safety net, and the State's response to the pandemic.

As the State works to recover from the pandemic, urgent action is needed to help Marylanders stay housed, be economically secure, remain fed and healthy, be protected on the job, and have meaningful access to the civil justice system, which provides bedrock protections to vulnerable people during some of the most dire moments of their lives.

The key findings and priority recommendations of the Task Force are outlined below. The full recommendations of the Task Force are detailed beginning on page 29.

ENSURE MARYLANDERS ARE HOUSED

Hundreds of thousands of Marylanders face eviction or foreclosure. The legal system does not adequately protect their rights, and the State does not provide sufficient rental assistance for families facing exigent circumstances.



The Task Force recommends:

Reduce the number of evictions and foreclosures in Maryland and expand access to affordable housing.

Priority actions include:

- Increase the filing fee for summary ejectment actions and prohibit the fee from being passed on to the tenant.
- Provide a right to counsel to defendants at both the trial and mediation/settlement phases of eviction proceedings.
- Institute due process reforms and data reporting requirements to allow more time and targeted intervention for diversion efforts and eviction and homelessness prevention.
- Establish a State-funded housing assistance program under a “Housing First” model that provides permanent housing through long-term rental assistance to individuals experiencing homelessness in order to reduce the number of people residing in congregate settings.

ENSURE MARYLANDERS ARE ECONOMICALLY SECURE

The civil justice system and legal constraints on debt collection practices do not provide sufficient protections for people facing crippling consumer debt burdens. The Task Force found that many lower-income Marylanders face excessive costs and obstacles when confronting probate, real property transfers, and other issues brought on by the illness or death of family members.

The Task Force recommends:

Help Marylanders in debt preserve some financial resources to meet their basic needs.

Priority actions include:

- Eliminate body attachments for consumer debt.
- Require financial institutions to automatically exempt retirement plan funds—with a reasonable cap—and veterans’ benefits from property garnishments.
- Decrease the collection fee charged by the State’s Central Collection Unit on civil debt from the current fee of “up to 20 percent” to 6 percent, the default interest rate set by the Maryland Constitution.
- Change and modify court forms, notices, and brochures to make them more user friendly and effective by employing easy-to-understand design and plain language to educate consumers about the legal process and refer them to reliable and valid resources and service providers.
- Eliminate expenses on certain small estates, including probate fees, posting of a fiduciary bond, and newspaper publication of the small estate notice.
- Allow the heirs of an estate to receive the homeowner’s tax credit to reduce the amount of real property taxes that the estate/heirs would otherwise be required to pay.
- Add an option on the Maryland Limited Power of Attorney statutory form that grants the agent authority to assist the individual with the steps necessary to apply and qualify for public benefits on behalf of the individual.

Help Marylanders make health and life planning decisions that protect themselves, their families, and their resources.

Priority actions include:

ENSURE MARYLANDERS ARE HEALTHY AND HAVE ENOUGH TO EAT

Marylanders struggle to obtain vital information about resources and benefits that can provide safety net support during health or financial downturns in their lives and that are critical to helping them cope during a pandemic. These information deficits often have particular impact on Marylanders with disabilities or language and technology barriers. When COVID-19's economic fallout hit, the unemployment insurance system was particularly ill-equipped to deal with the initial surge of demand, and other safety net programs lacked the flexibility and efficiency necessary to respond adequately to the increased need.

The Task Force recommends:

Improve access to unemployment insurance and other public benefits.

Priority actions include:

- Improve transparency in the unemployment insurance application and determination process, including establishing a system that enables applicants to track the status of their unemployment insurance claims through application, processing, and review.
- Increase and maintain Supplemental Nutrition Assistance Program (SNAP) and Temporary Assistance for Needy Families (TANF) benefits. That includes continuing the moratorium on TANF sanctions and terminations related to sanctions, time limits, and procedural requirements and providing a supplemental SNAP benefit to ensure that no one gets less than \$30 a month.



The Task Force recommends:

Increase health equity and improve access to affordable and appropriate health care.

Priority actions include:

- Connect unemployed individuals who have lost health insurance coverage to health insurance options offered by the Maryland Health Benefit Exchange.
- Reduce long-standing racial disparities in the health care system and the health outcomes of Marylanders which have been exacerbated by the pandemic.
- Build health equity and increase health care services for populations disproportionately affected by COVID-19 and historically underserved by making permanent telehealth and audio services that have been shown to be effective during the pandemic and to have helped address an increased demand for services generally.
- Expand services to ensure equity and access by providing technology as well as contact tracing, testing, and coverage, especially for populations hit hardest and in communities or facilities with higher infection risks.

HARDEST HIT BY THE VIRUS HAVE BEEN ESSENTIAL WORKERS—HEALTH CARE, FOOD, TRANSPORTATION, AND DELIVERY WORKERS—WHO ARE LOWER-INCOME AND DISPROPORTIONATELY PEOPLE OF COLOR AND WOMEN.

ENSURE MARYLANDERS ARE SAFE

Neither the federal nor State government has instituted standards adequate to ensure that front-line workers are protected from workplace hazards. The Task Force found also that the pandemic put vulnerable people at greater risk of abuse and brought to light weaknesses in the State's policies designed to protect them. The State has also failed generally to incorporate increased needs for civil legal aid in its response planning for pandemics and other public health emergencies.

The Task Force recommends:

Protect workers and their families more effectively from COVID-19 and other infectious diseases.

Priority actions include:

- Require the Maryland Commissioner of Labor and Industry to develop and adopt regulations under the Maryland Occupational Safety and Health Act related to Aerosol Transmissible Diseases (ATD) to provide a range of protections to workers. This includes establishing ATD standards for health care industry and emergency response employers that protect workers in these industries from the increased risk of contracting known airborne pathogens and other diseases and requiring employers to provide paid leave to workers who must self-quarantine due to workplace exposure to an ATD.
- Amend Maryland's Healthy Working Families Act to: (1) remove the exemptions from required paid sick leave for underage workers, agricultural workers, and temporary or part-time staffing workers; and (2) add eligibility to use paid sick leave during a declared public health emergency.



Improve protections for vulnerable persons from abuse and exploitation.

Priority actions include:

- Establish a workgroup charged with reviewing existing procedures designed to protect vulnerable adults and developing recommendations to stop abuse, neglect, or exploitation of individuals who live in congregate care settings or employ home health care providers.

Improve the State's response to Marylanders' civil legal needs during a pandemic or other public health emergency or natural disaster and make information readily accessible.

Priority actions include:

- Require the Maryland Emergency Management Agency to consider and incorporate civil legal needs into disaster response plans and to ensure the coordination of legal services and disaster-related legal aid. Civil legal service providers and legal support services organizations should be included in emergency planning advisory entities.
- Require the State and counties to increase transparency regarding their receipt AND expenditure of federal emergency funding. They should be required to disclose specified information, including allocation of funding by jurisdiction and recipients' demographic data such as race and ethnicity.

THE DECLINE IN CIVIL LEGAL AID REVENUE CAUSED BY COVID LEFT AN ALREADY UNDERFUNDED SYSTEM WITH EVEN LESS CAPACITY TO MEET THE INCREASED DEMANDS CREATED BY THE PANDEMIC.

ENSURE MARYLANDERS HAVE MEANINGFUL ACCESS TO THE CIVIL JUSTICE SYSTEM

The pandemic both highlighted and deepened the crisis in access to civil justice that affects so many low-income Marylanders. The decline in civil legal aid revenue caused by COVID left an already underfunded system with even less capacity to meet the increased demands created by the pandemic. In turn, more Marylanders facing unprecedented civil justice challenges lacked access to legal counsel and assistance. The rapid shift from in-person to remote hearings further heightened some Marylanders' difficulties in resolving disputes and obtaining justice. Finally, COVID underscored the State's lack of a centralized system for connecting people to services and resources.

The Task Force recommends:

Ensure access to necessary technology or alternative accommodations to facilitate participation in judicial proceedings, both remote and in-person.

Priority actions include:

- Explore partnerships between the judiciary and community organizations to develop spaces outside of the courthouse that can be used for remote hearings.
- Ensure that hearing notices issued during the state of emergency advise all litigants of their right to a remote hearing under Civil Procedure Rules 2-801, et seq. Hearing notices should provide contact information for technology questions and issues with access.
- Provide information to all parties indicating what to do if the technology fails during any remote hearing.
- For status and scheduling hearings, encourage remote hearings by telephone.
- Partner with courts and the Office of Administrative

Hearings to monitor remote hearings and conduct periodic surveys to assess key challenges faced by self-represented litigants in accessing court and administrative proceedings.

Increase access to legal assistance and related legal support services for Marylanders who cannot afford them through adequate and sustainable civil legal aid funding and enhanced pro bono and "low bono" services.

Priority actions include:

- Mandate a new appropriation from the State's General Fund to support Maryland Legal Services Corporation (MLSC)-funded civil legal aid services as well as civil legal aid and legal support services provided by organizations not funded by MLSC.
- Increase MLSC's current funding streams by increasing the surcharges on court filing fees and the annual distribution from the Abandoned Property Fund.



- Improve assessment of civil legal aid needs by establishing reporting requirements and mechanisms for collecting and publishing disaggregated demographic data on Marylanders affected by civil legal issues.
- Increase pro bono legal services by mobilizing 500 new pro bono lawyers to meet the rising demand for civil legal aid; increase coordination and streamline infrastructure to receive, train, and match new pro bono attorneys; and consolidate information and increase awareness about pro bono opportunities.

Enhance Marylanders' ability to access resources and critical and timely information.

Priority actions include:

- Centralize and simplify access to information, resources, and referrals by expanding existing referral services to serve as the single point-of-entry for

connecting Marylanders to civil legal aid and legal support services organizations on vital issues related to housing, employment, health, public benefits, consumer debt, and more.

Incorporate consideration of civil legal needs into government services.

Priority actions include:

- Develop an infrastructure and mechanism to incorporate civil legal needs as mission-critical to government agencies that promote basic human needs, including health, housing, food aid, safety, security, and connectivity.

CONFRONTING THE COVID-19 ACCESS TO JUSTICE CRISIS

AN ECONOMIC AND PUBLIC HEALTH CATASTROPHE

THE COVID-19 OUTBREAK AND RESULTING ECONOMIC COLLAPSE HAVE TRAGICALLY ENDED LIVES, FUELED FINANCIAL DISTRESS, AND DISRUPTED THE WELL-BEING OF PEOPLE ACROSS THE STATE. AT THE END OF 2020, MORE THAN 5,700 MARYLANDERS HAD DIED FROM COVID-19, AND MANY MORE CONTINUE TO FACE HOSPITALIZATION AND LONG-TERM HEALTH CHALLENGES.

All Marylanders have suffered in the pandemic. However, Black and Hispanic Marylanders have fared the worst. Black residents in Maryland make up 31 percent of the population but account for nearly 40 percent of COVID-19 deaths; Hispanics account for 11 percent of the population but 19 percent of COVID cases.¹⁸

Hardest hit by the virus have been essential workers—health care, food, transportation, and delivery workers who are lower-income and disproportionately people of color and women.¹⁹

Many have been forced to continue working despite lacking personal protective equipment and other recommended safeguards.

With the onslaught of COVID-19, unemployment in Maryland soared, from 3.3 percent in March to 10.1 percent only a month later, with a high concentration among lower-wage workers. While employment has rebounded to some extent, roughly

182,000 fewer people in Maryland were working in October than in February.

Despite Maryland's status as a relatively affluent state, a large proportion of its residents dealt with financial strains and instability before the virus arrived. In all, 39 percent of Marylanders could not afford basic household necessities.²⁰ Black and Hispanic Marylanders and other people of color have historically had greater financial challenges, and the pandemic has only exacerbated that disparity. The statewide poverty rate stood at 9.4 percent in 2019, but the rate for Black Marylanders was 13.6 percent.²¹ In terms of debt, a 2018 report found that 43 percent of non-white Marylanders had at least one debt in collection, while only 19 percent of white borrowers did.²²

The pandemic shattered the lives of many who were already struggling. Nationally, more than one in five (21.2 percent) adults with income below the federal poverty level reported that they or their spouse or partner had lost or been laid off from a job

NOTICE

OCCUPANCY LIMITED

We are operating at reduced occupancy in accordance with local guidance.
If you
are asked to wait outside before entering our restaurant, please be patient
and we will allow you to enter as soon as possible.

since the pandemic began in March 2020.²³ Overall, Black and Hispanic families were more likely than white families to say their financial situation had gotten worse.²⁴ And nationally, Black workers are more likely to be unemployed but are less likely to get unemployment benefits.²⁵

Amid a previously unimaginable flood of layoffs, demand for unemployment benefits soared, but the State's system was overwhelmed and failed to serve many out-of-work Marylanders in a timely manner. Many people could not obtain benefits and were often unable to reach State agencies by phone to get information or plead their case.

As people lost jobs, their economic problems spiraled. With respect to families that experienced pandemic-related job loss nationally:

- Six in 10 reported that their families have cut back spending on food.
- Nearly half have used up all or most of their savings.
- Four in 10 have increased credit card debt.
- Roughly one-quarter of adults in families experiencing job loss reported that their families have borrowed money from other family members or friends or took money out of

REPORTED PANDEMIC ECONOMIC PROBLEMS

50%
USED MOST OF
THEIR SAVINGS

4 IN 10
INCREASED
CREDIT CARD DEBT

6 IN 10
CUT BACK
SPENDING ON FOOD

retirement or other long-term savings accounts, and one in five pawned or sold possessions.²⁶

Many unemployed Marylanders are now hobbled by mounting medical and consumer debts, debt collection lawsuits, and ruined credit scores. And Marylanders have racked up hundreds of millions of dollars in unpaid utility bills during the pandemic. These burdens leave some vulnerable to an upsurge in scam attempts that prey on people struggling financially. The Baltimore Sun recently reported that BGE utility customers reported 2,057 scam attempts in September, compared to only 294 a year earlier.²⁷ A State moratorium on utility shut-offs ended in November, creating new stress for financially strapped households.

A HOUSING CRISIS

Maryland has long neglected a persistently high level of housing instability, with more than 665,000 eviction actions filed in the State's district courts a year ago.²⁸ The pandemic threatens to make that unacceptable situation even worse.

Actions at the federal and State level in 2020 were designed to stop evictions. The Maryland Judiciary imposed a moratorium on evictions, but it ended in August. An executive order from Governor Hogan provided a COVID-based affirmative defense against evictions in court, but did not bar evictions. And an order by the federal Centers for Disease Control was billed as a moratorium on evictions but was interpreted by the Maryland Judiciary to only permit delayed judgments for tenants that met specific notice requirements. The Eviction Lab gave Maryland 0.5/5 for its eviction prevention efforts during the crisis. The bottom line: there has been no bar on evictions since September 1st, and evictions have continued.

Landlords have also found other ways to oust tenants. Some have used legal loopholes and others have gone so far as to change the locks on an apartment or turn off the utilities to drive out renters.

Nationally, one in six renters is behind on rent payments, with people of color facing the greatest hardships.

According to census data, 31 percent of Black renters, 25 percent of multiracial renters, and 18 percent of Hispanic renters are not caught up on rent.²⁹

As with evictions, a federal moratorium on some foreclosures has also kept people in their homes, but those proceedings will resume when COVID conditions allow and the moratorium is lifted. In a sign of accelerating mortgage stress, three out of four homeowners in pandemic-related forbearance have already renewed their forbearance plans, and mortgage delinquencies could double by early 2022.³³

Keeping people housed and preventing homelessness is now more than ever a matter of life or death. Evaluating the impact of states lifting eviction moratoriums mid-pandemic, researchers concluded that allowing eviction proceedings to resume led to as many as 433,700 excess cases of COVID-19 and 10,700 additional deaths in the U.S. between March and September.³⁴

COVID-19 has created steeper housing troubles for people of color. Across the United States, Black households are more likely to face eviction than white households, according to a report by the Philadelphia Mayor's Taskforce on Eviction Prevention and Response.³⁵ In 2018 and 2019, the number of eviction removals of Black households in Baltimore was three times higher than the count for white households (4,775 Black evictions compared to 1,614 white evictions).³⁶ And Maryland Legal Aid's July 2020 intake data shows that more than twice as many Black residents sought legal assistance on a housing matter than white residents.³⁷

The experience of renters in Baltimore City underscores that having a lawyer is critical to tenants fighting eviction. One study reported that while only one in 100 tenants has a lawyer during eviction proceedings in Baltimore City, 96 percent of landlords do.³⁸ That same study showed that tenants facing eviction could avoid a disruptive displacement in 92 percent of cases when represented by counsel.³⁹

To prevent mass displacement, new support is needed to identify and connect families to rental assistance programs, expand due process and other legal protections for financially struggling renters, provide ways for parties to resolve problems outside the courts, and establish a right to counsel for those tenants facing court proceedings in which they could lose their housing.



**320,000 HOUSEHOLDS
ARE AT RISK OF EVICTION
BY THE END OF 2021**

Across Maryland, people cannot afford their rent. An estimated 160,000 to 240,000 renter households in Maryland could be unable to pay rent and are at risk of eviction by January 2021.³⁰ That number could reach 320,000 by the end of 2021.³¹

As legal proceedings resume at full speed in 2021, Maryland will see an eviction "horror show," predicts Matt Losak, executive director of the Montgomery County Renters Alliance. Many renters will be hard pressed to make good on their outstanding rent obligations, which have continued to accumulate during the eviction moratorium. The Federal Reserve Bank of Philadelphia estimates that by December 2020, 1.34 million renter households where someone lost a job during the pandemic will be behind, on average, nearly \$5,400 on rent and utilities.³²



THE HUMAN TOLL OF THE HOUSING EMERGENCY

The COVID outbreak has disrupted living conditions for many Marylanders. Some without other options are living temporarily in motels or hotels paid for by local governments. Some have become homeless while others are crashing on couches with friends and relatives. And some are trapped in squalid, unsafe conditions that go unaddressed by landlords, according to advocates.

Advocates and legal aid attorneys see the toll every day.

"People living in these temporary situations in motels are literally nauseous, unable to sleep, afraid to go out because they're afraid they may get the virus," says Matt Losak, executive director of the Montgomery County Renters Alliance. "They don't know what to do with their belongings and are embarrassed. Some are contemplating suicide."

It is particularly hard for families with children. "They are concerned with two things: getting food and medicine, and they are afraid to move in with relatives and friends because of the virus. The pain is bottomless," says Losak.

Chelsea Ortega, a Baltimore attorney, has worked with clients who are essentially trapped in unhealthy apartments. "You have a lot of young mothers with children living in the city in places that are falling apart around them, with lead paint and battling roaches and rodents," she says. Calls to landlords to make repairs go unanswered. "They can't leave because they are scared of coronavirus and can't move in with families," she says.

"No one wants to beg to keep the roof over their head. But what we've seen as the courts re-opened for evictions, as our clients had to come out to court to prove whether they were eligible for moratorium protections, is that people aren't protected the way they thought they'd be," says Zafar Shah, a lawyer who works on housing issues for the Public Justice Center. "For renters who spent the better part of the year scraping together rent, struggling to put on a brave face for their kids, the realization that, yes, they will be evicted and the only question is the exact date, has been devastating and unbelievable. Imagine having survived only to sink to the bottom of the well and have to beg someone who has wanted you out on the street for months. It's the epitome of injustice."

A CHALLENGE TO STAY HEALTHY AND MEET BASIC NEEDS

Marylanders not only lost their jobs in this pandemic, but they also lost their employer-sponsored insurance.

While the Maryland Health Benefit Exchange offered special open enrollment periods, the exchange estimates that 75,000 more Marylanders are now uninsured than before the pandemic hit, bringing the total number of uninsured in the State to 420,000.⁴⁰ Each of those people and their families are at risk of running up calamitous medical debts.

The economic anxiety coupled with forced social distancing is fueling additional problems, with health care practitioners and victim advocates reporting an increase in domestic violence, elder abuse and neglect, and child abuse. Elders, especially those living in nursing homes or other congregate care facilities, are more isolated than ever and at greater risk of abuse and neglect.

The pandemic has also disrupted treatment for substance use disorders and other behavioral health issues. State data shows that drug- and alcohol-related deaths increased 9.1 percent across the State from January to June 2020, compared to the same period in 2019.⁴¹

Out-of-work or under-employed, many people have also struggled to get food. The Maryland Food Bank saw a 96 percent increase in the amount of food it distributed between March and October 2020, compared to a year earlier. From its estimates, almost one million Marylanders could become food-insecure because of COVID-19, including an estimated 339,000 children, on top of the estimated 1.5 million in the State who were already food-insecure pre-pandemic.⁴²

From March to April 2020, there was a 400 percent jump in applications in Maryland for the Supplemental Nutrition Assistance Program (SNAP), commonly known as food stamps. By June, Maryland had a record high 844,933 people receiving SNAP benefits—a staggering 14 percent of the State's population.⁴³

Although public benefits provide essential assistance, they do not meet low-income families' full needs.

Likewise, there is no central place for people to turn for help learning about and accessing benefits. Organizations that help people enroll in SNAP and other benefit programs report major challenges with State agencies, including hours-long waits to talk to a representative, delays in application processing, and unjustified benefits denials. (See page 21 for more detail about challenges with SNAP benefits.)

As the pandemic hit, many people with disabilities have struggled to overcome obstacles to enroll in public benefit programs, despite federal legal protections to guard against such discrimination.

In short, many Marylanders are facing life-threatening financial and other hardships inflicted by a once-in-a-lifetime public health and economic crisis. Providing them with more legal protections and strengthening the safety net must be among the highest of priorities.

**IN ONE MONTH,
APPLICATIONS
FOR SNAP
BENEFITS
INCREASED BY
400%
AND THE NUMBER
OF UNINSURED
MARYLANDERS
JUMPED BY
75,000 TO
420,000**

STRUGGLING TO ACCESS BENEFITS

PUTTING FOOD ON THE TABLE WAS A CHALLENGE FOR MANY MARYLANDERS BEFORE THE PANDEMIC. TODAY, MANY MORE ARE STRUGGLING TO MEET THIS MOST BASIC NEED, AND THE SYSTEM HAS REPEATEDLY FAILED THEM.

People desperate for food aid have often faced daunting challenges enrolling in the Supplemental Nutrition Assistance Program (SNAP), according to counselors and legal services lawyers. With State offices generally closed, applications had to be submitted online or by phone, adding a major barrier to people who lack easy access to the internet and a phone. These methods were also inaccessible for many individuals with disabilities, a population that is disproportionately impacted by food insecurity.

“It’s incredibly challenging to even apply for SNAP if you don’t have a phone or access to the internet,” says Michelle Madaio,



a senior attorney with the Homeless Persons Representation Project.

The application process has taken months for many people—adding to their stress resulting in hunger and food insecurity. Calls to the Maryland Department of Human Services (DHS) to check on applications can result in hours-long wait times just for someone to answer the call.

People receiving SNAP benefits must be recertified for eligibility periodically, which can lead to another round of frustration and delay. In July, August, and September, a total of 143,057 SNAP cases were closed for redetermination issues even though many of these individuals and families never received the notice informing them of the need to complete a recertification.

Other people submitted their redetermination paperwork on time, but their SNAP benefits were still terminated. When individuals and families who experienced SNAP terminations called DHS, they were informed to start all over again with a

new application, advocates report. These errors caused many individuals and families to go months without any SNAP benefits.

While advocates and attorneys worked diligently to help many people navigate the system and overcome benefits denials, nearly 65,000 Marylanders who were terminated from SNAP during those three months were still not receiving benefits as of December.

Among those hardest to help during the crisis have been immigrants and individuals with limited English proficiency (LEP), who are often fearful of seeking help with public benefits, even though they are eligible, due to concerns about xenophobia and discouragement existing at the federal level. In Maryland, many immigrants have been asked to provide documentation to support their SNAP application, which they should never

have been asked to provide, creating additional barriers for the immigrant community in accessing benefits.

“It’s been increasingly difficult to connect with the LEP community and get them to come forward and challenge those unlawful denials for benefits,” says Ashley Black, an attorney with the Public Justice Center.

THE INITIAL RESPONSE TO THE CRISIS

THE COVID-19 PANDEMIC AND ECONOMIC SLOWDOWN HAVE GENERATED A WIDE-RANGING RESPONSE AT ALL LEVELS OF GOVERNMENT AND IN THE PRIVATE SECTOR.

The federal response included major relief for businesses, stimulus checks for individuals, a moratorium on evictions, renters' subsidies, and increased unemployment insurance benefits for many people who lost jobs. A new federal aid package cleared Congress in December 2020, and will provide some important relief with another round of stimulus payments and extended unemployment benefits. Millions of Americans, including many Marylanders, exhausted the first round of special federal unemployment benefits, and many more were on track to run out of the extended federal unemployment benefits by the end of 2020.⁴⁴

At the State level, Governor Larry Hogan and his administration have also worked to help control infection and provide relief to Marylanders affected by the economic downturn. Governor Hogan imposed a range of business restrictions to control the spread of the virus, outlined protocols for nursing homes and other institutions caring for vulnerable populations, worked with health institutions to expand care and testing, and planned for vaccine distribution.

Although the Hogan Administration's efforts have provided temporary relief for some of the most immediate hardships, they have fallen woefully short of what is needed. For example, the State ran into major problems facilitating approval of unemployment insurance benefits for thousands of people who lost jobs. Other public benefits were not adequate to help Marylanders feed their families and stay in their homes. And the Governor's order prohibiting utilities from shutting off service also expired November 15, 2020, leaving many people vulnerable to new hardship as cold weather set in.

After adjourning the 2020 legislative session early due to the pandemic, the General Assembly's leaders established a Joint Covid-19 Response Legislative Work Group that held hearings to assess the impact. With the 2021 legislative session approaching, work groups in the House of Delegates and Senate are preparing agendas for dealing with the pandemic's fallout, and key legislators served on this Task Force.

The Maryland court system closed in March to protect public safety, although some emergency proceedings occurred remotely, and District Court commissioners handled more civil cases. Courts began a phased reopening in June and by

September, all court activities were again taking place. At the end of the year, as COVID-19 cases spiked again, the court system re-imposed strict restrictions on in-person activities, adding new uncertainty and confusion to people facing civil legal issues.

AT THE END OF 2020, THE COURT SYSTEM RE-IMPOSED STRICT RESTRICTIONS ON IN-PERSON ACTIVITIES, ADDING NEW UNCERTAINTY AND CONFUSION TO PEOPLE FACING CIVIL LEGAL ISSUES.

Amid the upheaval, the Maryland Judiciary has taken steps to help the public and attorneys cope with the changes. The Court of Appeals adopted new rules to govern remote proceedings, and procedures were adopted to provide flexibility for hearing participants. The Judiciary developed a Virtual Courtrooms web page⁴⁵ and a [Remote Hearing Toolkit](#) with support and information for the public including video tutorials, troubleshooting tips, instructions on the accessibility features of Zoom, and frequently asked questions. The court system has also been preparing to support the use of interpreters in remote proceedings.

Local jurisdictions also acted to mitigate the pandemic's damage. Baltimore City, for example, devoted significant funds to help small businesses, feed families, and provide computer access to students learning remotely. Baltimore City also recently passed a law giving tenants a legal right to counsel in eviction cases, making it only the seventh jurisdiction in the nation to provide that guarantee to renters.⁴⁶

The private and nonprofit sectors have also stepped up to support a range of programs, from providing food to hard-hit communities to expanding access to COVID testing. Foundations across Maryland rallied to support those harmed by the pandemic, largely focusing on meeting basic needs and supporting front-line workers. A group of funders in the Baltimore region created a collaborative to provide an opportunity for nonprofit organizations to apply for funding to sustain, broaden, or pivot their operations. In Howard County, four local funders also banded together to provide rapid pandemic-related support. And many nonprofits revamped operations to focus on assembling and delivering groceries and meals.

THE PANDEMIC'S IMPACT ON THE CIVIL JUSTICE SYSTEM

AS OUTLINED ABOVE, THE ECONOMIC AND HEALTH CRISES OF THE PAST YEAR HAVE UPENDED THE LIVES OF MANY MARYLANDERS, PUTTING THEM IN URGENT NEED OF LEGAL HELP TO DEAL WITH HOUSING, DEBT, DOMESTIC VIOLENCE, AND OTHER ISSUES.

Many have struggled to enroll in public benefits and need help navigating the system.

Others need guidance through the unfamiliar probate process as they try to secure their family home or other resources after the death of a loved one.

For these Marylanders, access to legal help is critical. Receiving legal counseling and representation often means the difference between success and failure—whether it's holding on to the family home in probate, securing public benefits, establishing a manageable debt-repayment plan, fighting an abusive situation, filing for tax credits, or avoiding eviction.

The legal needs of people of color often go unfulfilled, both reflecting and exacerbating existing disparities. For example, research in 2001 found that wills were more common among white people (71 percent) than people of color (26 percent).⁴⁷

The State's civil legal aid system is made up of a diverse group of about 40 organizations. This system is also supported by legal support services organizations that offer counseling for specific issues such as housing, debt, or abuse.

Civil legal aid and legal support services organizations are seeing increased demand for help with issues such as unaffordable medical bills, domestic violence, child custody, benefits denial, consumer debt, and an anticipated flood of evictions and foreclosures. As the pandemic continues, the full

demand for such legal services is still emerging. The closure of courts has staved off some legal problems temporarily, and in other cases, Marylanders facing the stresses of the pandemic and the legal problems it has generated have not yet been able to seek help.

"There's a sense that would-be clients are so overwhelmed with what's going on that addressing these issues has been put on the back burner, while they spend time finding a new job or having to be on hold with the State unemployment system for hours," says Deb Seltzer, deputy director of MLSC, the State's largest civil legal aid funder. "There's so much going on that they're thinking, 'I'm not going to worry about that creditor who keeps calling.'"

As the pandemic hit and drove up legal needs, Maryland's legal aid system was also dealing with a major budget challenge. Funding for civil legal aid in Maryland has long come from two main revenue streams: a portion of certain court filing fees and revenue generated through IOLTA—Interest On Lawyers Trust Accounts. Without mandated support from the State, the civil legal aid system has historically lacked adequate resources, meeting only about 20 percent of the demand for services.⁴⁸ The COVID-19 crisis rocked the civil legal aid system as MLSC was experiencing the worst revenue shortage in its history. The lost funding stems from dramatic declines in its two major revenue streams—IOLTA income, which fell as interest rates dropped, and revenue from court filing fee surcharges that



dropped during the partial shutdown of the court system. MLSC was on track to see a drop in revenue of \$9.8 million, a 46 percent drop from the previous year.

DURING THE PANDEMIC, FUNDING FOR CIVIL LEGAL AID DECLINED BY 46%

Legal aid advocates and this Task Force sounded the alarm that the system faced collapse. In October,

Attorney General Frosh and Governor Hogan announced that the State would commit \$11.7 million for MLSC, an urgently needed infusion to avoid cuts in grants to front-line providers.⁴⁹

While the new State funds solved the immediate crisis, the longstanding underfunding remains a challenge. A long-term funding solution for civil legal aid should be a priority as Maryland moves to address problems exposed by the pandemic.

Pro bono lawyers are a critical part of Maryland's civil legal aid system. Among the 17,377 full-time lawyers with primary addresses in Maryland, 47 percent provided some pro bono service in the 2018-2019 fiscal year.⁵⁰ But this valuable service has also taken a hit. For the fiscal year ending June 30, 2020, which included almost three months of the pandemic's impact, the number of pro bono hours reported by MLSC grantees declined by 17 percent from the previous year, and the number

of attorneys providing free legal services declined by 14 percent.⁵¹ Similarly, "low bono"—reduced cost—legal services to people of modest incomes have been scaled back during the pandemic. More must be done to encourage attorneys to expand their donation of pro bono hours or to contribute financially to nonprofit legal aid service providers.

The State's civil legal aid system also had to make operational changes to continue representing low-income clients as courts closed and many judicial procedures took place online. Some Marylanders who lacked access to a computer or the internet struggled to take part in virtual court proceedings, and many were unable to pursue important civil cases. These challenges

**A LONG-TERM FUNDING SOLUTION FOR CIVIL LEGAL AID
SHOULD BE A PRIORITY AS MARYLAND MOVES TO ADDRESS
PROBLEMS EXPOSED BY THE PANDEMIC.**

fell hardest on low-income Marylanders, depriving them of fair access to civil justice.

As a state committed to equity, Maryland must do more to protect the rights of all Marylanders, and to give them the legal help they need to survive and rebuild their lives in the aftermath of the COVID crisis.

EFFORTS TO PROVIDE LEGAL ASSISTANCE

CIVIL LEGAL AID ORGANIZATIONS RESPONDED TO THE PANDEMIC ON MANY FRONTS, SOUNDING THE ALARM ON THE CHALLENGES FACING PEOPLE, ADVOCATING FOR MORATORIUMS ON EVICTIONS AND OTHER LEGAL PROCEEDINGS, AND GETTING INFORMATION TO MEMBERS OF THE PUBLIC AS CONDITIONS AND POLICIES CHANGED RAPIDLY.

Legal aid providers acted aggressively—and creatively—to better reach and serve people in the community who need legal help. The Women's Law Center of Maryland, for example, recognized the growing demand for help and expanded the hours for its employment law hotline. On the Eastern Shore, Mid-Shore Pro Bono worked with partners to get out the word about services. They created flyers about their legal services, which were included in food pantry boxes and pharmacy deliveries, and a sticker with their contact information, which was placed on pizza boxes from local shops and bags containing free meals at food distribution sites. In a small but practical step, Mid-Shore bought an oversized picnic table and put it outside the office. It became a place to safely meet with clients and was used for document signing.

The Homeless Persons Representation Project (HPRP) set up a hotline for people to get help securing SNAP benefits. And after thousands of special education students began remote schooling, Disability Rights Maryland launched a weekly Facebook Live Q&A, during which they discuss the rights and responsibilities of families and school systems, helping families navigate a system that became even more complicated when the pandemic hit.

Maryland Volunteer Lawyers Service reimagined its Low-Income Taxpayer Clinic to help low-income Marylanders receive their federal stimulus payments, launching a hotline and ensuring clients could submit all necessary documents to the IRS.

Across the State, civil legal aid entities overcame resource, logistical, and technological challenges to continue serving low-income Marylanders while generally working remotely. Community Legal Services of Prince George's County figured out they could no longer rely on postal mail service and switched over to online interactions. They used electronic signatures, especially for protective orders, and paid bills electronically rather than with a check.

"We've gotten really creative at figuring out how to help our clients to the best of our abilities," says Jessica Quincosa, executive director of the organization.

"Maryland is extremely fortunate to have such a robust and dedicated network of legal aid providers," says Maryland Legal Services Corporation (MLSC) Executive Director Susan Erlichman. "Within a matter of days of the statewide shutdown, our State's resilient and creative advocates were implementing new strategies to reach and serve clients during the pandemic."





THE TASK FORCE'S WORK

THE ATTORNEY GENERAL'S TASK FORCE WAS CHARGED WITH EXAMINING COVID-19'S IMPACTS ON ACCESS TO JUSTICE IN MARYLAND AND DEVELOPING A STRATEGY TO ENSURE THAT—BOTH AS WE BATTLE THE PANDEMIC AND PLAN FOR THE FUTURE—MARYLANDERS ENCOUNTER A CIVIL JUSTICE SYSTEM THAT IS ACCESSIBLE, FAIR, AND EQUITABLE.

The Task Force's work is founded on the principle that equitable access to the civil justice system is vital to protecting public health, spurring economic recovery and growth, and reducing harm to the most vulnerable.

A key focus of the Task Force was to consider racial disparities in the civil justice system—before and during the pandemic—and to develop appropriate policy responses. Due to structural racism in areas like housing, incarceration, and health care, people of color are disproportionately impacted by civil legal issues.

The Task Force was chaired by Attorney General Frosh and included key State legislators, attorneys, advocates, businesspeople, researchers, and experts in social issues. In addition, nine of Maryland's representatives in Congress are part of the Task Force's Congressional Advisory Committee, a recognition of the role that the federal government must continue to play in pandemic recovery efforts.

The Task Force and its committees met regularly between June and November 2020 and held a series of virtual community forums—in English and Spanish—to hear directly from Marylanders about the pandemic's impact and to share information and resources. The Task Force set up online data dashboards to provide up-to-date information about the pandemic's effects, and called publicly for additional resources for civil legal aid, housing assistance, and other supports. The Task Force also conducted three surveys—two related to abuse and neglect and one related to court operations—that were answered by thousands of impacted individuals, service providers, and attorneys.

SUMMARY OF FINDINGS

THE PANDEMIC DISRUPTED THE LIVES OF HUNDREDS OF THOUSANDS OF MARYLANDERS, AS UNEMPLOYMENT SOARED, PEOPLE LOST HEALTH INSURANCE, AND FAMILIES DEPLETED SAVINGS. PROBLEMS WITH DEBT HAVE MULTIPLIED, AND MARYLAND FACES A LOOMING HOUSING CATASTROPHE FOR BOTH RENTERS AND HOMEOWNERS.

The Task Force made key findings that require changes in policy or practice. These findings are summarized here.

- Hundreds of thousands of Marylanders face eviction or foreclosure, and the legal system does not adequately protect their rights; new resources are needed to help low-income Marylanders stay in their homes.
- The system does not provide enough protections to people facing financial debts, leaving them with inadequate options for maintaining resources to meet basic needs.
- The legal system imposes unfair costs and obstacles to lower-income Marylanders dealing with probate, real property transfers, and other issues.
- The unemployment insurance system has been ill-equipped to deal with the surge of demand for benefits, and many other benefits processes have experienced problems serving the public amid the pandemic.
- New flexibility and efficiency are needed to help people receive food benefits.
- Abuse victims faced tremendous challenges during the pandemic, but many went unreported.
- Front-line workers in essential jobs sometimes lack adequate protections—both physical protections against the virus and legal protections to preserve their rights.
- Maryland, despite its wealth, faces stubborn racial disparities in health care services and health outcomes. These disparities are an affront to the State's commitment to equity.

The Task Force also identified ways to strengthen the civil justice system. Key findings include:

- As many lower-income Marylanders face stressful challenges, they often lack meaningful access to legal counsel. Without legal help, they are at far higher risk of financial collapse.
- The pandemic has done damage to the civil justice system by disrupting funding to a system that was already under-resourced.
- The rapid shift to remote proceedings has made it more difficult for many low-income Marylanders, especially those facing technology or language barriers, to resolve disputes and obtain justice.
- The public struggles to obtain vital information about civil legal resources and benefits critical to helping them cope during the pandemic. Some Marylanders have language or technological barriers or obstacles to accessing materials, and people with disabilities are disproportionately disadvantaged.
- Maryland lacks a centralized system for connecting people to services and resources.
- The civil legal needs of Marylanders are not integrated into emergency planning or government services that promote basic needs.
- Maryland does not monitor or track data necessary to effectively meet Marylanders' civil legal needs.

An overarching finding is that Maryland's problems, both before and during the pandemic, have not had a race-neutral impact. Long-term structural racism in policy and practice has meant that Black and Hispanic Marylanders have been disproportionately harmed both historically and by COVID-19. Maryland's responses to the pandemic must be designed and implemented to help address racial disparities in services, access, and outcomes that are both longstanding and exacerbated by COVID-19.

Without that commitment, Maryland will continue to foster racial inequity and mete out unequal justice.



RECOMMENDATIONS

THE ATTORNEY GENERAL'S ACCESS TO JUSTICE TASK FORCE CAREFULLY CONSIDERED THE DAMAGE DONE TO MARYLANDERS BY THE PANDEMIC AND LOOKED AT UNDERLYING CONDITIONS IN THE STATE'S SOCIAL SAFETY NET AND CIVIL JUSTICE SYSTEM THAT WERE EXACERBATED OVER THE PAST YEAR.

The Task Force developed a thorough list of recommendations that will help Maryland address the pandemic's ongoing challenges and will fix some longstanding problems in the systems on which the State relies in emergencies.

THE RECOMMENDATIONS ARE DESIGNED TO ACHIEVE FIVE CRITICAL GOALS:

Ensure Marylanders are housed.

Ensure Marylanders are economically secure.

Ensure Marylanders are healthy and have enough to eat.

Ensure Marylanders are safe.

Ensure Marylanders have meaningful access to the civil justice system.

Under each goal, recommendations are grouped to indicate who is responsible for implementation—the Governor and Executive Agencies, the General Assembly, the Judiciary, the State's Congressional delegation, or others.

These recommendations should serve as a roadmap for policymakers, elected officials, and advocates to strengthen Maryland's system of civil justice and protect those most vulnerable during this devastating public health, economic, and justice crisis now and in the years to come.

THESE RECOMMENDATIONS SHOULD SERVE AS A ROADMAP FOR POLICYMAKERS, ELECTED OFFICIALS, AND ADVOCATES TO STRENGTHEN MARYLAND'S SYSTEM OF CIVIL JUSTICE AND PROTECT THOSE MOST VULNERABLE.



ENSURE MARYLANDERS ARE HOUSED

REDUCE THE NUMBER OF EVICTIONS IN MARYLAND.

Evictions often force families into a difficult cycle of poverty, which can cripple their well-being and impose additional costs on society. Facing a looming surge of evictions, the State must add more protections for tenants, including ensuring those facing eviction have the right to counsel. Maryland must also expand due process and promote early interventions to facilitate non-adversarial resolutions and stave off the drastic displacement of eviction.

The State's process for handling eviction cases, especially summary ejectment proceedings, sacrifices many hallmarks of civil adversarial proceedings in favor of rapid adjudication and returning possession of rental properties to landlords. Landlords are almost always represented by counsel in what is a complicated procedure. While tenants' chances of success in court rise significantly if they have an attorney, most go into court alone. With filing fees set too low, landlords are also submitting repeated eviction filings, which essentially forces the overburdened court system to act as a collection agency.

Along with instituting these due process protections, the State must provide financial support to the many renters who have fallen months behind in rent payments and the landlords who have not received those rent payments, by establishing a new rent-subsidy program.

We recommend that the General Assembly:

1. Increase the filing fee for summary ejectment actions, prohibit the fee from being passed on to the tenant, and provide that the additional funds collected shall be directed to civil legal aid and/or a right to counsel program. Restrict summary ejectment filings to cases in which tenants owe more than \$600.
2. Provide a right to counsel to defendants at both the trial and mediation/settlement conference phases of eviction proceedings.
3. Institute due process reforms and data reporting requirements to allow more time and targeted intervention for eviction prevention and diversion efforts, including:
 - a. Establish broader judicial discretion after trial (entry of judgment) to stay evictions and thereby maximize homelessness prevention opportunities like emergency assistance, rapid rehousing, substance use rehabilitation, and mental health services;

- b. Pre-filing notice: Revise Real Property § 8-401 to create a precondition to filing a Failure to Pay Rent (FTPR) action, whereby the landlord must file an affidavit with the complaint and the tenant has opportunity before or at trial to rebut the assertions in the affidavit;
 - c. Bifurcated adjudication: Through an administrative order and legislation, establish two tracks of adjudication for contested and uncontested actions; set forth a status conference in contested actions and grounds for judges to set 14-day continuance, including referral for legal representation, ordering limited discovery, and/or permitting submission of motion or pleadings;
 - d. Appeal period and stays of eviction: Revise Real Property § 8-401 to change the appeal period to 10 days after entry of judgment; revise Real Property §§ 8-401, 8-402, and 8-403 to provide judicial discretion to stay eviction on grounds of the tenant's reasonable efforts to rehouse; and
 - e. Eviction data reporting: Establish a duty for local law enforcement agencies, the Judiciary, and an appropriate State agency (such as Department of Housing and Community Development, Department of Planning, or Department of Human Services) to collect and publish in open format the data on eviction filings, warrants, and executed warrants, including ZIP code data.
- 4. Establish a non-lapsing State fund for rental assistance and rehousing programs.
 - 5. Enact a tenant screening process that prohibits the use of eviction records beyond executed warrants; provides for expungement of eviction records after three years; provides tenants the right to challenge credit and screening reports before denial of a lease application (or the filing of failure to pay rent complaints); prohibits use of non-conviction criminal history in screening; and prohibits denial of lease applications based exclusively on conviction history.

We recommend that the Judiciary:

- 6. Work with the Administration, nonprofit sector, and the bar to implement a holistic eviction diversion program.

REDUCE FORECLOSURES AND EXPAND ACCESS TO HOUSING.

While the pandemic has not yet generated a foreclosure crisis, signs point to an impending wave over the next 18 months, particularly for financially vulnerable populations. In one measure of the ongoing struggles facing many financially strapped Marylanders, three out of four homeowners in pandemic-related forbearance have renewed those forbearance plans, and mortgage delinquencies are expected to increase dramatically by early 2022. Maryland must act now to mitigate the looming foreclosure crunch by protecting and supporting homeowners at risk. It should also strengthen our foreclosure mediation process, which is largely ineffective and provides little incentive for lenders to negotiate with homeowners.

The pandemic is also forcing Marylanders to amass debts, and a tsunami of debt collection actions, including garnishment and liens, are on the horizon. We need to add new protections for those who may end up in bankruptcy so they can protect more of their home equity. And new State support is urgently needed to secure permanent homes for people who are experiencing homelessness.

We recommend that the Governor and Executive Agencies:

- 7. Establish a State-funded housing assistance program under a "Housing First" model that provides permanent housing through long-term rental assistance to individuals experiencing homelessness in order to reduce the number of people residing in congregate settings.
- 8. Conduct a statewide study of the foreclosure mediation process, using a race equity policy analysis, to increase its effectiveness and develop reforms that promote homeownership, home equity, and community development.

We recommend that the General Assembly:

- 9. Increase the individual exemption for home equity in bankruptcy and debt collection proceedings.
- 10. Protect low-income households and people with disabilities from tax sale foreclosure by streamlining and thereby expanding utilization of the Homeowner Property Tax Credit.



ENSURE MARYLANDERS ARE ECONOMICALLY SECURE

HELP MARYLANDERS IN DEBT TO PRESERVE SOME FINANCIAL RESOURCES TO MEET THEIR BASIC NEEDS.

Maryland law has preserved the archaic principle of body attachments—arrests for people who fail to appear in court debt proceedings. These arrests disrupt the lives of people who are often financially insecure; in some cases, elderly people have been held in custody over holiday weekends.

More broadly, current law imposes excessive burdens on people involved with debt proceedings.

Too many consumers are left with inadequate resources to pay for basic needs after debt judgments, and they are often overwhelmed by having their wages garnished rather than being allowed to develop a reasonable income-based repayment plan. The pandemic's economic impact has put more people into legal jeopardy over debt, but legal aid organizations that work on consumer debt issues often lack the resources to meet the needs of distressed consumers. Without new support, many of these people will be pushed into financial distress.

The pandemic has also underscored the need for all legal forms to be clear and understandable to average consumers and for debtors to be clearly informed about proceedings against them—to make sure they understand the process and have an opportunity to respond effectively.

We recommend that the General Assembly:

11. Eliminate body attachments for consumer debt.
12. Require financial institutions to automatically exempt retirement plan funds—with a reasonable cap—and veterans' benefits from property garnishments. Strengthen the State's existing property garnishment protections by automatically exempting up to \$2,600 of a consumer's or debtor's bank account—approximately two times the average rent in Maryland.
13. Decrease the collection fee charged by the State's Central Collection Unit on civil debt from the current fee of "up to 20 percent" (with the rate set at 17% since 1992) to 6%, the default interest rate set by the Maryland Constitution.
14. Establish a Debtors Assistance Fund for consumer counseling and legal assistance, modeled on CA Senate Bill 455, to support nonprofit organizations that provide financial education and empowerment tools and direct services across the State; possible funding sources could be increased eviction or debt collection filing fees.
15. Create an income- or hardship-based payment plan option, in lieu of garnishment, for debtors who have civil judgments.

We recommend that the Judiciary:

16. Modify court forms, notices, and brochures to make them more user friendly through: (1) utilization of lay language that clearly informs and educates consumers about the process and refers them to reliable and valid resources and service providers; and (2) redesign that makes the forms more readable and understandable to the average reader.
17. Add a member of the consumer protection community (nonprofit advocate, legal services attorney, or private consumer attorney) to the Maryland Rules Committee, which has representation from the creditors' bar, in order to provide a balance of perspectives.
18. Design and mail to debt collectors who are suing consumers a postcard that the collectors would be required to complete and provide to the Clerk's office upon filing a small claims collection action. The postcard would advise the debtor of the time and date of the hearing, inform them of the importance of participating in the action, and direct them to resources that can provide them assistance.

We recommend that the Governor and Executive Agencies:

19. Increase funding for the Department of Housing and Community Development's Housing Counseling and Financial Capability Fund to support nonprofit organizations that provide tenant eviction prevention assistance, financial education and empowerment, and legal services for clients who do not qualify for Maryland Legal Services Corporation (MLSC) funding; possible funding sources could be increased eviction or debt collection filing fees.

HELP MARYLANDERS MAKE HEALTH AND LIFE PLANNING DECISIONS THAT PROTECT THEMSELVES, THEIR FAMILIES, AND THEIR RESOURCES.

The COVID-19 pandemic has exacerbated challenges facing many low-income families as they deal with deaths, inheritances, property transfers, and other legal matters. Existing policies unnecessarily drive up the cost of probate and threaten the loss of a home when heirs cannot pay property taxes. New approaches are needed to help families deal with the cost of property transfers. And the social distancing imposed in response to the pandemic has underscored the need for new policies to make it easier to virtually execute life planning documents or to help family members secure public benefits.

We recommend that the General Assembly:

20. Eliminate expenses on certain small estates, including probate fees, posting of a fiduciary bond, and newspaper publication of the small estate notice.
21. Upon transfer at death for small estates, allow recordation of the deed to a home without first paying the property taxes owed on the home.
22. Allow the heirs of an estate to receive the homeowner's tax credit to reduce the amount of real property taxes that the estate/heirs would otherwise be required to pay.
23. Add an option on the Maryland Statutory Form Limited Power of Attorney that grants the agent authority to assist the individual with the steps necessary to apply and qualify for public benefits on behalf of the individual.



24. Make permanent the Governor's COVID-19 Executive Orders that allow for remote witnessing and notarizing certain life planning documents during the state of emergency.
25. Make it easier to transfer a family home outside of Probate Court by creating a statutory form, a Transfer on Death Deed. Such a deed would allow real property to transfer to the beneficiary automatically upon death and avoid the time and cost of probate.



ENSURE MARYLANDERS ARE HEALTHY AND HAVE ENOUGH TO EAT

THOUSANDS OF MARYLANDERS STRUGGLED TO NAVIGATE THE STATE'S OVERWHELMED SYSTEM TO OBTAIN URGENTLY NEEDED UNEMPLOYMENT BENEFITS DURING THE PANDEMIC.

The system's long delays and failures in processing benefits were a crippling blow to many whose incomes dried up, threatening their families' financial stability. The Department of Labor's system failed to meet the demand and made it all but impossible for applicants to know the status of their applications or when they could expect benefits to arrive, adding to their financial uncertainty.

The Maryland Department of Human Services also had extensive trouble approving SNAP and TANF benefits to applicants who were on the verge of financial collapse. Its system lacked transparency and often failed to send documentation on time, depriving people of benefits for which they qualified and urgently needed. The benefits process also failed many foreign-language speakers and people with disabilities, and it unnecessarily excluded advocates from taking part in the application process. Finally, the financial desperation of so many people hit by the pandemic has revealed the inadequacy of SNAP benefits.

IMPROVE ACCESS TO UNEMPLOYMENT INSURANCE AND OTHER PUBLIC BENEFITS.

We recommend that the Governor and Executive Agencies take the following steps:

26. The Maryland Department of Labor should act to improve transparency in the unemployment insurance application and determination process. This should include establishing a system that enables applicants to track the status of

their Unemployment Insurance claims through application, processing, and review. Components should include identifying a claimant's "place in line" and anticipated wait time for an eligibility determination, and delays in processing applications should be acknowledged and flagged.

27. The Department of Human Services (DHS) should act to increase and maintain SNAP and TANF benefits through the following steps, which may require seeking federal approval or waivers:⁵²

- a. Continue the moratorium on TANF sanctions and terminations related to sanctions, time limits, and procedural requirements;
 - b. Provide a supplemental SNAP benefit to ensure that no one gets less than \$30 a month;
 - c. Allow Maryland Senior Nutrition Assistance Program (“MSNAP”) recipients to receive the maximum benefit allotment retroactive to April 2020;
 - d. Allow SNAP and TANF beneficiaries to receive the full monthly benefit for the month when an application is submitted rather than prorating the benefit based on application date;
 - e. Track and release DHS Call Center data, including the average wait times for English and Spanish callers; and
 - f. Conduct an in-depth analysis of the Heat & Eat program and determine a source of funding to implement the program.
28. DHS should also act to improve the benefits screening process and communications with applicants:
- a. Improve platforms to interact with the public by phone, internet, and where appropriate, in person. At a minimum, enhancements could include a toll-free number, non-automated telephone answering services, and online inquiry options;
 - b. Permit authorized SNAP outreach partner organizations to be on three-way calls with clients when communicating with the DHS call center and EBT Conduent phone line;
 - c. Screen all TANF applicants for SNAP eligibility at the point of application, and explicitly inquire during the interview whether the family wants to participate in the SNAP program; and
 - d. Ensure that all materials and communications to applicants and recipients are in the language requested in the application.
29. DHS should act to remove institutional barriers to benefits by collaborating more effectively with program stakeholders, including advocates and other State agencies:
- a. Provide maximum flexibility (in length of time and methods) to submit required verifications, and develop a plan, with input from advocates and recipients of SNAP and TANF benefits, for individuals and families without access to phone or internet to complete document submission;
 - b. Coordinate with Maryland State Department of Education to ensure mechanisms are in place for advocates for students experiencing homelessness (McKinney-Vento liaisons) to have access to SNAP

application assistance and referrals; and

- c. Provide technical support to smaller retailers to achieve website compliance in order to become USDA-approved to provide SNAP online grocery delivery to SNAP recipients.

INCREASE HEALTH EQUITY AND IMPROVE ACCESS TO AFFORDABLE AND APPROPRIATE HEALTH CARE.

Health insurance is an essential need, but many in Maryland struggled to hang onto coverage—or get new coverage—as the pandemic hit. Without coverage, many go without vital health care, putting themselves and their families at risk. Many Marylanders who lost their employer-based health insurance did not know how to get help enrolling in coverage through the Maryland Health Benefit Exchange. In other cases, people applying for Medicaid faced extended delays in the application and appeals process, adding stress and delaying medical care. And many elderly people were forced to enter nursing facilities, which have had high rates of COVID exposure and deaths, to receive Medicaid services, rather than being allowed to stay more safely at home and receive community-based services.

MANY MARYLANDERS WHO LOST THEIR EMPLOYER-BASED HEALTH INSURANCE DID NOT KNOW HOW TO GET HELP ENROLLING IN COVERAGE THROUGH THE MARYLAND HEALTH BENEFIT EXCHANGE.

The pandemic revealed race-based disparities in how health care is delivered, which has led to poorer health outcomes for people of color by many measures. This affluent State must adopt fresh approaches and make new investments to expand access to care and close these racial health gaps. The past several months also underscored the State’s lack of protocols for pandemic responses in high-risk facilities.

Forced to work remotely, health providers embraced new approaches to care, such as telehealth appointments, that were shown to be useful tools for delivering health services to underserved populations. COVID-19’s impact should be a wake-up call to strengthen our health care system, address longstanding disparities, and give people the peace of mind that comes with affordable insurance.

We recommend that the Governor and Executive Agencies take the following steps:

- 30. The Maryland Department of Labor (MDL) should build on early success with the Maryland Easy Enrollment Health Insurance Program and connect unemployed individuals who have lost health insurance coverage to health insurance options offered by the Maryland Health

Benefit Exchange (MHBE). MDL should be directed to incorporate a health insurance checkbox into applications for unemployment insurance, asking applicants whether they want information from their unemployment application shared with MHBE for follow up assistance in obtaining free or low-cost health insurance.

31. The Maryland Department of Health (MDH) should:

- a. Create a Health Equity Task Force charged with adopting anti-racist and anti-discriminatory standards of care;
- b. Develop testing, contact tracing, and treatment programs targeted at high-risk populations, facilities, and communities;
- c. Address the undue delays in Medicaid hearings, which result in denials of timely appeal rights, and reduce delays in processing changes in plans of service as requested by Medicaid participants in home and community-based service programs;
- d. Address delays in processing requests for additional home health services requested by beneficiaries;
- e. Remove barriers that require Medicaid beneficiaries to enter nursing facilities to access community home health services that would permit them to avoid institutionalization, avoid discrimination, be cost-neutral, and avoid the risks of COVID-19 infection in nursing facilities, and increase the availability of such services to meet demand; and

- f. Build health equity and increase health care services for populations disproportionately affected by COVID-19 and historically underserved by:
 - i. Making permanent telehealth and audio services permitted during the pandemic that have been effective and have helped address an increased demand for services generally, and for the provision of services in the home;
 - ii. Expanding services to ensure equity and access by: (i) providing appropriate technology (e.g., internet access, communications devices); and (ii) providing contact tracing, testing, and coverage, especially for populations most impacted and in communities or facilities with greater risks or rates of infections;
 - iii. Continuing modifications permitted under Medicaid during the pandemic to increase access or services, e.g., waiver of copays and extended verifications; and
 - iv. Seeking Medicaid funding for critically needed mobile crisis and peer support behavioral health services.



ENSURE MARYLANDERS ARE SAFE

PROTECT WORKERS AND THEIR FAMILIES MORE EFFECTIVELY FROM COVID AND OTHER INFECTIOUS DISEASES.

The highly infectious coronavirus arrived suddenly and has infected well over 260,000 Marylanders. While many people were able to work from home, those deemed essential were required to report to duty, including health care workers, first responders, meat and poultry processors, agricultural workers, grocery store workers, supply chain workers, and mass transit employees. People of color and women are disproportionately represented in the ranks of essential workers. Many were required to work without proper protective equipment or safety procedures—leaving them the impossible choice of quitting a job or working in conditions that threatened their health.

MANY WERE REQUIRED TO WORK WITHOUT PROPER PROTECTIVE EQUIPMENT OR SAFETY PROCEDURES—LEAVING THEM THE IMPOSSIBLE CHOICE OF QUITTING A JOB OR WORKING IN CONDITIONS THAT THREATENED THEIR HEALTH.

State policies are inadequate for ensuring the safety of employees required to work in potentially hazardous conditions, which is deeply unfair and dangerous. Similarly, Maryland's sick leave law does not cover some workers deemed essential, including agricultural workers, and lacks provisions for public health emergencies to allow covered employees to take leave for workplace, school, or daycare closures, or to quarantine. We must take steps to establish and enforce strong standards to protect workers and allow them to cope with family issues both during the pandemic and in the future.

We recommend that the General Assembly:

32. Require the Maryland Commissioner of Labor and Industry to develop and adopt regulations under the Maryland Occupational Safety and Health Act related to Aerosol Transmissible Diseases (ATD) that achieve the following:
 - a. Establish ATD standards for health care industry and emergency response employers that protect workers in these industries from the increased risk of contracting known airborne pathogens and other diseases;
 - b. Establish standards for employers in all other industries, including essential workplaces, to protect employees during outbreaks of a known ATD or a new and emerging ATD. These standards should be tailored in scale and scope based on the industry and

should include workplace mitigation requirements such as social distancing, personal protective equipment, personal sanitizing, routine workplace disinfection, ventilation, workplace engineering controls, worker education and training, response measures for identified or known exposures, and recordkeeping;

- c. Require employers to provide paid leave to workers who must self-quarantine due to workplace exposure to an ATD;
 - d. Require employers to report to the Maryland Occupational Safety and Health office and the Maryland Department of Health all incidents of workplace exposure to an ATD;
 - e. Create a presumption that when an ATD is contracted by a health care or emergency response worker, or by an employee who is performing work considered essential or necessitating close contact with others, it is an occupational disease arising out of employment for purposes of worker compensation coverage;
 - f. Establish an enhanced enforcement and penalty regime for violations of the ATD regulations;
 - g. Provide concurrent authority to the Attorney General to enforce workplace safety regulations; and
 - h. Establish whistleblower protections for employees that raise concerns or make complaints regarding workplace conditions related to ATDs, including a private right of action.
33. Amend Maryland's Healthy Working Families Act to:
- a. Remove the exemptions from required paid sick leave for underage workers, agricultural workers, and temporary or part-time workers.
 - b. Add eligibility to use paid sick leave during a declared public health emergency when a worker's place of employment has closed, or a school or child-care provider for a worker's family member has closed, or a worker must quarantine or care for a family member who was made sick by the public health emergency.

We recommend that the Governor and Executive Agencies:

34. Issue an executive order or require the Maryland Occupational Safety and Health office to adopt regulations that implement the ATD worker protection rule outlined above.

IMPROVE PROTECTIONS FOR VULNERABLE PERSONS FROM ABUSE AND EXPLOITATION.

COVID-19 has dramatically restricted the ability of ombudsmen,

guardians, court-appointed attorneys, social workers, medical providers, family, informal caregivers, and others to visit people living in congregate care settings such as assisted living and nursing homes. This has elevated the risk that the elderly could be abused or exploited. Maryland needs to take a fresh look at how to prevent elder abuse and neglect and better protect this extremely vulnerable population.

We recommend that the General Assembly:

35. Establish a workgroup charged with reviewing existing procedures designed to protect vulnerable adults and developing recommendations to stop abuse, neglect, or exploitation of individuals who live in congregate care settings or employ home health care providers. The workgroup should:
- a. Define vulnerable adults, where they are being served, and which State agency has oversight or governance over that population;
 - b. Review how abuse and neglect is currently substantiated for that population outside the criminal process; and
 - c. Determine what is working and whether there are gaps that should be addressed, including: the value of establishing a registry for abusers; and how to ensure the safety of vulnerable persons in congregate care settings against the harm of isolation.

IMPROVE THE STATE'S RESPONSE TO MARYLANDERS' CIVIL LEGAL NEEDS DURING A PANDEMIC OR OTHER PUBLIC HEALTH EMERGENCIES AND MAKE INFORMATION READILY ACCESSIBLE.

The COVID outbreak has exposed weaknesses in the State's disaster response planning; in particular, the State's plans fail to ensure the coordination of civil legal aid services, which become even more urgently needed by low-income

WE MUST LEARN FROM THE STATE'S RESPONSE TO THE PANDEMIC AND MAKE NEEDED IMPROVEMENTS IN OUR PLANNING FOR FUTURE EMERGENCIES, WITH AN EYE ON PROTECTING LOW-INCOME MARYLANDERS AND OTHER VULNERABLE POPULATIONS.

Marylanders during a crisis. Of particular concern, the State's unemployment benefits system was ill-equipped for the rapid escalation of claims and a changing benefit structure. We must learn from the State's response to the pandemic and make needed improvements in our planning for future emergencies,

with an eye on protecting low-income Marylanders and other vulnerable populations.⁵³

We recommend that the General Assembly:

36. Require the Maryland Emergency Management Agency (MEMA) to consider and incorporate civil legal needs into disaster response plans and to ensure the coordination of legal services and disaster-related legal aid. Civil legal service providers and legal support services organizations should be included in emergency planning advisory entities.
37. Require the State and counties to increase transparency regarding their receipt AND expenditure of federal emergency funding. They should be required to disclose specified information, including allocation of funding by jurisdiction and recipients' demographic data such as race and ethnicity.

We recommend that the Governor and Executive Agencies take the following steps:

38. The Maryland Department of Labor's Division of Unemployment Insurance should establish an emergency task force to develop contingency plans to strengthen the State's unemployment insurance system's ability to handle emergencies. Plans should address surge capacity for sudden increases in applications, rapid changes in benefits, and other emergency-related contingencies, and they should leverage technology and resources like cross-trained State employees.
39. MEMA should establish processes for the dissemination of critical information to the public and to those most affected by an emergency. Processes should include notice and publication in one place of all emergency actions taken by State and local governments.



ENSURE MARYLANDERS HAVE MEANINGFUL ACCESS TO THE CIVIL JUSTICE SYSTEM

ENSURE ACCESS TO NECESSARY TECHNOLOGY OR ALTERNATIVE ACCOMMODATIONS TO FACILITATE PARTICIPATION IN JUDICIAL PROCEEDINGS, BOTH REMOTE AND IN-PERSON.

The closure of the Maryland courts during the pandemic—along with the offices of nonprofit legal aid providers and private attorneys—has disrupted the civil justice system and forced all parties to adopt new virtual approaches. People with disabilities, people with limited English skills, or low-income people who lack access to the internet or even a phone were particularly disadvantaged by court closures. The judiciary took action to accommodate the new virtual environment, but challenges have persisted. New accommodations are needed, especially during continuing COVID-related court closures, to make sure relevant information is readily available and to ensure all parties, especially those with the fewest resources, have fair and meaningful access to justice.

We recommend that the Judiciary:

40. Explore partnerships with organizations in the community to develop spaces outside of the courthouse with sufficient technology capacity that can be used for remote hearings.
41. Ensure that hearing notices issued during the state of emergency advise all litigants of their right to a remote hearing under Civil Procedure Rules 2-801, et seq. Hearing notices should provide contact information for technology questions and issues with access.
42. Provide information to all parties indicating what to do if the technology fails at the start of or during any remote hearing.
43. Partner with courts to conduct in-court monitoring and periodic surveys to assess key challenges faced by self-represented litigants in accessing court and administrative proceedings.

44. For status and scheduling hearings, encourage remote hearings by telephone.
45. Consider the parties' ability to access video platforms for determining the mode of substantive hearings, including for dispositive motions.
46. Amend default judgment and failure to appear rules to specify that good cause for setting aside a default judgment, or altering or amending a judgment when a party failed to appear and represent his position, includes a lack of access to a remote platform or if a party has a state of emergency-related reason (e.g., immunocompromised individual or family member, exposure to COVID-19, or child care issues).
47. Increase remote access to court documents and filing services. Courts in jurisdictions that are not part of the Maryland Electronic Courts (MDEC) system should provide an email address to which parties can email court filings, in lieu of mailing them—a reflection that self-represented litigants are more likely to have access to email than to printers and scanners.
48. Provide attorneys employed at MLSC-funded legal service providers access to public documents in all court files online via MDEC to better assist potential clients.

INCREASE ACCESS TO LEGAL ASSISTANCE AND RELATED LEGAL SUPPORT SERVICES FOR MARYLANDERS WHO CANNOT AFFORD THEM THROUGH ADEQUATE AND SUSTAINABLE CIVIL LEGAL AID FUNDING AND ENHANCED PRO BONO AND “LOW BONO” SERVICES.

Well before the COVID outbreak, the State's civil legal aid system lacked the resources to meet the full needs of low-income Marylanders, leaving many without legal support during moments of crisis. That gap has only widened as hundreds of thousands of Marylanders have been thrown into financial and legal jeopardy. Without access to an attorney to face housing, debt, and other challenges, their chances of prevailing are far worse.

Funding for civil legal aid services fell dramatically during the pandemic. In response, the State government stepped in to make a special appropriation to keep the legal aid system functioning during the public health and economic emergency. We must buttress our system to better meet the need and commit the State to providing annual budget support.

Along with the funding issues, the State lacks thorough information and data about Marylanders who are affected by civil legal issues, hampering the system's ability to plan and

allocate resources to better support low-income people. The State also does not integrate civil legal needs into the provision and promotion of government services.

Expanding the effectiveness of the civil legal aid system will also require new support from Maryland lawyers, including expanded provision of pro bono and “low bono” legal services. These attorneys are an essential part of the civil legal aid system and need additional support. Doing this will require leadership throughout the Maryland Bar and Judiciary.

EXPANDING THE EFFECTIVENESS OF THE CIVIL LEGAL AID SYSTEM WILL ALSO REQUIRE NEW SUPPORT FROM MARYLAND LAWYERS, INCLUDING EXPANDED PROVISION OF PRO BONO AND “LOW BONO” SERVICES.

We recommend that the General Assembly act to:

49. Improve assessment of civil legal aid needs by establishing reporting requirements and mechanisms for collecting and publishing disaggregated demographic data on Marylanders affected by civil legal issues. This should include requiring the appropriate State agency (or other entity) to collect and publish at least annually disaggregated data about the number of individuals and communities in Maryland impacted by civil legal issues, including evictions, foreclosures, consumer debt actions, protective orders, probates in small estates, and public benefits. Data should include specific demographics regarding race, ethnicity, gender, geography, ability, and age.
50. Increase MLSC's current funding streams by increasing the distribution from the Abandoned Property Fund and increasing the surcharges on court filing fees.

We recommend that the General Assembly and the Governor:

51. Mandate a new appropriation from the State's General Fund to support MLSC-funded civil legal aid services as well as civil legal aid and legal support services provided by organizations not funded by MLSC.

We recommend that the Executive Agencies:

52. Develop an infrastructure and mechanism to incorporate civil legal needs into the work of agencies that promote health, housing, food aid, safety, security, and connectivity to ensure inclusion of civil legal services as mission-critical.

We recommend that the Maryland Bar and Judiciary:

53. Increase pro bono legal services by mobilizing 500 new pro bono lawyers to increase access to justice and meet the rising demand for civil legal aid; increase coordination and streamline infrastructure to receive, train, and match

new pro bono attorneys; and consolidate information and increase awareness about pro bono opportunities.

Key steps include:

- a. Have key leaders, including the Attorney General, Chief Judge, and Maryland State Bar Association (MSBA) leaders, deliver a coordinated call to action to increase pro bono services to respond to the spike in civil legal needs arising from the COVID-19 pandemic. Implement a coordinated public awareness campaign to support this call to action.
- b. Utilize a coordinated and streamlined infrastructure to direct attorneys towards high-priority cases.
- c. Increase student engagement by establishing or expanding externships in which law students work at local law firms on COVID-19-related pro bono or low bono cases for academic credit and work with law firms to increase loaned associate programs.
- d. Increase government attorney participation through these steps:
 - i. Have State, county, and local governmental agencies offer administrative leave to their employees to engage in pro bono legal service work through an organized legal services program.
 - ii. Enable and encourage government attorneys to engage in pro bono legal service work through an organized pro bono legal services organization by modifying the enabling State and local statutes, charters, and contracts; or carving out an exception for such service; or crafting a policy that specifically allows for pro bono legal service.
 - iii. Publicize and support pro bono civil legal services opportunities and resources such as malpractice insurance, training, and mentoring within the government agency.
 - iv. Set a tone in government agencies that encourages and facilitates pro bono legal services through State and local law offices.
- e. Increase private firm involvement to:
 - i. Engage law firms in a funding campaign for legal services, especially encouraging those individual lawyers who do not engage in pro bono to donate funds to pro bono services.
 - ii. Have law firms adopt policies that encourage pro bono legal service with tangible incentives and

benefits, such as offering a designated number of hours for pro bono legal work to count as “billable time” for timekeeping and minimum hourly requirements.

- f. Increase the availability of low bono legal services. Encourage and enable all Maryland attorneys to engage in low bono legal work for people with modest economic means.
 - i. Expand, increase funding for, and publicize JusticeReferrals.org, the existing portal for providing low bono legal services to people of modest means.
 - ii. Create best practices guidelines for Maryland attorneys interested in providing low bono services.
 - iii. Provide a pathway for workforce development for attorneys in transition, and in the long term, for non-attorney supporting professionals.
- g. Spearhead a campaign through partnership with the MSBA to encourage financial institutions to increase the interest rates paid on Interest on Lawyers Trust Accounts (IOLTA).

ENHANCE MARYLANDERS’ ABILITY TO ACCESS RESOURCES AND TO OBTAIN CRITICAL INFORMATION.

Many residents facing financial, health, and other crises through the COVID outbreak had a difficult time simply finding available services and resources. This challenge is due in part to the State’s lack of a centralized referral system to help people connect with services. Among those most deeply affected were non-English speakers, people with limited reading skills, individuals with limited technology access and proficiency, and people with disabilities. The State should make information more readily available to all Marylanders, especially those with special needs, and ensure people can easily learn about and access the services they need to stay healthy and financially secure.

We recommend that the General Assembly and the Governor:

54. Centralize and simplify access to information, resources, and referrals by expanding the existing 211 referral service, in partnership with the Maryland Court Help Center, to serve as the single point-of-entry for connecting Marylanders to civil legal aid and legal support services organizations on vital issues related to housing, employment, health and public benefits, consumer debt, and more.



We recommend that the Executive Agencies take the following steps:

55. The Maryland Department of Health should:
 - a. Address language barriers, accessibility, and plain language inadequacies in its website; and
 - b. Conduct a targeted health literacy campaign for those communities most hurt by health care inequities and COVID-19 or other public health emergencies.
56. The Department of Labor's Unemployment Insurance Division should improve overall access to, and understanding of, unemployment insurance by:
 - a. Undertaking a comprehensive review and revision of all public-facing modes of communication on unemployment insurance programs and benefits, especially on its website, with information communicated in clear terms at a 7th-grade reading level;
 - b. Assessing deficiencies in providing non-English language access to its benefits and processes, enhancing as needed its existing Language Access

Plan, and implementing it immediately. Priority for improved access should focus on ensuring adequate staff training, providing timely and free interpretive services and translated materials, and making all reasonable efforts to communicate throughout the claims process in a claimant's primary language;

- c. Exploring the development and dissemination of easy-to-follow videos in multiple languages on the unemployment insurance process and related concepts like furlough, termination, lay-offs, and work readiness. The department should also consider partnerships with organizations that develop videos in non-English languages and regularly assist clients with unemployment insurance filings and certifications; and
- d. Establishing a community outreach program to communicate and disseminate information, like multi-language tutorials, to stakeholder organizations that can expand public understanding of the unemployment insurance application process and applicants' rights.

We recommend that Maryland's Congressional delegation take the following steps:

57. Support full federal funding for the Legal Services Corporation.
58. Support the reestablishment of the Office of Access to Justice in the U.S. Department of Justice, which will model and provide national guidance and leadership on integration of civil legal needs into government services and programs.
59. Support federal benefits programs, such as enhanced unemployment benefits and rental assistance, to help Marylanders weather the pandemic.



CONCLUSION

The Attorney General's COVID-19 Access to Justice Task Force heard from advocates, civil legal aid attorneys, service providers, legislators, administration officials, policy experts, and average Marylanders about the damage the COVID-19 pandemic has inflicted on people across the State. It concluded that urgent action is needed to help Marylanders cope with the civil legal impacts of the COVID-19 pandemic, meet their basic needs, protect public health, and rebuild economic security. Action is also required to remedy structural and procedural inequities that plagued the State long before the pandemic and continue to harm communities of color.

The State's civil justice system, which is designed to help low-income people have meaningful access to justice, needs new support from both the State and the legal community to ensure the system is truly fair to all.

THE STATE'S CIVIL JUSTICE SYSTEM, WHICH SHOULD BE DESIGNED TO HELP LOW-INCOME PEOPLE HAVE MEANINGFUL ACCESS TO JUSTICE, NEEDS NEW SUPPORT FROM BOTH THE STATE AND THE LEGAL COMMUNITY TO ENSURE THE SYSTEM IS TRULY FAIR TO ALL.

The recommendations in this report are necessary and achievable.

We urge the General Assembly to act decisively and adopt the Task Force's broad set of legislative recommendations. We also urge the Hogan administration to redouble its commitment to helping Marylanders cope, stay safe, and be financially secure by embracing key strategies outlined here. An effective response will also require action and committed partnerships among the Attorney General's office, the Judiciary, the legal community, local governments, and a range of nonprofits and private organizations.

The Task Force offers this report as a roadmap for policymakers, elected officials, the Judiciary, and advocates to help Maryland strengthen its civil justice apparatus and protect those most vulnerable. Its recommendations will help Maryland recover from this profoundly destabilizing public health, economic, and justice crisis, and they will set the State on a better path in the years to come.

ENDNOTES

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ABOUT THE TASK FORCE

In the spring of 2020, Maryland Attorney General Brian Frosh recognized the enormous damage the pandemic was doing to Marylanders while overtaxing the State's civil justice system. In June 2020, the Office of the Attorney General partnered with the Maryland Access to Justice Commission, an independent entity backed by the Maryland State Bar Association that works to guarantee equal access to the civil justice system, to establish the Attorney General's COVID-19 Access to Justice Task Force.

The Task Force was charged with examining COVID-19's impacts on access to justice in Maryland and developing a strategy to ensure that when Marylanders encounter the civil legal system, justice is accessible, fair, and equitable—both as we battle through the COVID-19 situation and plan for the future.

The Task Force was chaired by Attorney General Frosh and included key State legislators, attorneys, advocates, businesspeople, researchers, and experts in social issues. In addition, nine of Maryland's representatives in Congress are part of the Task Force's Congressional Advisory Committee, a recognition of the role the federal government must continue to play in pandemic recovery efforts.

This group brought vast knowledge and experience to the effort and worked diligently with leadership from the Maryland Access to Justice Commission and the Office of the Attorney General.

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THE TASK FORCE PROCESS

THE TASK FORCE ESTABLISHED 10 WORKING COMMITTEES MADE UP OF BOTH TASK FORCE MEMBERS AND OTHER EXPERTS TO EXPLORE A RANGE OF ISSUES:

Civil Legal Aid Funding

Consumer Protection

Data and Legal Technology

Economic and Food Security

Housing Security

Life and Health Planning

Policy and Race Equity

Pro Bono and Reduced Fee Legal Services

Public Awareness and Community Engagement

Surviving Abuse, Neglect, and Exploitation

Additionally, The Task Force held a series of virtual community forums—in English and Spanish—to share information and resources and hear directly from Marylanders about how the pandemic has affected them. The Task Force set up online [Civil Justice Data Dashboards](#) to provide up-to-date information about the pandemic's effects and has called publicly for additional resources for civil legal aid, housing assistance, and other supports. The Task Force conducted three surveys that were answered by thousands of impacted individuals, service providers, and attorneys—two related to abuse and neglect and one related to court operations. The Task Force also created a substantive law handbook and resource manual for life and health planning and a microsite filled with resources focused on consumer law.

For more information about this report, contact:

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Finally, we thank the Annie E. Casey Foundation and the Abell Foundation for their generous support of the Task Force.



Maryland Attorney General Brian E. Frosh's
COVID-19 Access to Justice Task Force