

amendement (2) SB0328-273123-01.pdf

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SB0328/273123/1

AMENDMENTS
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25 JAN 21
14:45:55

BY: Senator Reilly

(To be offered in the Judicial Proceedings Committee)

AMENDMENT TO SENATE BILL 328

(First Reading File Bill)

On page 3, in line 9, strike “IF” and substitute “WHENEVER”; and in lines 11 and 12, strike “MAY PROVIDE FOR REPOSSESSION OF THE PROPERTY BY NOTIFYING THE TENANT” and substitute “SHALL NOTIFY THE TENANT OF THE DATE THAT THE SHERIFF IS SCHEDULED TO EXECUTE THE WARRANT OF RESTITUTION AND”.

amendment (3)SB0328-833724-01.pdf

Uploaded by: doyle, kerry

Position: FWA



SB0328/833724/1

AMENDMENTS
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25 JAN 21
14:48:20

BY: Senator Reilly
(To be offered in the Judicial Proceedings Committee)

AMENDMENT TO SENATE BILL 328
(First Reading File Bill)

On page 3, in lines 21 and 22, strike “LEASE OR OTHERWISE AGREED TO BY THE LANDLORD” and substitute “SUMMARY EJECTMENT CASE”.

amendment(1) SB0328-113121-01.pdf

Uploaded by: doyle, kerry

Position: FWA



SB0328/113121/1

AMENDMENTS
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25 JAN 21
14:49:45

BY: Senator Reilly
(To be offered in the Judicial Proceedings Committee)

AMENDMENT TO SENATE BILL 328

(First Reading File Bill)

On page 3, in line 29, strike “CONTROL” and substitute “POSSESSION”.

MMHA - 2021 - SB 328 - notice of warrant of execut

Uploaded by: Greenfield, Aaron

Position: FWA



Bill Title: Senate Bill 328, Anne Arundel County - Landlord and Tenant - Procedures for Repossession for Failure to Pay Rent

Committee: Judicial Proceedings Committee

Date: January 28, 2021

Position: Favorable with Amendments

This testimony is offered on behalf of the Maryland Multi-Housing Association (MMHA). MMHA is a professional trade association established in 1996, whose members consist of owners and managers of more than 210,000 rental housing homes in over 958 apartment communities. Our members house over 538,000 residents of the State of Maryland. MMHA also represents over 250 associate member companies who supply goods and services to the multi-housing industry.

Specific to Anne Arundel County, Senate Bill 328 states that if a judgment is entered in favor of the landlord, the landlord may provide for repossession of the property by notifying the tenant of the intended repossession in writing sent by first-class mail with certificate of mailing at least 14 days before the intended date of repossession and posted on the front door of the leased premises at least 7 days before the intended date of repossession. The notice must include the District Court summary ejectment case number, the tenant's name, the address of the leased premises, the date on which the warrant of restitution was ordered by the District Court, the date of the eviction, a statement that the repossession may occur unless the tenant pays the amount of the Court's judgment for rent due or returns control of the leased premises and a statement that the notice is the final notice to the tenant of the intended repossession, even if the repossession is stayed.

While there is a rebuttable presumption that the tenant was notified if the landlord provides the certificate of mailing and a signed affidavit of the person who posted the notice on the front door of the leased premises, if the sheriff reasonably believes that the landlord has not provided the notice the sheriff shall notify the District Court and may not execute the warrant of restitution without further order of the District Court. If the District Court finds that the landlord did not provide the notice, the District Court shall vacate the warrant of restitution.

Senate Bill 328 is patterned after Baltimore City Code Article 13, Section 8A which mandates procedures for notifying tenants of a pending eviction and procedures for the lawful disposal of evicted personal property by the landlord. This legislation benefits all parties. Under Senate Bill 328, a tenant will get notice of the entry of a judgment for eviction, advance notice of the eviction date and have a clear a deadline to pay what is due or relocate. Municipalities will no longer have to use public resources to dispose of chattels. Lastly, for a landlord, passage of Senate Bill 328 creates a bright line specifying when a tenant's evicted property is abandoned and when the landlord can lawfully dispose of it.



We offer amendments and reasons for those amendments below:

- On page 3, in line 9 strike the word “IF” and substitute the word “WHENEVER” and in line 11, strike the words ” MAY PROVIDE FOR REPOSESSESION OF THE PROPERTY ” and substitute the words “SHALL NOTIFY THE TENANT OF THE DATE ON WHICH THE WARRANT OF RESTITUTION IS SCHEDULED TO BE EXECUTED BY THE SHERIFF”

This makes the section mandatory for the Landlord which is what the tenant advocates wanted and tracks the Baltimore City ordinance.

- On page 3, in lines 21-22, strike the words “LEASE OR OTHERWISE AGREED BY LANDLORD” and substitute the words “ THE SUMMARY EJECTMENT CASE”

This is consistent with what the law provides

- On page 3, in line 29, strike the word “CONTROL” and substitute “POSSESSION” Possession is what the landlord is seeking in the Failure to Pay Rent matter, if there is no redemption.

For these reasons, MMHA respectfully requests a favorable report with amendments on Senate Bill 328.

Aaron J. Greenfield, MMHA Director of Government Affairs, 410.446.1992

MD Judiciary - Testimony SB 328.pdf

Uploaded by: Elalamy, Sara

Position: UNF

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Mary Ellen Barbera
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: Senate Judicial Proceedings Committee
FROM: Legislative Committee
Sara Elalamy
(410)260-1561
RE: Senate Bill 328
Anne Arundel County – Landlord and Tenant – Procedures for
Repossession for Failure to Pay Rent
DATE: January 21, 2021
(1/28)
POSITION: Oppose

The Maryland Judiciary opposes Senate Bill 328. This bill would add to and amend several provisions of state law governing landlords and tenants in Anne Arundel County.

The proposed amendments to this bill impose a mandatory waiting period for evictions. It also, modifies the common law definition of abandoned property, extinguishes any right of set off by the tenant against the landlord's claim for the unpaid rent, and alters the rules of procedure governing the attachment of property to satisfy money judgments. These amendments conflict with the tenant's right to claim exemptions from execution under Maryland statutes, and do not include provisions for the protection of the tenant's property pending appeal of the failure to pay rent cases. The bill also alters the rules of procedure governing the attachment of property to satisfy money judgments, set forth in Maryland Rule of Procedure 3-645., which provides procedural and substantive rights to parties.

In addition, the language in section § 8-401(d)(4) is problematic, because it is not uncommon for the tenant to not receive a copy of the posted complaint and summons as they can be removed or destroyed by the effects of weather or other persons such as neighborhood children or vandalism.

Currently in Anne Arundel County, the existing processes comply with the language in section § 8-401 (d)(1) where warrants of restitution are signed by a judge either on the day of filing or soon thereafter, and the warrants are then sent to the sheriff to schedule and conduct the eviction as their schedules allow.

Lastly, this bill only applies to Anne Arundel County. The District Court is a statewide court system designed to provide the uniform application of law to all who come before it. This bill would cause the Landlord Tenant law to apply differently in one jurisdiction

out of twenty-four resulting in an inequitable application of the law across the State. The Judiciary believes there should be statewide consistency and equity in how landlord/tenant cases are processed across Maryland.

cc. Hon. Edward Reilly
Judicial Council
Legislative Committee
Kelley O'Connor

Public Justice Ctr testimony SB328 Oppose.pdf

Uploaded by: Hill, Matt

Position: UNF



Building a Just Society

C. Matthew Hill, Attorney
Public Justice Center
201 North Charles Street, Suite 1200
Baltimore, Maryland 21201
410-625-9409, ext. 229
hillm@publicjustice.org

SB 328: Anne Arundel County – Landlord and Tenant – Procedures for Repossession for Failure to Pay Rent

Hearing before the Judicial Proceedings Committee on January 28, 2020

Position: OPPOSE

Public Justice Center (PJC) is a non-profit, civil legal services provider that provides advice and representation to over 700 tenants throughout Maryland each year. Eviction without notice is a top concern of renters who seek PJC's assistance. Under current law (Real Prop. art. ("RP") § 8-401), after a judicial order of repossession, neither landlords nor the courts are required to provide the tenant notice of their eviction date. Renters need and deserve timely, reliable notice of the eviction date so that they can effectively exercise their statutory right of redemption (to "pay to stay" before eviction) or to leave the property without irreparable loss of personal belongings. SB 328 would provide for notice by requiring the landlord to send a notice to the tenant of the scheduled eviction date 14 days in advance by mail and 7 days by posting.

Unfortunately, the price of tenants receiving such notice under the bill is too high – the loss of all personal belongings. The bill sets forth that upon execution of the eviction "all property remaining in the leased premises will be considered abandoned and may disposed of on execution of the warrant of restitution." Page 4, lines 4-6. This means that, at eviction, a renter has no right to their belongings as they are being removed from the property. The policy is regressive, multiplying the harm of eviction for no other reason than to absolve the landlord's liability for damage to the tenant's personal property during the eviction. The harm to the evicted household far outweighs the policy's intended benefit.

During an ongoing pandemic with a disparate impact on Black and Latinx families and "essential workers," it is unconscionable to exacerbate the harm of eviction. Due to COVID, 36% of Black households in Maryland are likely facing an eviction action, compared to 14% of white households. We know that at least 2,500 families have been evicted since March 2020. To deem "abandoned" the belongings of families who will be evicted in an upcoming tsunami of COVID-19-related evictions adds further insult and injury to an already horrific event.

The Public Justice Center is a 501(c)(3) charitable organization and as such does not endorse or oppose any political party or candidate for elected office.

We find frequent examples of harsh, unintended consequences in Baltimore City, which has an identical abandonment policy. In Baltimore City, despite the requirements for 14-day and 7-day notices of the scheduled eviction date, PJC is contacted by renters who did not receive the notice. When surprise evictions occur, our clients lose critical medications and medical equipment. They lose vital records and documents crucial to their access to public benefits. We see, too, that our clients are essentially extorted by the landlord: for instance, they must pay the landlord excessively to salvage a prescription medication or family heirloom or the landlord will throw the item in the trash.

There are better policies for handling a tenant's property at the time of eviction. Some jurisdictions afford tenants a time-limited opportunity to transport their personal property after execution of the warrant. In Prince George's County, the tenant is allowed a period of up to 4 hours upon eviction to remove their belongings. Prince George's Co. Code Sec. 13-164.02. Outside Maryland, many jurisdictions require the landlord to hold or to store the tenant's personal property for a specified time ranging from 24 hours to 60 days. Such jurisdictions include Delaware, Florida, Maine, Minnesota, New Hampshire, New Jersey, New York, North Carolina, Oregon, Rhode Island, South Dakota, Virginia, Washington, and West Virginia.

SB 328 would allow individuals other than the County Sheriff to execute an eviction. SB 328 speaks frequently of the central role of the County Sheriff in the eviction process, and yet on page 4, lines 27-28, the bill appears to allow individuals other than the Sheriff to execute the warrant of restitution: "Any official of the County entitled to serve process may execute the warrant...." Does this include a private process server? This would be a huge sea change in the eviction process by allowing a private process server who is paid for by the landlord to oversee the eviction process. A private process server has an obvious conflict of interest under these circumstances – particularly if they are now supposed to determine whether a critical 14-day or 7-day notice was provided. Evictions can involve a potential confrontation between landlord and tenant, and the Sheriff's role to keep the peace and ensure fair process is essential. No other county allows an individual other than a Sheriff or constable to execute a warrant of restitution. Anne Arundel should not be the first.

Renters in Anne Arundel County, and throughout Maryland deserve timely, clear, reliable notice of a scheduled eviction. Further, they deserve policies that do not compound the harm that eviction poses financially, emotionally, and otherwise. PJC urges the Committee to consider policies that assist renters to recover from the financial perils that lead to eviction.

Please issue a report of UNFAVORABLE on SB 328. If you have any questions, please contact Matt Hill, hillm@publicjustice.org, 410-625-9409, ext. 229.

SB328 Md Legal Aid Testimony UNFAV_CA.pdf

Uploaded by: Legal Aid, Maryland

Position: UNF



**MARYLAND
LEGAL AID**

Advancing
**Human Rights and
Justice for All**

**STATEWIDE
ADVOCACY SUPPORT UNIT**

Cornelia Bright Gordon, Esq.
Director of Advocacy
for Administrative Law
(410) 951-7728
cbgordon@mdlal.org

Gregory Countess, Esq.
Director of Advocacy
for Housing & Community
Economic Development
(410) 951-7687
gcountess@mdlal.org

Anthony H. Davis, II, Esq.
Director of Advocacy
for Consumer Law
(410) 951-7703
adavis@mdlal.org

Erica I. LeMon, Esq.
Director of Advocacy
for Children's Rights
(410) 951-7648
elemon@mdlal.org

Amy Petkovsek, Esq.
Director of Advocacy
for Training & Pro Bono
(410) 951-7813
apetkovsek@mdlal.org

Bobbie Steyer, Esq.
Director of Advocacy
for Family Law
(410) 951-7737
bsteyer@mdlal.org

Julianne Kelly Tarver, Esq.
Director
Pro Bono Program
(410) 951-7642
jkelly@mdlal.org

Meaghan McDermott, Esq.
Director
Community Lawyering Initiative
(410) 951-7635
mmcdermott@mdlal.org

EXECUTIVE STAFF

Wilhelm H. Joseph, Jr., Esq.
Executive Director

Stuart O. Simms, Esq.
Chief Counsel

Gustava E. Taler, Esq.
Chief Operating Officer

Administrative Offices
500 East Lexington Street
Baltimore, MD 21202
(410) 951-7777
(800) 999-8904
(410) 951-7778 (Fax)

www.mdlal.org
10.2020



January 26, 2021

The Honorable William C. Smith, Jr.
Chair, Judicial Proceedings Committee
2 East Miller Senate Office Building
Annapolis, MD 21301

**Re: Maryland Legal Aid's Testimony in Opposition to Senate Bill 328 -
Landlord and Tenant – Procedures for Repossession for Failure to
Pay Rent**

Dear Chairperson Smith and Committee Members:

Thank you for the opportunity to provide testimony on this important bill. Maryland Legal Aid (MLA) opposes this bill. Maryland Legal Aid is a non-profit law firm that provides free legal services to Maryland's low-income and vulnerable residents. MLA handles civil legal cases involving a wide range of issues, including family law, housing, public benefits, consumer law (e.g., bankruptcy and debt collection), and criminal record expungements to remove child custody barriers, a driver's license, and employment. This letter serves as notice that Gregory Countess is testifying on behalf of Maryland Legal Aid at the request of Senator Shelly Hettleman.

MLA represents thousands of tenants throughout the State. Some tenants contact us after having judgments entered against them in actions involving failure to pay rent, tenant holding over, or breach of lease cases. SB 328 involves changes to the procedures in an eviction following a judgment for possession due to a failure to pay rent. This is an extremely abbreviated process by which a landlord can have a tenant ejected from a rental property if the tenant cannot pay their entire rental amount timely. The Bill adds a new provision to the statute explicitly targeting Anne Arundel County residents. This added provision provides a landlord with the power to dispose of all of the family's worldly possessions at the moment of eviction. This provision would deem all of the family's belongings "abandoned" if the family cannot arrange for moving and storage.

There are three critical ways this bill will negatively affect families and undermine county residents' safety and security.

1. The notice requirements are grossly insufficient.

SB 328 relies on timely notice to be received by a family through first-class mail and posting. In today's pandemic world, it is not uncommon for first-class mail to take well beyond the 14 days' notice required by the Bill. Posting, which can be done by anyone, is even more problematic. In lower-income areas, Legal Aid attorneys frequently hear from families who report that posted court notices are never received because they fall off, are blown away, are taped to public area railings, or are intentionally removed from a residents' exterior door. For these reasons, the notice provisions of SB 328 provide no meaningful protection to poorly positioned families under the best of circumstances to arrange for moving and storage of their property. There is a public interest in the reassurance that a neutral law enforcement officer has oversight over all aspects of the eviction process, and this Bill undermines that reassurance.

1. The Bill eliminates critical oversight for both landlord and tenant at a time of crisis.

Currently, the Anne Arundel County Sheriff's Department plays an essential role in protecting landlords and tenants when a family is being evicted along *with* their personal property. For example, in executing an eviction of elderly and disabled or emotionally distraught persons, the Sheriff may facilitate contacting trained emergency response services provided by the Anne Arundel County Police Department and the Annapolis Police Department. Under the proposed Bill, the Sheriff would merely be there to ensure a lockout goes smoothly. SB 328 strips away the necessary oversight of divesting a family of all of their possessions, which places a family in a desperate attempt to retrieve their belongings, inviting a breach of the peace.

2. The Bill taxes social support services that are already stretched to the limit.

Because the tenant's belongings are considered abandoned, the Landlord has no duty to give the tenant back their property. Deeming a tenant's personal belongings "abandoned" at eviction results in high costs to local social service agencies and charities. This places an undue burden on Anne Arundel County taxpayers to provide shelter for an evicted family and replace their personal belongings. Birth Certificates, Social Security cards, medicines, medical equipment, photographs, family bibles, and treasures are lost. The bill increases the likelihood that at the same time they lose the roof over their heads, an evicted family will also endure the humiliation and devastating consequences of loss of their worldly possessions.

This Bill severely prejudices Anne Arundel County families already enduring the misfortune of eviction. The landlord needs only a few moments to change the locks and gain the right to keep all of a family's belongings with no obligation to return them. Families can be left peering in the windows of their former homes, unable to regain the right to their beds, clothing, their children's toys, school-supplied laptops, and everything else a family needs every day. The devastating impact of such a loss cannot be overstated, and the cruelty of such a scheme is unworthy of consideration by Maryland's legislative body.

SB 328 would turn a tragic situation – eviction -- into one immeasurably worse. For these

reasons, Maryland Legal Aid respectfully requests that you give **SB 328** an unfavorable report.

Very Truly Yours,

/s/ Gregory Leo Countess

Gregory Leo Countess, Esq.

Director of Advocacy for Housing and Community Development

Maryland Legal Aid

gcountess@mdl原因.org

(410) 951-7687

SB 328 ACDS Testimony in Opposition.pdf

Uploaded by: Sarro, Lisa

Position: UNF



January 28, 2021

Senate Bill 328

Anne Arundel County - Landlord and Tenant –

Procedures for Repossession for Failure to Pay Rent

Judicial Proceedings Committee

Position: OPPOSE

Thank you for the opportunity to provide testimony in opposition to Senate Bill 328, legislation that would allow “Lock & Leave” evictions of Anne Arundel County renters. Arundel Community Development Services, Inc., (ACDS) serves as Anne Arundel County’s nonprofit housing and community development agency, helping Anne Arundel County residents and communities thrive through the provision of safe and affordable housing opportunities, programs to prevent and end homelessness, and community development initiatives. In fulfilling this role, ACDS administers grants to nonprofit partners, directly develops and implements programming, and advises the County on housing and community development policy initiatives.

There are many reasons to oppose this Anne Arundel County-only exception to the current law regarding execution of an eviction, chief among them that **this bill would put Anne Arundel County renters in a substantially worse position than they are already in when being evicted.** Currently, when an eviction occurs, the tenant's possessions must be removed from the premises and *placed outside at the time of the eviction*. It is a terrible situation for the tenant, but at least they have the opportunity to gather up their belongings if they are able.

This bill would change the requirement that the tenant's belongings be put out along with the tenant, and **would deem the tenant's property abandoned as soon as the Sheriff arrives at the property to execute the eviction.** Because the tenant’s personal property is immediately deemed abandoned, the landlord may do with the belonging whatever the landlord chooses to do right then, which could and likely would lead to a quick changing of the locks with the tenant’s property inside. Indeed, this type of eviction is actually referred to as a “Lock & Leave” eviction. Rather than removing the tenant’s property before locking the tenant out of the rental unit, **the landlord simply changes the locks and leaves, with all of the evicted tenant's belongings "abandoned" and locked inside the property for disposal at the landlord's convenience. Not only is the tenant without a home, they immediately lose ownership of and access to everything they own.**

SB 328 would result in a significant expansion of the remedy a landlord is entitled to upon obtaining a judgment for possession of a rental unit. Rather than simply being a judgment that allows the landlord's repossession of the rental property, **this bill allows repossession of the rental unit, plus a taking of all the tenant's personal belongings**, which is not contemplated in the existing eviction statute. One Failure to Pay Rent case, which the tenant may or may not have received actual notice of in advance and which likely took all of five minutes (if that) for hearing by the court, could conceivably result in the tenant's loss of their home and absolutely everything they own inside.

This bill is also problematic in that it places the Sheriff overseeing the eviction in the position of having to determine whether the required process for notice of eviction was properly followed by the landlord and requires the Sheriff to unilaterally stop an eviction if he/she "reasonably believes" the landlord has not provided proper notice. If the Sheriff "reasonably believes" notice was improper, the Sheriff must notify the District Court and must stop the eviction pending further order of the court. While this could, presumably, work in a tenant's favor, it just as easily could not. This bill contemplates far more involvement by the Sheriff in an eviction than is in the current process and necessarily relies on the Sheriff's subjective and likely incomplete knowledge of the steps taken by the landlord with respect to notice. It then relies on the Sheriff's legal determination as to whether the landlord met the notice requirements. **It puts the Sheriff in the position of having to make a legal determination in a civil matter and inserts the Sheriff into the merits of the eviction case both as a witness and also, essentially, as a legal expert on required notifications for eviction.**

Along these lines, **the bill does not address the ramifications of a Sheriff going forward with an eviction when he/she knew or should have known that notice was improper. The bill is also oddly inconsistent** in that it places the responsibility on the Sheriff to determine whether the notice of eviction was proper in one section, yet in another section seems to indicate that the County could delegate authority to execute an eviction to "any official of the County entitled to serve process." Would that authorized official then have the same duties as the Sheriff to determine whether the notice of eviction was proper? What qualifications would that person be required to have?

As study after study shows, **eviction is a deeply traumatizing event that can result in the separation of families, an inability to obtain alternative housing, destruction of the tenants' credit, disruption to work and school, and loss of community supports.** It can plunge a family into a cycle of poverty that can last for generations. This bill would multiply all of those harms by not only taking away a family's home, but also taking away their access to and ownership of all the personal property in their home at the time of the eviction. Anne Arundel County renters should continue to be governed by the existing eviction statute, without this Anne Arundel County-only exception to the rule.

For the reasons noted above, we urge an UNFAVORABLE report on SB 328.

Lisa Marie Sarro

General Counsel