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SB 46: Criminal Law – Fraud – Possession of Real Property

Hearing before the Senate Judicial Proceedings Committee on January 21, 2025

Position: OPPOSE (UNF)

The Public Justice Center (PJC) is a nonprofit public interest law firm that stands with tenants to protect and expand their rights to safe, habitable, affordable, and non-discriminatory housing and their rights to fair and equal treatment by Maryland’s landlord-tenant laws, courts, and agencies. The PJC advocates for systemic changes to build a just society. Our focus is on utilizing legal avenues to remove barriers that impede economic and racial equity.

PJC opposes SB 46 and asks for an unfavorable report because the bill would ultimately make each Sheriff a street judge and jury – determining on the streets of our neighborhoods who has the right to possess a disputed home. This procedure unconstitutionally deprives residents of the right to notice and a meaningful opportunity to be heard on whether they have a right to rent or otherwise occupy the property

SB 46 raises serious Due Process concerns

We have seen far too many clients who have been victims of scams, predatory landlords, and owner-management disputes. For example, some of our clients find a home online, are taken on a tour of the property, sign a lease, pay a security deposit and first’s month’s rent, and are given keys to the property. Two weeks later they get a knock on the door and are told that the rightful owner of the property did not authorize leasing the property. In another variation on this scheme, we have found instances in which a property management company claimed that they had the right to lease the property, but the owner disagreed. The tenant-resident is caught in the middle. Still in other cases, we have seen some unscrupulous landlords enter into a verbal agreement to lease and take the tenant’s money, but after the tenant enters the property and starts to complain about serious and substantial defects, the unscrupulous owner claims that there was never a landlord-tenant relationship.

In each of these scenarios, SB 46 sets the Sheriff up as a street judge and jury to adjudicate who has lawful possession of the property without any notice in advance, legal counsel for the resident, or meaningful opportunity to be heard.

While we recognize that this bill is intended to address the issue of “squatters,” these harmful side effects and deprivations of constitutional due process will hurt Maryland residents who are not squatters. A person who occupies land with the permission of the owner, or who has a good faith belief in having obtained ownership or

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other possessory right is not a squatter.¹ Oftentimes, persons *believed* to be “squatters” have legally protected reasons to be on the property as described in the examples above. The remedy for the owner in each of these cases is to file a Wrongful Detainer complaint in the District Court, which is set on an expedited scheduling track.

SB 46 furthers the harm and trauma victims of fraud endure

In Baltimore City, PJC very often litigates wrongful detainer claims where the renter believed they were renting the property from the rightful owner, but found later on they had been a victim of a rental scam. This is because vacant and unsafe homes are left untouched and unmonitored by their absentee owners, which allows individuals to break into these units and offer them up to desperate people looking for housing. For many of these victims, they are confused about what happened to them and it is only when they come to court for their wrongful detainer claim that they know what happened. By allowing a Sheriff to merely come unannounced and remove a person from, what they reasonably believed to be, their home is not equitable.

SB 46 further widens to distrust between the community and law enforcement

Authorizing Sheriffs to remove alleged squatters without judicial procedures is likely to result in many contentious interactions between police and alleged squatters. Not only would Sheriffs have to immediately remove someone from a property without notice or opportunity to be heard, this bill anoints them as judge and jury.

Public Justice Center **opposes SB 46**. If you have any questions, please contact C. Matthew Hill, Esq., hillm@publicjustice.org (410) 625-9409 Ext. 229.

¹ See, e.g., *Mele v. Russo*, 168 Misc. 760, 761, 9 N.Y.S.2d 203, 205 (Co. Ct. 1938) (“The respondent Mary Russo entered upon the lands in question by right as the wife of the owner. The occupancy thus commenced being lawful she cannot now be held to be a squatter or intruder.”).

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