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SB0046 –Real Property –Wrongful Detainer Actions

Hearing Before the Judiciary Committee March 25, 2025

Position: OPPOSED/UNFAVORABLE

To the Honorable Members of the Judiciary Committee:

Community Legal Services (CLS) appreciates the opportunity to share the reasons for our opposition to Senate Bill 46. CLS provides free legal services to support and advocate for the rights and well-being of Maryland's most under-served communities. We provide eviction prevention legal services, and our practice also includes representation of victims of domestic violence and parties to contentious family law matters.

While we understand the legitimate goal of expediting the removal of occupants from homes if they are truly unauthorized occupants, the process set forth in this bill is not the way to do it. We are particularly concerned that the process outlined in this bill places domestic violence survivors, family law litigants and others in lawful possession of the property at significant risk of wrongful eviction, resulting in the perpetuation of domestic abuse, circumvention of court orders, and wrongful evictions.

Due Process Protects Against Wrongful Evictions.

To avoid the potential for wrongful evictions like those discussed below and to ensure the requirements of due process are met, any expedited process for removal of occupants from property must include: 1) service of process that results in **actual notice** of the proceedings, and 2) a hearing date based on the *date of service*, not filing, so the occupant has a real **opportunity to be heard**. In its current form, SB 46 provides neither. **The timeline set out in the bill fails to meet due process requirements and renders court intervention theoretical only.**

SB 46 Poses a Serious Risk to Domestic Violence Survivors and Family Law Litigants.

Given the realities of service of process discussed below, we have grave concerns about the implications of this bill for victims of domestic violence and parties to contentious family law cases. Current law, which would remain in the statute if this bill passes, states the wrongful detainer process does not apply to evict occupants with a legal right to occupy the property. However, to use an old but accurate refrain that applies when it comes parties in the throes of contentious domestic disputes or with a history of domestic violence following the rules - "Saying it doesn't make it so."

Domestic violence survivors frequently remain in the home they shared with their abuser or former partner as part of a protective order or a family court order awarding them use and possession of the home even when they are not on the title to the property. Similarly, litigants in family law cases are often granted use and possession of the family home, regardless of who is on title. These orders can be long-lasting, sometimes until children reach the age of majority. These orders are lifesaving for survivors who need stability to rebuild their lives, keep their children safe, and avoid further harm from an abuser, and they provide stability for families during and after family separation or divorce. **Under the expedited process outlined in this bill, these *lawful* occupants could stand to lose everything before they know what's hit them.**

This is not hyperbole. Community Legal Services has a high-volume, busy housing practice. We have lawyers in courts daily providing same day and extended representation for tenants in eviction actions, including unlawful detainers. **We have seen more instances than one might expect where unlawful detainer actions were filed by owners on title to property hoping to circumvent ongoing protective and family law orders.** Without actual advance notice of what is happening and an opportunity to fully defend their possession of the property, these actions could easily result in the eviction of these lawful occupants.

Risk of Inadvertent Use of the Expedited Process in SB 46 is Real.

We also see this occur more innocently, where landlords file wrongful detainer actions instead of properly filing tenant holding over, failure to pay rent, or breach of lease cases. When tenants stay after being told to leave, some landlords incorrectly assume the tenants become "squatters," although the law says otherwise. The minimal notice and lack of opportunity to be heard afforded in this bill could easily result in their wrongful evictions as well.

The Realities of Service of Process.

SB46 lacks adequate provisions to ensure occupants receive notice of the potential for their eviction and a real opportunity to be heard before the eviction occurs. The bill requires that a hearing be held within four to seven days of filing the complaint. Even at the outside of that timeframe, **the likelihood of the occupant learning of the hearing before it takes place is little to none**, despite language stating that the District Court shall “summons immediately” the person in actual possession of the property.

Under the timeline of this bill, if the filing occurs on a Friday (which is likely if the property owner understands the realities of service), the hearing would likely be set for the following Thursday or Friday. The summons almost certainly won’t make it to the Sheriff until sometime the following Monday, shortening the “notice” period significantly. Even if the Sheriff receives the summons on Monday and they can drop all their other duties to serve the summons immediately, they will have just a few days to get to the property and personally serve before the hearing occurs. If the occupant is not there on their first attempt, they may try again for personal service, further shortening advance notice of the hearing. Ultimately, “personal service” will convert to posting on the property shortly before the hearing. Posting may or may not actually stay up long enough to alert the occupant to the court hearing. *If* the posting is up when the occupant returns home from work or another activity that has had them away from the property, then their time to seek counsel and prepare a defense would not begin until the following business day.

If the occupant does get advance notice in person or by posting¹, at most they will have roughly a day or two, *if that*, to figure out what is going on, seek legal counsel and prepare a defense, and arrange work and childcare schedules so they can be in court at the appointed time. Even if they can make it to court by the time of the hearing, the shortened notice fails entirely to allow enough time to prepare a defense so they have a real opportunity to be heard to defend against the case. For occupants unlawfully in possession, one might say this lack of notice and opportunity to be heard is fine. However, **for occupants who have a legitimate defense to the court action and stand to lose the roof over their heads and potentially all their belongings, the lack of due process could have devastating consequences.**

The Eviction Process in SB 46 Puts the Most Vulnerable at Risk of Losing Everything.

¹ The provision for mailing the summons should not be considered a factor in providing advance notice of the hearing. With a hearing date four-seven days after filing, receipt of the summons by mail will not, realistically, occur until *after* the hearing takes place.

A significant number of evictions occur when the person in possession is not home. Given the lack of certainty that an occupant will receive advance notice of the wrongful detainer proceedings and the speed with which eviction could occur under this bill, working individuals with children at daycare or in school, or others who are away from their home when the Sheriff, owner and a removal/trash crew arrive to change the locks and remove belongings could lose the roof over their head and all their belongings in one fell swoop. Survivors who have finally secured stability and safety after escaping abuse and parents with use and possession of the home awarded to them in a family law case could return home to find their locks changed and their belongings thrown to the curb. **Yes – they will have civil recourse in law for the wrongful eviction, but at what cost? The irreparable harm caused by such wrongful evictions cannot be overstated.** Survivors will be left homeless, lose irreplaceable personal property, and, in some cases, be forced back into dangerous situations with their abuser. They and others who are wrongfully evicted will be forced to rebuild their lives from scratch. ***The “right” to pursue civil recourse is wholly inadequate to undo the damage at that point.***

Conclusion

Absent changes to SB 46 to address the lack of adequate advance notice and lack of opportunity to be heard, in practice, the process outlined in the bill fails to ensure that due process requirements are met. That lack of due process places Marylanders who are lawfully occupying properties at risk of significant losses.

For these reasons and more, **we urge the Committee to reject SB 46** unless significant protections are put in place to provide effective due process to ensure that Maryland’s eviction process remains fair, just, and protective of those who rely on the law for safety and stability. Please feel free to reach out to Jessica Quincosa, Executive Director, or Lisa Sarro, Community Legal Services Director of Litigation and Advocacy, with any questions at quincosa@clspgc.org and sarro@clspgc.org, respectively.