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## **POSITION ON PROPOSED LEGISLATION**

**BILL: Senate Bill 46 (Amended) – Real Property – Wrongful Detainer Actions**

**FROM: Maryland Office of the Public Defender**

**POSITION: Unfavorable**

**DATE: March 25, 2025**

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The Maryland Office of the Public Defender respectfully requests that the Committee issue an unfavorable report for Amended Senate Bill 46.

While Amended Senate Bill 46 seeks to provide property owners with a more efficient means of reclaiming possession of their property, it raises significant concerns regarding due process and the potential for disproportionate adverse effects on low-income renters and Black families in Maryland. It is imperative to balance the rights of property owners with the protections afforded to residents, ensuring that any legal measures do not inadvertently perpetuate systemic inequities or contribute to housing instability.

Even though the amended version of Senate Bill 46 includes a court hearing before eviction, the bill still falls short of providing meaningful due process for those facing removal. The short timelines, insufficient notice, and prompt enforcement of eviction orders undermine basic principles of fairness and could lead to the wrongful displacement of residents.

### **Inadequate Notice and Barriers to Defending Against Eviction**

For any legal proceeding to be fair, individuals must have reasonable notice and time to prepare their defense. Amended Senate Bill 46 allows for a court hearing as soon as four days after a complaint is filed—an unrealistic and deeply unfair timeline.

The allowable forms of service contemplated in the amended bill could result in targeted residents not being made aware of a hearing before its occurrence. Additionally, a court date is set only a few days after a complaint is filed. In that case, residents often have limited or no opportunity to obtain legal representation, compile necessary documentation, or take appropriate measures to prepare their case.

This particularly concerns individuals who may be victims of fraudulent rental agreements. There are well-documented cases in Maryland where residents have unknowingly entered into leases with individuals with no legal right to rent the property. Without enough time to present evidence and

challenge the claim, these victims would be removed from their immediate homes and left without recourse.

### **Appeal Burdens Undermine Due Process**

Amended Senate Bill 46 claims to offer an appeal as a safeguard, but its requirements undermine true due process. Under this bill, an occupant losing a wrongful detainer case must file an affidavit affirming the appeal is not for delay. Additionally, they must provide a financial guarantee by posting an appeal bond or paying various costs. This includes (A) the fair rental value of the property up to the judgment date, (B) all awarded court costs, (C) any additional damages from unlawful detention, and (D) fair rental value during the appeal process. Overall, to remain in their home during an appeal, the occupant must quickly submit the affidavit and cover potentially thousands in costs—a burden not typical in civil cases.

### Compressed Appeal Timeline

Amended Senate Bill 46 significantly shortens the timeline for filing appeals, leaving appellants with only a few days to act. Under the amended bill, a party must file an appeal within four days of the District Court's judgment, a reduction from the ten days established in current law. Once an appeal is filed, either party may request an expedited hearing in the circuit court. The bill stipulates that the court must schedule the appeal hearing no sooner than four days and no later than seven days after the appeal is filed. This means that, at most, only one week will pass between the appeal filing and the case hearing.

To add to the urgency, the law requires that notice of the hearing be served to both parties at least four days before the hearing date. Consequently, if an appeal is filed on the last possible day (Day Four), the court would need to hold the hearing between Day Eight and Day Eleven, necessitating that notice to the appellant be sent out almost immediately. This extremely narrow timeframe for the appeal hearing represents a dramatic acceleration of the judicial process, providing minimal time for the appellant to prepare for the circuit court proceeding. Additionally, the property owner may push for the earliest possible hearing date, potentially as soon as Day Four after the appeal is filed, which could heighten pressure on the resident.

### Feasibility of Meeting Requirements Within the Timeline

The financial and procedural demands of Amended Senate Bill 46 are incredibly challenging to meet in the limited time allowed. Appellants must quickly gather funds for the full "fair rental value" owed, along with court costs and damages. For many occupants, particularly those with limited means, this could mean paying months of rent and fees in a lump sum, which is often unfeasible.

Arranging a surety bond is equally difficult, as it involves credit approval, a significant upfront premium, collateral, and time-consuming coordination. Additionally, appellants must prepare legal documents and navigate court processes within a tight timeframe. Many occupants will lack representation or familiarity with these requirements, making compliance even more difficult. With the four-day appeal deadline, appellants might need to act over weekends or holidays, limiting access to necessary resources. Even if an appeal is filed, the seven-day expedited hearing leaves little time to find a lawyer, gather evidence, and build a case. As a result, most occupants are unlikely to successfully stay their eviction through appeal, not due to a lack of valid cases but because they

cannot meet the required deadlines and financial obligations. This raises serious concerns about the feasibility of the appeal process for those facing wrongful detainer judgments.

### Implications for Due Process and Housing Stability

The strict requirements and accelerated timeline outlined in Amended Senate Bill 46 have significant implications for both due process rights and housing stability. Due process in eviction proceedings means having a fair opportunity to present one's case before losing one's home. While Amended Senate Bill 46 nominally preserves the right to appeal, practical barriers undermine this right, such as almost immediate eviction orders and hefty upfront payments.

Specifically, the bill mandates that the sheriff execute an eviction "immediately" upon judgment, even before the shortened appeal period has expired. This means that an occupant could be removed from their home within a day or two of the judgment, effectively evicted before they have a chance to file an appeal. An appeal that can only be pursued after someone has been displaced offers little reassurance and may not meet basic due process standards. By the time a wrongly evicted person is able to navigate the appeal process, their home and belongings could be long gone.

Furthermore, the housing stability of vulnerable residents is at risk. Although Amended Senate Bill 46 is ostensibly aimed at addressing issues with "squatters," it could also affect lawful yet unrecorded occupants. This includes, for example, a domestic violence survivor trying to avoid being ousted by an abuser, a subtenant or family member with a legitimate claim to stay, or a tenant misled by a fraudulent landlord. Despite their legitimate presence in the home, these individuals would have "no meaningful chance to challenge the eviction" under the bill's expedited process.

By shortening timelines and imposing financial hurdles in the appeal process, Amended Senate Bill 46 would undermine long-standing protections, making it easier to displace residents without truly hearing their side of the story. This sets a concerning precedent: our legal system risks prioritizing the quick exercise of power—by those who can readily access the courts and law enforcement—over the deliberative process.

### **Disproportionate Impact on Vulnerable Populations**

Amended Senate Bill 46 does not *just* affect those who knowingly occupy properties without legal permission—it will also impact:

- Victims of rental fraud who have been misled into signing illegitimate leases.
- Survivors of domestic violence may face eviction if an abuser falsely claims a property right.
- Elderly and disabled renters who may struggle to receive notice or physically appear in court within a short timeframe.
- Low-income renters who lack access to legal representation and alternative housing options.

Instead of addressing the root causes of housing instability, Amended Senate Bill 46 accelerates the eviction process and increases the likelihood of homelessness, particularly for those who are already struggling.

## **The Need for Public Education and Policy Solutions**

Amended Senate Bill 46 attempts to address a significant issue—unauthorized occupancy. However, it does so in a way that punishes victims of fraud alongside wrongdoers, fails to provide adequate due process, and accelerates evictions that may be based on incomplete or fraudulent claims. The bill does not tackle the underlying causes of the problem it aims to resolve, such as the rise in rental fraud and squatters exploiting an overburdened housing market.

A more effective approach would involve public education campaigns informing property owners and prospective tenants on identifying and avoiding rental scams, recognizing legal housing agreements, and utilizing appropriate legal channels when disputes arise. Many victims of rental fraud—both landlords and tenants—fall prey to scams simply because they lack access to information on verifying property ownership, confirming legal leases, or reporting fraudulent activities before they escalate. Maryland should invest in consumer education initiatives and tenant-landlord outreach programs to reduce the prevalence of fraudulent leasing and squatting.

Furthermore, Maryland should increase access to legal resources for renters and property owners. The lack of understanding of existing wrongful detainer laws and financial and procedural barriers to obtaining legal help leads to unnecessary court battles that could be avoided with better early intervention and dispute resolution mechanisms. Expanding these resources would ensure that property disputes are handled fairly, efficiently, and with due process.

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**For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on Amended Senate Bill 46**

**Submitted by: Maryland Office of the Public Defender, Government Relations Division.**

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