

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 359
Judiciary

(Delegate J. Long, *et al.*)

Judicial Proceedings

Petition for Guardianship of the Property of Alleged Disabled Person - Stay of
Civil Actions and Proceedings

This bill authorizes a petitioner, when filing a petition for guardianship of the property of an alleged disabled person, to file a request to stay specified civil actions and proceedings. A stay may remain in effect until a guardian is appointed or the petition is denied. The bill applies prospectively and may not be applied or interpreted to have any effect on or application to any petition for the guardianship of the property of an alleged disabled person filed before the bill's October 1, 2024, effective date.

Fiscal Summary

State Effect: The bill can be implemented with existing resources, as discussed below. Revenues are not materially affected.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Request for a Stay of Civil Actions or Proceedings

The bill authorizes a petitioner, when filing a petition for guardianship of the property of an alleged disabled person, to file a request to stay any of the following civil actions or proceedings, as specified, against the alleged disabled person:

- an action for failure to pay rent;
- a warrant of restitution;
- an action for wrongful detainer;
- a foreclosure action;
- a sheriff's sale; and
- an action against the property of the alleged disabled person.

A stay may remain in effect until (1) the court appoints a temporary or permanent guardian of the property of the disabled person, whichever occurs first, or (2) the court denies the petition.

Stay – Service of Process

Service of process on an alleged disabled person for an action stayed pursuant to the bill must be accomplished by serving the temporary or permanent guardian of the property of the disabled person; otherwise, the action may be dismissed.

Current Law:

Statute authorizes actions identified in the bill as described below:

- *Action for Failure to Pay Rent* – A landlord may file a complaint in District Court for repossession of the premises for a tenant's failure to pay rent after providing written notice to the tenant of the landlord's intent, as specified. A summons is issued and served by a constable or sheriff notifying the tenant to appear before the District Court (and answer the complaint) at a trial held on the fifth day after the filing of the complaint.
- *Warrant of Restitution* – If judgment by the District Court in a failure to pay rent action is in favor of the landlord and the tenant does not return the premises to the landlord or otherwise satisfy the judgment by paying the applicable rent and late fees within 4 days, as specified, the court must, at any time after 4 days have elapsed, issue a warrant of restitution if requested by the landlord within 60 days, as specified. A warrant of restitution is forwarded to the local sheriff's office who is then authorized to carry out the eviction.
- *Action for Wrongful Detainer* – Subject to specified exceptions, if a person holds possession of a property to which he or she is not entitled, a person claiming possession may file a complaint, in writing, with the District Court, which must immediately summon the person in possession of the property to appear before the court to show why the court should not restore possession of the property to the person who filed the complaint.

- *Residential Property Foreclosure Action* – An action to foreclose a mortgage or deed of trust on residential property may not be filed until the later of (1) 90 days after a default in a condition on which the mortgage or deed of trust specifies that a sale may be made or (2) 45 days after a notice of intent to foreclose is sent. A complaint to foreclose must be filed with the circuit court, and a copy must be served on the mortgagor or grantor.
- *Sheriff's Sale* – a sheriff or constable to whom any writ of execution is directed may seize and sell (subject to specified notice requirements) the legal or equitable interest of the defendant named in the writ in real or personal property and distribute the proceeds pursuant to the Maryland Rules.

Guardianship of the Property

A circuit court is authorized, on petition and after notice or hearing as required by law or the Maryland Rules, to appoint a guardian of the property for a disabled person. A guardian must be appointed if the court determines that (1) the person is unable to manage effectively the person's property and affairs because of physical or mental disability, disease, habitual drunkenness, drug addiction, imprisonment, compulsory hospitalization, detention by a foreign power, or disappearance and (2) the person has or may be entitled to property or benefits that require proper management. Unless the alleged disabled person has chosen counsel, the court must appoint an attorney to represent the alleged disabled person in the protective proceeding.

State Fiscal Effect: The Department of Legislative Services (DLS) advises the bill can be implemented with existing resources. The Judiciary has indicated that programming is needed to implement the bill, at a cost of \$88,524; however, DLS advises that the bill can reasonably be implemented without programming changes.

The Judiciary indicates that 1,317 petitions for guardianship of the person and property (adult), and 247 petitions for guardianship of the property (adult), were filed in fiscal 2023.

Small Business Effect: The bill may have a meaningful effect on any small businesses that are plaintiffs in the actions listed in the bill that may experience a delay or loss of revenues as a result of a stay pursuant to the bill.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Register of Wills; Department of Legislative Services

Fiscal Note History: First Reader - February 6, 2024
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