

# SENATE BILL 46

E1, N1

(5lr0913)

## ENROLLED BILL

— Judicial Proceedings/Judiciary —

Introduced by ~~Senator Watson~~ Senators Watson, Charles, Folden, James, Jennings, Lewis Young, McKay, Ready, Salling, A. Washington, and West West, Attar, and C. Jackson

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
President.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 ~~Criminal Law – Fraud – Possession of Residential Real Property~~  
3 Real Property – Wrongful Detainer Actions – Time of Hearing and Service of  
4 Process

5 FOR the purpose of ~~prohibiting a person from possessing or claiming a right to possess~~  
6 ~~residential real property the person does not lawfully possess or own, with the intent~~  
7 ~~to defraud another; authorizing the owner of certain residential real property to file~~  
8 ~~a certain sworn affidavit and requiring a sheriff to remove a certain person from~~  
9 ~~residential real property under certain circumstances; providing this Act does not~~  
10 ~~prohibit the owner of residential real property from filing a wrongful detainer action;~~  
11 ~~and generally relating to fraudulent possession of residential real property altering~~  
12 ~~provisions relating to wrongful detainer actions, including requirements for~~  
13 ~~summonses, hearings, and judgments; requiring a certain hearing to be held within~~

---

#### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics indicate opposite chamber/conference committee amendments.*



a certain time after a certain complaint is filed; altering requirements relating to service of process in a wrongful detainer action; and generally relating to wrongful detainer actions.

~~BY adding to~~

~~Article — Criminal Law~~

~~Section 8-906~~

~~Annotated Code of Maryland~~

~~(2021 Replacement Volume and 2024 Supplement)~~

BY repealing and reenacting, with amendments,

Article – Real Property

Section 14-132

Annotated Code of Maryland

(2023 Replacement Volume and 2024 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
That the Laws of Maryland read as follows:

~~Article — Criminal Law~~

~~§ 906.~~

~~(A) A PERSON MAY NOT, WITH INTENT TO DEFRAUD ANOTHER, POSSESS OR CLAIM A RIGHT TO POSSESS RESIDENTIAL REAL PROPERTY THE PERSON DOES NOT LAWFULLY POSSESS OR OWN.~~

~~(B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:~~

~~(1) FOR A FIRST VIOLATION, IMPRISONMENT NOT EXCEEDING 90 DAYS OR A FINE NOT EXCEEDING \$500 OR BOTH;~~

~~(2) FOR A SECOND VIOLATION OCCURRING WITHIN 2 YEARS AFTER THE FIRST VIOLATION, IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING \$1,000 OR BOTH; AND~~

~~(3) FOR EACH SUBSEQUENT VIOLATION OCCURRING WITHIN 2 YEARS AFTER THE PRECEDING VIOLATION, IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$2,500 OR BOTH.~~

~~(C) (1) THIS SUBSECTION DOES NOT APPLY IF:~~

~~(i) THE PERSON IN ACTUAL POSSESSION OF THE RESIDENTIAL REAL PROPERTY HAS BEEN GRANTED POSSESSION UNDER A COURT ORDER; OR~~

1                   ~~(H) A REMEDY IS AVAILABLE UNDER TITLE 8 OF THE REAL~~  
2 ~~PROPERTY ARTICLE.~~

3                   ~~(2) THE OWNER OF RESIDENTIAL REAL PROPERTY IN THE~~  
4 ~~POSSESSION OF ANOTHER ALLEGEDLY IN VIOLATION OF SUBSECTION (A) OF THIS~~  
5 ~~SECTION MAY SUBMIT A SWORN AFFIDAVIT TO THE SHERIFF FOR A COUNTY IN~~  
6 ~~WHICH THE PROPERTY IS LOCATED STATING THAT THE PERSON IS FRAUDULENTLY~~  
7 ~~IN POSSESSION OF THE PROPERTY.~~

8                   ~~(3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A~~  
9 ~~SHERIFF SHALL REMOVE A PERSON IN POSSESSION OF RESIDENTIAL REAL~~  
10 ~~PROPERTY AFTER RECEIVING AN AFFIDAVIT SUBMITTED UNDER PARAGRAPH (2) OF~~  
11 ~~THIS SUBSECTION AND RETURN POSSESSION OF THE PROPERTY TO THE OWNER.~~

12                   ~~(H) A DEPUTY SHERIFF MAY NOT REMOVE A PERSON IN~~  
13 ~~POSSESSION OF RESIDENTIAL REAL PROPERTY FOLLOWING THE FILING OF AN~~  
14 ~~AFFIDAVIT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IF THE PERSON IN~~  
15 ~~POSSESSION PRODUCES EVIDENCE OF LAWFUL POSSESSION OF THE PROPERTY TO~~  
16 ~~THE LAW ENFORCEMENT OFFICER.~~

17                   ~~(D) THIS SECTION DOES NOT PROHIBIT THE OWNER OF RESIDENTIAL REAL~~  
18 ~~PROPERTY FROM FILING A SUIT UNDER § 14-132 OF THE REAL PROPERTY ARTICLE.~~

19   Article – Real Property

20                   14-132.

21                   (a) In this section, “wrongful detainer” means to hold possession of real property  
22 without the right of possession.

23                   (b) This section does not apply if:

24                   (1) The person in actual possession of the property has been granted  
25 possession under a court order;

26                   (2) A remedy is available under Title 8 of this article; or

27                   (3) Any other exclusive means to recover possession is provided by statute  
28 or rule.

29                   (c) A person may not hold possession of property unless the person is entitled to  
30 possession of the property under the law.

1 (d) (1) If a person violates subsection (c) of this section, a person claiming  
 2 possession may make complaint in writing to the District Court of the county in which the  
 3 property is located.

4 (2) (I) On receipt of a complaint under paragraph (1) of this subsection,  
 5 the court shall summons immediately the person in possession to appear before the court  
 6 on the day specified in the summons to show cause, if any, why restitution of the possession  
 7 of the property to the person filing the complaint should not be made.

8 (II) A HEARING SCHEDULED UNDER SUBPARAGRAPH (I) OF THIS  
 9 PARAGRAPH SHALL BE HELD NOT MORE THAN 10 BUSINESS DAYS AFTER THE  
 10 COMPLAINT IS FILED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

11 ~~(3) A SUMMONS ISSUED UNDER PARAGRAPH (2) OF THIS~~  
 12 ~~SUBSECTION;~~

13 ~~(I) NEED NOT CONTAIN THE DEFENDANT'S NAME; AND~~

14 ~~(II) MAY BE ADDRESSED TO "OCCUPANT LOCATED AT"~~  
 15 ~~FOLLOWED BY THE PROPERTY ADDRESS.~~

16 ~~(3) (4)~~ If, for any reason, the person in actual possession cannot be  
 17 found *AFTER TWO GOOD FAITH EFFORTS ON DIFFERENT DAYS*, the ~~THE~~ person  
 18 authorized to serve process by the Maryland Rules shall ~~affix~~.

19 (I) FILE AN AFFIDAVIT WITH THE COURT DESCRIBING THE  
 20 GOOD FAITH EFFORTS TO SERVE THE PERSON IN ACTUAL POSSESSION;

21 (II) MAIL A COPY OF THE COMPLAINT BY CERTIFIED MAIL,  
 22 RETURN RECEIPT REQUESTED, AND FIRST-CLASS MAIL TO THE LAST KNOWN  
 23 ADDRESS OF THE PERSON IN ACTUAL POSSESSION AND, IF DIFFERENT, TO THE  
 24 ADDRESS OF THE RESIDENTIAL PROPERTY SUBJECT TO THE COMPLAINT; AND

25 (III) AFFIX an attested copy of the summons conspicuously on the  
 26 property.

27 ~~(4) (5)~~ If notice of the summons is sent to the person in possession ~~by~~  
 28 ~~first class mail, the affixing of the summons~~ in accordance with paragraph ~~(3) (4)~~ of this  
 29 subsection, *THE NOTICE* shall constitute sufficient service to support restitution of  
 30 possession.

31 ~~(6) A HEARING SCHEDULED UNDER THIS SUBSECTION SHALL BE~~  
 32 ~~HELD NOT LESS THAN 4 CALENDAR DAYS AND NOT MORE THAN 7 CALENDAR DAYS~~  
 33 ~~AFTER THE COMPLAINT IS FILED UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

1 (5) SERVICE SHALL BE MADE UNDER PARAGRAPHS (3) AND (4) OF  
 2 THIS SUBSECTION WITHIN 4 BUSINESS DAYS AFTER THE COMPLAINT IS FILED UNDER  
 3 PARAGRAPH (1) OF THIS SUBSECTION.

4 (e) A counterclaim or cross-claim may not be filed in an action brought under this  
 5 section.

6 ~~(f) THE COMPLAINANT SHALL PROVIDE SUFFICIENT EVIDENCE TO THE~~  
 7 ~~COURT DEMONSTRATING THE COMPLAINANT'S LEGAL INTEREST IN THE PROPERTY.~~

8 ~~(f)~~ ~~(g)~~ (1) If the court determines that the complainant is legally entitled  
 9 to possession, the court shall:

10 (i) Give judgment for restitution of the possession of the property to  
 11 the complainant; and

12 (ii) Issue its warrant to the sheriff or constable commanding the  
 13 sheriff or constable to ~~IMMEDIATELY~~ deliver possession to the complainant.

14 (2) The court may also give judgment in favor of the complainant for  
 15 damages due to the wrongful detainer and for court costs and attorney fees if:

16 (i) The ~~THE~~ complainant claimed damages in the complaint; and

17 (ii) The court finds that:

18 1. The person in actual possession was personally served  
 19 with the summons; or

20 2. There was service of process or submission to the  
 21 jurisdiction of the court as would support a judgment in contract or tort.

22 (3) A person in actual possession who is not personally served with a  
 23 summons is not subject to the personal jurisdiction of the District Court if the person  
 24 appears in response to the summons and prior to the time that evidence is taken by the  
 25 court and asserts that the appearance is only for the purpose of defending an in rem action.

26 ~~(g)~~ ~~(h)~~ Subject to § 8-118.1 of this article, a party to a wrongful detainer action  
 27 brought in the District Court under this section may demand a trial by jury in accordance  
 28 with Title 8, Subtitle 6 of this article.

29 ~~(i) IF A DEFENDANT DOES NOT ATTEND THE HEARING, THE DISTRICT~~  
 30 ~~COURT SHALL ENTER A DEFAULT JUDGMENT AGAINST THE DEFENDANT.~~

1 ~~[(h)]~~ (1) Not later than ~~10~~ 4 days from the entry of the judgment of the  
2 District Court, either party may appeal to the circuit court for the county in which the  
3 property is located.

4 (2) The person in actual possession of the property may retain possession  
5 until the determination of the appeal if the person:

6 (i) Files with the court an affidavit that the appeal is not taken for  
7 delay; and

8 (ii) 1. Files sufficient bond with one or more securities  
9 conditioned on diligent prosecution of the appeal; or

10 2. Pays to the complainant or into the appellate court:

11 A. The fair rental value of the property for the entire period  
12 of possession up to the date of judgment;

13 B. All court costs in the case;

14 C. All losses or damages other than the fair rental value of  
15 the property up to the day of judgment that the court determined to be due because of the  
16 detention of possession; and

17 D. The fair rental value of the property during the pendency  
18 of the appeal.

19 (3) On application of either party, the court shall set a hearing date for the  
20 appeal that is not less than ~~5~~ 4 days or more than ~~15~~ 7 days after the application for  
21 appeal.

22 (4) Notice of the order for a hearing shall be served on the parties or the  
23 parties' counsels not less than ~~5~~ 4 days before the hearing.

24 ~~[(i)]~~ (k) If the judgment of the circuit court shall be in favor of the person  
25 claiming possession, a warrant shall be issued by the court to the sheriff, who shall proceed  
26 immediately to execute the warrant.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
28 October 1, 2025.