

SENATE BILL 46

E1, N1

(PRE-FILED)

5lr0913
CF HB 560

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

Requested: September 20, 2024

Introduced and read first time: January 8, 2025

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: February 23, 2025

CHAPTER _____

1 AN ACT concerning

2 ~~Criminal Law – Fraud – Possession of Residential Real Property~~
3 Real Property – Wrongful Detainer Actions

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

14 ~~BY adding to~~
15 ~~Article – Criminal Law~~
16 ~~Section 8-906~~
17 ~~Annotated Code of Maryland~~
18 ~~(2021 Replacement Volume and 2024 Supplement)~~

19 BY repealing and reenacting, with amendments,
20 Article – Real Property

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.



1 Section 14-132
2 Annotated Code of Maryland
3 (2023 Replacement Volume and 2024 Supplement)

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

6 ~~Article—Criminal Law~~

7 ~~§ 906.~~

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

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

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

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

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

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

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

24 ~~(II) A REMEDY IS AVAILABLE UNDER TITLE 8 OF THE REAL~~
25 ~~PROPERTY ARTICLE.~~

26 ~~(2) THE OWNER OF RESIDENTIAL REAL PROPERTY IN THE~~
27 ~~POSSESSION OF ANOTHER ALLEGEDLY IN VIOLATION OF SUBSECTION (A) OF THIS~~
28 ~~SECTION MAY SUBMIT A SWORN AFFIDAVIT TO THE SHERIFF FOR A COUNTY IN~~
29 ~~WHICH THE PROPERTY IS LOCATED STATING THAT THE PERSON IS FRAUDULENTLY~~
30 ~~IN POSSESSION OF THE PROPERTY.~~

31 ~~(3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A~~
32 ~~SHERIFF SHALL REMOVE A PERSON IN POSSESSION OF RESIDENTIAL REAL~~

~~PROPERTY AFTER RECEIVING AN AFFIDAVIT SUBMITTED UNDER PARAGRAPH (2) OF THIS SUBSECTION AND RETURN POSSESSION OF THE PROPERTY TO THE OWNER.~~

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

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

Article – Real Property

14-132.

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

(b) This section does not apply if:

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

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

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

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

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

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

(3) A SUMMONS ISSUED UNDER PARAGRAPH (2) OF THIS SUBSECTION:

(1) NEED NOT CONTAIN THE DEFENDANT’S NAME; AND

1 (II) MAY BE ADDRESSED TO "OCCUPANT LOCATED AT"
2 FOLLOWED BY THE PROPERTY ADDRESS.

3 [(3)] (4) [If, for any reason, the person in actual possession cannot be
4 found, the] THE person authorized to serve process by the Maryland Rules shall affix an
5 attested copy of the summons conspicuously on the property.

6 [(4)] (5) If notice of the summons is sent to the person in possession by
7 first-class mail, the affixing of the summons in accordance with paragraph [(3)] (4) of this
8 subsection shall constitute sufficient service to support restitution of possession.

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

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

14 (F) THE COMPLAINANT SHALL PROVIDE SUFFICIENT EVIDENCE TO THE
15 COURT DEMONSTRATING THE COMPLAINANT'S LEGAL INTEREST IN THE PROPERTY.

16 [(f)] (G) (1) If the court determines that the complainant is legally entitled
17 to possession, the court shall:

18 (i) Give judgment for restitution of the possession of the property to
19 the complainant; and

20 (ii) Issue its warrant to the sheriff or constable commanding the
21 sheriff or constable to IMMEDIATELY deliver possession to the complainant.

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

24 (i) The] THE complainant claimed damages in the complaint[; and

25 (ii) The court finds that:

26 1. The person in actual possession was personally served
27 with the summons; or

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

30 (3) A person in actual possession who is not personally served with a
31 summons is not subject to the personal jurisdiction of the District Court if the person

1 appears in response to the summons and prior to the time that evidence is taken by the
2 court and asserts that the appearance is only for the purpose of defending an in rem action.

3 [(g)] (H) Subject to § 8–118.1 of this article, a party to a wrongful detainer action
4 brought in the District Court under this section may demand a trial by jury in accordance
5 with Title 8, Subtitle 6 of this article.

6 **(I) IF A DEFENDANT DOES NOT ATTEND THE HEARING, THE DISTRICT**
7 **COURT SHALL ENTER A DEFAULT JUDGMENT AGAINST THE DEFENDANT.**

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

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

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

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

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

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

20 B. All court costs in the case;

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

24 D. The fair rental value of the property during the pendency
25 of the appeal.

26 (3) On application of either party, the court shall set a hearing date for the
27 appeal that is not less than [5] 4 days or more than [15] 7 days after the application for
28 appeal.

29 (4) Notice of the order for a hearing shall be served on the parties or the
30 parties' counsels not less than [5] 4 days before the hearing.

1 **[(i)] (K)** If the judgment of the circuit court shall be in favor of the person
2 claiming possession, a warrant shall be issued by the court to the sheriff, who shall proceed
3 immediately to execute the warrant.

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.