

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 556 (Senator Ready)
Judicial Proceedings

**Real Property - Fraudulent Possession and Unauthorized Lease or Listing -
Prohibition and Removal**

This bill prohibits a person from (1) knowingly and willfully presenting a false deed, lease agreement, or other instrument purporting to convey a real property interest in order to possess the property; (2) leasing to another real property the person does not own or is not authorized to offer for lease; or (3) listing or advertising residential real property for sale knowing the purported seller is not the lawful owner. Among other provisions, the bill also establishes (1) procedures for the removal of an individual from a property and (2) a cause of action for the wrongful removal of an occupant.

Fiscal Summary

State Effect: Minimal increase in general fund revenues and expenditures due the bill's penalty provisions, as discussed below. Potential minimal increase in general fund expenditures for the Office of the Public Defender (OPD).

Local Effect: *Potential* significant increase in expenditures for local sheriffs' offices, as discussed below; local incarceration costs also increase minimally. Minimal increase in revenues due to the bill's penalty provisions. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: Minimal.

Analysis

Bill Summary:

Criminal Provisions

A person who violates the bill's prohibition against knowingly and willfully presenting a false deed, lease agreement, or other instrument purporting to convey a real property interest in order to possess the property is guilty of a misdemeanor, punishable by imprisonment for up to one year and/or a \$1,000 maximum fine.

A person who violates the bill's prohibitions against fraudulent leasing, listing, or advertising, as specified, is guilty of a felony, punishable by imprisonment for up to 30 years and/or a \$10,000 maximum fine.

Removal – Request

Prior to filing a complaint for wrongful detainer under § 14-132 of the Real Property Article, a person claiming that another is in wrongful possession of residential real property may request immediate removal by the sheriff if the claimant demonstrates the following:

- the claimant is the property owner or the authorized agent of the owner;
- the person in possession is not authorized to be on the property or unlawfully entered and remained on/occupied the property;
- the property was not open to the public when the unauthorized occupation began;
- the claimant directed the occupant to vacate;
- the occupant is not a current or former tenant under a lease agreement with the claimant; and
- no pending litigation exists concerning the property between the claimant and the occupant.

The request must include (1) a copy of the requester's government identification; (2) evidence of property ownership; and (3) if applicable, evidence of agency. The request must also be signed by the requester under penalty of perjury.

Removal – Sheriff's Obligations

Upon receiving a request, the sheriff must verify that the person submitting the request is the owner or the authorized agent. Upon verification, the sheriff must, without delay, serve notice to immediately vacate to the property's occupant and deliver possession of the property to the requestor.

The notice may be served by hand delivery or by prominent posting on the property's front door or other entry. The sheriff must attempt to verify the identity of any occupant at the time of service and may, if appropriate, arrest any occupant for trespass, outstanding warrants, or other legal cause. After the notice to vacate is delivered, the requester may request that the sheriff be present to maintain order while the requester changes locks and removes personal property from the premises.

Civil Action

The bill authorizes a person to bring action for wrongful removal under the bill. A person harmed by wrongful removal may be restored to possession of the property and may recover actual damages, three times the fair market value of the property's rent, and reasonable attorney's fees and court costs.

A sheriff is not liable to any party for damages to or the loss or destruction of property incurred while performing the duties under the bill. Additionally, an owner or authorized agent is not liable to an occupant or any other party for damage to or the loss or destruction of personal property removed under the bill, unless the removal was unlawful.

Current Law:

Wrongful Detainer Actions

Wrongful detainer means to hold possession of real property without the right to do so. A wrongful detainer action is not available if (1) the person in actual possession of the property has been granted possession under a court order; (2) a remedy is available under general landlord/tenant law; or (3) any other exclusive means to recover possession is provided by statute or rule. Generally, if a person holds possession of a property to which the person is not entitled, a person claiming possession (complainant) may file a complaint, in writing, with the District Court. Once the court receives a complaint, the court must immediately summon the person in possession of the property to appear before the court on the day specified in the summons to show why the court should not restore possession of the property to the complainant. If the court determines the complainant is legally entitled to possession, the court must give judgment for restitution of the property to the complainant and direct the sheriff to deliver possession of the property to the complainant.

Landlord-tenant Actions

In general, a landlord seeking to evict a tenant must file the appropriate action (*e.g.*, failure to pay rent, tenant holding over, etc.) in the District Court. If awarded a judgment by the court, the landlord files a warrant of restitution, which, once reviewed and signed by the court, authorizes an eviction. The warrants of restitution are forwarded to the local sheriff's

office who is then authorized to carry out the evictions. Statute sets forth numerous specific requirements for such actions, including those related to written notice prior to filing certain actions.

State Revenues: General fund revenues increase minimally as a result of the bill's monetary penalty provisions from cases heard in the District Court.

State Expenditures:

Incarceration Costs

General fund expenditures increase minimally as a result of the bill's incarceration penalties due to more people being committed to State correctional facilities and increased payments to counties for reimbursement of costs for incarcerated individuals. The number of people convicted of this proposed crime is expected to be minimal.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per incarcerated individual, including overhead, is estimated at \$5,339 per month. Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or a State correctional facility. The State provides assistance to the counties for locally sentenced incarcerated individuals and for (1) incarcerated individuals who are sentenced to and awaiting transfer to the State correctional system; (2) sentenced incarcerated individuals confined in a local detention center between 12 and 18 months; and (3) incarcerated individuals who have been sentenced to the custody of the State but are confined in or who receive reentry or other prerelease programming and services from a local facility.

The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced in Baltimore City are generally incarcerated in State correctional facilities. The Baltimore Pretrial Complex, a State-operated facility, is used primarily for pretrial detentions.

Office of the Public Defender

OPD advises that the bill may result in approximately 450 new cases statewide for OPD each year, requiring the equivalent of three attorneys and one administrative assistant at an estimated cost of \$325,948 in fiscal 2026, increasing to \$443,012 by fiscal 2030. Although the Department of Legislative Services (DLS) is unable to validate OPD's precise caseload/staffing estimate without experience under the bill, it acknowledges that general fund expenditures may increase minimally to accommodate an increased workload. To the

extent OPD's case volume increases meaningfully as a direct result of the bill, OPD can request additional resources through the annual budget process.

Judiciary

Any impact on the Judiciary is not anticipated to be material.

Local Revenues: Revenues increase minimally as a result of the bill's monetary penalty provisions from cases heard in the circuit courts.

Local Expenditures: Based on an analysis of responses received from local jurisdictions regarding the impact of the bill (and similar legislation), DLS advises that local sheriffs' offices may incur increased administrative and staffing costs, depending on the number of requests they receive and the time required to restore possession of property to owners. For example, Prince George's County estimates that the county needs to hire 28 additional sheriffs, with associated costs of approximately \$9.0 million annually. Conversely, Howard County does not anticipate a fiscal impact.

Expenditures also increase minimally as a result of the bill's incarceration penalties. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. Per diem operating costs of local detention facilities have ranged from approximately \$140 to \$350 per incarcerated individual in recent years.

Additional Information

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

Designated Cross File: None.

Information Source(s): Howard and Prince George's counties; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of Public Safety and Correctional Services; Department of Legislative Services

Fiscal Note History: First Reader - February 5, 2025
js/jkb

Analysis by: Donovan A. Ham

Direct Inquiries to:
(410) 946-5510
(301) 970-5510