

Department of Legislative Services  
Maryland General Assembly  
2025 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 202  
Judiciary

(Delegate Nawrocki)

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**Criminal Law - Fraud - Conveyance, Lease, or Possession of Residential Real Property**

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This bill prohibits a person, with intent to defraud another, from taking various actions in regard to real property, including claiming to sell or convey property the grantor does not own or have the authority to transfer. The bill also (1) prohibits a person from, with the intent to defraud another, possessing or claiming a right to possess residential real property that the person does not lawfully possess or own and (2) establishes procedures under which a sheriff's office must remove a person who is allegedly in violation of these provisions and return possession of the property to the owner. The bill preserves the right of an owner of residential real property to file a wrongful detainer action under § 14-132 of the Real Property Article.

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**Fiscal Summary**

**State Effect:** Minimal increase in general fund revenues and expenditures due to 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.

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## Analysis

### Bill Summary/Current Law:

#### *Counterfeiting of Specified Instruments and Documents*

Under § 8-601 of the Criminal Law Article, a person, with intent to defraud another, is prohibited from counterfeiting, causing to be counterfeited, or willingly aiding or assisting in counterfeiting specified instruments, including any (among other instruments):

- bond;
- check;
- deed;
- endorsement or assignment of a bond, draft, check, or promissory note;
- release or discharge for money or property;
- title to a motor vehicle;
- waiver or release of mechanics' lien; or
- will or codicil.

Under current law, violators are guilty of a felony and subject to maximum penalties of 10 years' imprisonment and/or a \$1,000 fine. Furthermore, a person is prohibited from knowingly, willfully, and with fraudulent intent possessing a counterfeit of any of the specified instruments; violators are guilty of a misdemeanor and subject to maximum penalties of 3 years' imprisonment and/or a \$1,000 fine. The bill removes deeds from the list of protected legal instruments under § 8-601 and makes a conforming change.

#### *Deed and Lease Fraud – Prohibitions and Procedures Established under the Bill*

Under the bill, a person, with the intent to defraud another, may not:

- claim to sell, convey, or attempt to sell or convey real property that the grantor does not own;
- claim to sell or convey (or attempt to sell or convey) real property that the grantor lacks sufficient authority to transfer;
- claim to lease or attempt to lease real property that belongs to another;
- obtain, sell, or convey (or attempt to obtain, sell, or convey) the real property of another through the execution of a deed by the rightful owner of the property by deception, intimidation, threat, or undue influence;
- counterfeit a deed or cause a deed to be counterfeited; or
- counterfeit a lease or cause a lease to be counterfeited.

A person is also prohibited from knowingly aiding or assisting another in any of these prohibited acts. Violators are guilty of a felony and subject to maximum penalties of 10 years' imprisonment and/or a \$5,000 fine.

A person is also prohibited from knowingly, willfully, and with fraudulent intent possessing a counterfeit deed or lease; violators are guilty of a misdemeanor and subject to maximum penalties of three years' imprisonment and/or a \$5,000 fine.

The prosecution of an alleged violation of the above prohibitions (or related violations, as specified) may be commenced in any county in which (1) an element of the crime occurred; (2) the victim resides; or (3) if the victim is not an individual, the victim conducts business.

#### *Fraudulent Claims to Residential Real Property and Removal Procedures*

The bill also prohibits a person from possessing (or claiming a right to possess) residential real property that the person does not lawfully possess or own with the intent to defraud another.

A person in violation of this provision is guilty of a misdemeanor and subject to imprisonment for up to 90 days and/or a maximum fine of \$500 for a first offense; imprisonment for up to six months and/or a maximum fine of \$1,000 for a second offense within two years after the first violation; and imprisonment for up to one year and/or a maximum fine of \$2,500 for each subsequent violation occurring within two years after the preceding violation.

The bill further authorizes the owner of such property to submit a sworn affidavit to the sheriff for the county in which the property is located, stating that a person is fraudulently in possession of the property. Upon receiving this affidavit, a sheriff must remove the person and return possession to the owner. However, a sheriff may not remove a person who produces evidence of lawful possession. The provisions do not apply if (1) the person in actual possession of the property has been granted possession under a court order or (2) a remedy is available under Title 8 of the Real Property Article (generally governing landlord-tenant actions).

#### *Wrongful Detainer Actions – Existing Provisions Unchanged by the Bill*

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 – Existing Provisions Unchanged by the Bill*

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 (or for similar legislation), DLS advises that local sheriffs' offices *may* incur increased administrative and staffing costs, depending on the number of affidavits they receive, and the time required to restore possession of property to owners who submit such affidavits. For example, Prince George's County estimates that the county needs to hire 15 additional sheriffs, with associated costs of approximately \$4.5 million annually; Carroll County generally notes that the bill may place an additional financial burden on its sheriff's office. Conversely, Baltimore, Queen Anne's, and St. Mary's counties do not anticipate a fiscal impact, and the Maryland Association of Counties generally advises that the bill is not anticipated to materially affect local government operations or finances. The Harford County State's Attorney's Office advises that the bill potentially has a fiscal impact due to increased caseloads for its staff.

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):** Baltimore, Carroll, Harford, Prince George's, Queen Anne's, and St. Mary's counties; Department of Public Safety and Correctional Services; Judiciary (Administrative Office of the Courts); Maryland Association of Counties; Maryland State Commission on Criminal Sentencing Policy; Maryland State's Attorneys' Association; Office of the Public Defender; Department of Legislative Services

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