



Building a Just Society

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SB 328: Anne Arundel County – Landlord and Tenant – Procedures for Repossession for Failure to Pay Rent

Hearing before the Judicial Proceedings Committee on January 28, 2020

Position: OPPOSE

Public Justice Center (PJC) is a non-profit, civil legal services provider that provides advice and representation to over 700 tenants throughout Maryland each year. Eviction without notice is a top concern of renters who seek PJC's assistance. Under current law (Real Prop. art. ("RP") § 8-401), after a judicial order of repossession, neither landlords nor the courts are required to provide the tenant notice of their eviction date. Renters need and deserve timely, reliable notice of the eviction date so that they can effectively exercise their statutory right of redemption (to "pay to stay" before eviction) or to leave the property without irreparable loss of personal belongings. SB 328 would provide for notice by requiring the landlord to send a notice to the tenant of the scheduled eviction date 14 days in advance by mail and 7 days by posting.

Unfortunately, the price of tenants receiving such notice under the bill is too high – the loss of all personal belongings. The bill sets forth that upon execution of the eviction "all property remaining in the leased premises will be considered abandoned and may disposed of on execution of the warrant of restitution." Page 4, lines 4-6. This means that, at eviction, a renter has no right to their belongings as they are being removed from the property. The policy is regressive, multiplying the harm of eviction for no other reason than to absolve the landlord's liability for damage to the tenant's personal property during the eviction. The harm to the evicted household far outweighs the policy's intended benefit.

During an ongoing pandemic with a disparate impact on Black and Latinx families and "essential workers," it is unconscionable to exacerbate the harm of eviction. Due to COVID, 36% of Black households in Maryland are likely facing an eviction action, compared to 14% of white households. We know that at least 2,500 families have been evicted since March 2020. To deem "abandoned" the belongings of families who will be evicted in an upcoming tsunami of COVID-19-related evictions adds further insult and injury to an already horrific event.

The Public Justice Center is a 501(c)(3) charitable organization and as such does not endorse or oppose any political party or candidate for elected office.

We find frequent examples of harsh, unintended consequences in Baltimore City, which has an identical abandonment policy. In Baltimore City, despite the requirements for 14-day and 7-day notices of the scheduled eviction date, PJC is contacted by renters who did not receive the notice. When surprise evictions occur, our clients lose critical medications and medical equipment. They lose vital records and documents crucial to their access to public benefits. We see, too, that our clients are essentially extorted by the landlord: for instance, they must pay the landlord excessively to salvage a prescription medication or family heirloom or the landlord will throw the item in the trash.

There are better policies for handling a tenant's property at the time of eviction. Some jurisdictions afford tenants a time-limited opportunity to transport their personal property after execution of the warrant. In Prince George's County, the tenant is allowed a period of up to 4 hours upon eviction to remove their belongings. Prince George's Co. Code Sec. 13-164.02. Outside Maryland, many jurisdictions require the landlord to hold or to store the tenant's personal property for a specified time ranging from 24 hours to 60 days. Such jurisdictions include Delaware, Florida, Maine, Minnesota, New Hampshire, New Jersey, New York, North Carolina, Oregon, Rhode Island, South Dakota, Virginia, Washington, and West Virginia.

SB 328 would allow individuals other than the County Sheriff to execute an eviction. SB 328 speaks frequently of the central role of the County Sheriff in the eviction process, and yet on page 4, lines 27-28, the bill appears to allow individuals other than the Sheriff to execute the warrant of restitution: "Any official of the County entitled to serve process may execute the warrant...." Does this include a private process server? This would be a huge sea change in the eviction process by allowing a private process server who is paid for by the landlord to oversee the eviction process. A private process server has an obvious conflict of interest under these circumstances – particularly if they are now supposed to determine whether a critical 14-day or 7-day notice was provided. Evictions can involve a potential confrontation between landlord and tenant, and the Sheriff's role to keep the peace and ensure fair process is essential. No other county allows an individual other than a Sheriff or constable to execute a warrant of restitution. Anne Arundel should not be the first.

Renters in Anne Arundel County, and throughout Maryland deserve timely, clear, reliable notice of a scheduled eviction. Further, they deserve policies that do not compound the harm that eviction poses financially, emotionally, and otherwise. PJC urges the Committee to consider policies that assist renters to recover from the financial perils that lead to eviction.

Please issue a report of UNFAVORABLE on SB 328. If you have any questions, please contact Matt Hill, hillm@publicjustice.org, 410-625-9409, ext. 229.