

2025 SB0489 Testimony For 2025-02-06.pdf

Uploaded by: Alan Lang

Position: FAV

SB0489 – Favorable

Honorable Senators

I support:

- prohibiting a person from possessing or claiming a right to possess residential real property the person does not lawfully possess or own, with the intent to defraud another;
- authorizing the owner of certain residential real property to file a certain sworn affidavit and requiring a sheriff to remove a certain person from residential real property under certain circumstances; and
- providing that the Act does not prohibit the owner of property from filing a wrongful detainer action.

Please enter a favorable report for SB0489.

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Legislative District 30B
February 6, 2025

SB489 Amendment

Uploaded by: J.B. Jennings

Position: FWA



SB0489/333222/1

AMENDMENTS
PREPARED
BY THE
DEPT. OF LEGISLATIVE
SERVICES

04 FEB 25
16:46:13

BY: Senator Jennings

(To be offered in the Judicial Proceedings Committee)

AMENDMENTS TO SENATE BILL 489

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 8, after “action;” insert “requiring a certain court hearing on a wrongful detainer action to be held within a certain timeframe;”; and after line 14, insert:

“BY repealing and reenacting, with amendments,

Article - Real Property

Section 14-132

Annotated Code of Maryland

(2023 Replacement Volume and 2024 Supplement)”.

AMENDMENT NO. 2

On page 2, after line 29, insert:

“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) (I) 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.

(II) A HEARING UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE HELD NOT LESS THAN 4 CALENDAR DAYS AND NOT MORE THAN 7 CALENDAR DAYS AFTER THE COMPLAINT IS FILED.

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

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

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

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

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

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

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

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

(ii) The court finds that:

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

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

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

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

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

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

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

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

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

(Over)

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

B. All court costs in the case;

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

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

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

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

(i) If the judgment of the circuit court shall be in favor of the person claiming possession, a warrant shall be issued by the court to the sheriff, who shall proceed immediately to execute the warrant.”.

MMHA - 2025 - SB489 - FWA.pdf

Uploaded by: Matthew Pipkin

Position: FWA



Senate Bill 489

Committee: Judicial Proceedings

Bill: Senate Bill 489 Criminal Law - Fraud - Possession of Residential Real Property

Date: 2/6/25

Position: Favorable with Amendments

The Maryland Multi-Housing Association (MMHA) is a professional trade association established in 1996, whose members house more than 538,000 residents of the State of Maryland. MMHA's membership consists of owners and managers of more than 210,000 rental housing homes in over 958 apartment communities and more than 250 associate member companies who supply goods and services to the multi-housing industry.

Senate Bill 489 ("SB 489") prohibits a person from possessing or claiming a right to possess residential real property the person does not lawfully possess or own, with the intent to defraud another; authorizing the owner of certain residential real property to file a certain sworn affidavit and requiring a sheriff to remove a certain person from residential real property under certain circumstances; and providing that the Act does not prohibit the owner of property from filing a wrongful detainer action.

This legislation works to address a growing concern in Maryland's real estate market, namely that an owner's rights are at risk as to whom or what entity they would like to sell, convey, or lease their property. Instead, owners become entangled with an individual with whom there is no contractual relationship.

With this said, MMHA would respectfully request friendly amendments utilizing Senate Bill 489's 8-906 sections and adding it to Senate Bill 556. Additionally, we would suggest the following for 8-906 (c):

- (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
 - (II) THE PERSON IN ACTUAL POSSESSION OF THE RESIDENTIAL REAL PROPERTY PRODUCES EVIDENCE OF LAWFUL POSSESSION OF THE PROPERTY TO A LAW ENFORCEMENT OFFICER; OR
 - (III) A REMEDY IS AVAILABLE UNDER TITLE 8 OF THE REAL PROPERTY ARTICLE.

These amendments would clear the intent of the legislation and match language from other bills, bringing a more comprehensive legislation together to combat these concerns. MMHA stands ready to work with sponsors and stakeholders alike to get a comprehensive bill over the finish line.

Please contact Matthew Pipkin, Jr. at mpipkin@mmhaonline.org or Ashley Clark, Esq. at ashley.clark@mdlobbyist.com with any questions.

JL SB 489 UNFAV.pdf

Uploaded by: Jessica Leggette

Position: UNF

SB 489 UNFAVORABLE TESTIMONY

My name is Jessica Legette **and I am asking for an unfavorable report on SB 489.** I am a Baltimore City resident and a mother of 3. During the pandemic, I asked my landlord to fix some lead issues that were on the property. Instead, the landlord retaliated against me and kicked me out. I was left to scramble for a new place to live. Moving in a short period of time put my family in a tight spot financially. I was so relieved when I found a place within my budget, especially because the landlord told me I could move in right away.

Unfortunately, this was only the beginning of my trauma. Right after moving in, random individuals started coming to my place, saying they owned the property and wanted me to leave. None of them told me who they were or showed me any proof or paperwork. It was a scary and confusing time. I did not know who to trust. I realized that the person who rented me the house never owned it and had scammed me out of a few thousand dollars.

It will take a long time for my family to recover from the anguish we experienced during this time. My kids are suffering at school. My oldest can't sleep through the night. I have been diagnosed with PTSD.

The only thing that helped was getting legal advice that assured me that I had a right to a court process. This helped me understand that the aggressive strangers who kept coming to my door weren't entitled to throw me out at any moment. I soon faced a wrongful detainer case. The actual owner had to prove who he was, and the court process allowed me to understand how much time I had before I would have to move out. The Judge gave me some clarity about what was going on and little time to move out. That little time was crucial for me.

For the company that owned this property and many others, the house was an investment to be checked on every couple of months. For me, it was a home that would help my family get stable again. I never intended to squat in someone else's property. The city had issued this property a vacant building notice years before. I wish the owner had boarded it up like the city ordered in 2022. Then, I never would have fallen victim to this scam.

If SB 489 had passed, a Sheriff would have kicked me out into the streets without any time to gather my belongings or find alternative housing. That is terrifying. **We should not be punishing victims such as myself.**

SB00489 - Maryland Legal Aid - UNF.pdf

Uploaded by: Joseph Loveless

Position: UNF



Senate Bill 0489

Criminal Law - Fraud - Possession of Residential Real Property

Hearing in the Senate Judicial Proceedings Committee

Hearing on February 6, 2025

Position: Unfavorable

Maryland Legal Aid submits its written and oral testimony on SB0489 at the request of Committee member Senator Charles Sydnor.

Maryland Legal Aid (MLA) is a non-profit law firm that provides free legal services to the State's low-income and vulnerable residents. Our offices serve residents in each of Maryland's 24 jurisdictions and handle a range of civil legal matters, the most prominent of which is housing. MLA represents both low-income homeowners and renters. Our Tenant Right to Counsel Project represented tenants in over 4,600 cases in 2024. Maryland Legal Aid asks that this Committee report **unfavorably** on SB 489.

SB 489 intends to deter "squatting" by creating a new criminal penalties and extrajudicial removal procedures. Importantly, legislators need to know that Maryland law already provides an eviction process for so-called squatters – the Wrongful Detainer action under Real Property § 14-132. MLA strongly opposes this bill because it would criminalize bona fide tenants as well as people and families who may have been fraudulently induced into moving into a property under an unauthorized lease agreement. Moreover, the bill would victimize these community members through sudden eviction without due process. Because SB 489 affords no notice to the occupants nor any meaningful opportunity to be heard, it would likely be unconstitutional as a matter of law and as applied. More importantly, the bill does not holistically address the "squatter" problem that is impacting property owners and renters alike.

SB 489 would irreparably harm our clients

In July 2022, our client moved into a rental home in Pikesville, Maryland, signing a lease with the owner and thereafter paying rent for several months. That fall, a woman whom our client had never met appeared at the property, insisting that she was the owner of the property and threatening to call the police if our client did not leave. When the Baltimore County police did arrive, our client showed her copy of the lease to the officers, who then took no action other than escorting the stranger off the premises. Next, that person filed a Wrongful Detainer action against our client, again claiming that she

was the owner and that our client had no lawful right of possession. In other words, the case alleged that our client was a squatter. In a trial proceeding, the plaintiff was unable to demonstrate that she held title to the property. In fact, during the pendency of the Wrongful Detainer case, the property was sold to a couple. It became apparent that the only reason to subject our client to allegations of squatting was to sell the property unencumbered by our client's bona fide lease.

In that case, because of the trial procedures involved in the Wrongful Detainer case, our client vindicated her rights and protected herself from a ploy in which, we suspect, the landlord used an unknown person to claim ownership and the right to police-assisted removal of all occupants. Under SB 489, our client may not have had any process or protection.

SB 489 ignores the fact that “squatters” may be victims of fraud

This bill takes aim at so-called squatters by prohibiting any person from possessing or claiming a right to possess residential real property that the person does not lawfully possess or own. This prohibition requires the element of intent to defraud another. A person who does so is subject both to criminal penalties in subsection (a), at pages 1-2, and to immediate extrajudicial eviction without notice under subsection (c)(2)-(3), at page 2.

Absent from SB 489 is any recognition that the person possessing or claiming a right to possess the property may have signed a lease agreement and paid rent and a security deposit to a person who held themselves out to be the property owner or an agent of the owner. This erstwhile renter has no idea that they may lack a right of possession. They may have no copy of the signed lease, no contact information to trace the identity or location of the person who had held themselves out as owner or agent. Because it is common throughout Maryland rental markets for ownership identity to be hidden behind corporate names or obscured by delays in title transfers, and for property agents to act without a license or documentation of any agency authority, this erstwhile renter may not trust or believe any new face who shows up at the doorstep claiming to be the actual owner, realtor, property manager, etc.

Despite this context, SB 489 treats the erstwhile renter as a criminal unless and until she proves in a criminal court that she lacked the intent to defraud another. Predictably, she may face grave difficulty in proving lack of intent, particularly if she failed to immediately vacate the property after someone, whom she had never met and had no reason to believe, notified her that her lease agreement had not been authorized by the actual owner.

In a recent case at MLA, our client and her three family members had moved into rooms in what appeared to be an owner-occupied property rented out by a couple she knew as the Wallaces. Though

there was no written lease, our clients paid \$400 monthly to the Wallaces for over a year. Then, in November 2024, the Wallaces disappeared without notice. In short order, our clients were summoned to court in a Wrongful Detainer action by a Limited Liability Company, which claimed ownership and further claimed that it had no relationship with either the Wallaces or our clients. In the court case, it became evident that our client had been defrauded by two people who were not the owners, had no authority to lease out the property, and had likely taken possession of the property unlawfully. The district court awarded possession to the Limited Liability Company, and the sheriff carried out the eviction in freezing conditions on January 15. Our client's terrible situation would have been even more traumatizing under SB 489.

SB 489 will spur non-judicial evictions of bona fide tenants

Beyond criminal punishment, SB 489 exposes occupants, lessees, and erstwhile renters to immediate extrajudicial eviction without notice or a court order. The bill includes an exception for lessees, whereby the extrajudicial eviction procedure does not apply if there is "a remedy available under Title 8 of the Real Property Article," i.e., the eviction procedures against tenants for Failure to Pay Rent, Tenant Holding Over, or Breach of Lease. However, SB 489 does not provide any notice or hearing procedures through which a person facing immediate eviction could demonstrate that the exception applies.

In substitution of due process in court, SB 489 allows property owners to submit their allegations to the local sheriff in an affidavit. On receipt of the affidavit, the sheriff *shall* then evict any occupant. Their only opportunity to be heard in this procedure arises when the sheriff has already come onto the property to carry out the eviction. At that late juncture, the occupant may "produce evidence of lawful possession" to stop the eviction. SB 489 does not prescribe any additional procedure such as involving the court for purposes of examining evidence or producing witness testimony. Thus, if a lessee is subjected to this process and cannot show their lease at the moment of eviction because they do not have a copy of the executed agreement, or because they are not home, SB 489 does not entitle them to any additional process before the sheriff completes the eviction. If the lessee does produce a lease agreement for the sheriff, but the owner contests the validity of the agreement, SB 489 neither requires the sheriff to halt the eviction nor provides additional evidentiary procedures in court. The abbreviated eviction process invites violations of individuals' constitutional right to due process.

SB 489 is trojan-horse legislation of the national conservative movement

SB 489 copies [model legislation](#) of the conservative policy network American Legislative Exchange Council (ALEC).¹ Extolled by Newt Gingrich as “the most effective organization” in spreading conservative policy to state lawmakers,² ALEC has pushed its “Stop Squatters Act” throughout the country and has found success in five Republican-controlled legislatures: Alabama, Florida, Georgia, Louisiana, and West Virginia.³

Recycling talking points about “squatter” social movements from decades past, ALEC is exploiting a generic fear of “squatting” to weaken existing summary ejectment procedures and tenant protections at a time of rising public interest in expanding those protections. SB 489 is part of a trojan-horse strategy that leverages serious, though relatively rare, property disputes to introduce a statutory end-run around the court system. The National Housing Law Project’s analysis of “squatter” bills succinctly describes this end-run:

Merely being accused of squatting can result in a law enforcement officer appearing at one’s door and demanding proof of lawful occupancy. Some of these confrontations are bound to end in improper evictions and displacements when tenants do not present satisfactory proof, or when police disregard perfectly sufficient documents. Other cases may end in violence or other bad outcomes independent of housing concerns. And the mere prospect of such police encounters empowers abusive landlords to intimidate tenants apprehensive about law enforcement interaction.⁴

What the policymakers ought to do instead

Instead of passing SB 489 or similar bills, the General Assembly and local policymakers should consider policies that focus on the root causes of the so-called squatter problem:

¹ ALEC, “Stop Squatters Act,” <https://alec.org/model-policy/stop-squatters-act>.

² Nick Penzenstadler et al., “What is ALEC? ‘The most effective organization’ for conservatives, says Newt Gingrich,” *USA Today* (April 3, 2019), <https://www.usatoday.com/story/news/investigations/2019/04/03/alec-american-legislative-exchange-council-model-bills-republican-conservative-devos-gingrich/3162357002>.

³ National Housing Law Project, “NHLP Releases Guidance Memo Regarding Anti-Squatting Legislation,” Oct. 22, 2024, <https://www.nhlp.org/nhlp-publications/nhlp-releases-guidance-memo-regarding-anti-squatting-legislation>

⁴ *Id.*

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- Require licensing for all rental property operators and managers and create a central, readily accessible look-up tool so that renters in the marketplace know who they are dealing with and whether that person is authorized to act on behalf of the actual owner of a property.
 - Require written leases for all tenancies. State law and several local codes require only owners of five or more units to use written leases.
 - Create registries within local housing agencies by which renters can register their tenancy information, which the agency can then cross-reference with existing rental licensing information such as owner and operator identity information.
 - Establish a victim assistance fund specific to the relocation needs of residents who face eviction due to leasing scams.

Maryland Legal Aid urges the Committee to issue a UNFAVORABLE report on Senate Bill 489.

If you have any questions, please contact:

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SB 489 - Written Testimony UNF - SENATE.pdf

Uploaded by: Katherine Davis

Position: UNF



SB 489 - Criminal Law - Fraud - Possession of Residential Real Property
Hearing before the Senate Judicial Proceedings Committee,
February 6, 2025, 1:00 PM
Position: Unfavorable

The Pro Bono Resource Center of Maryland ("PBRC"), an independent 501(c)(3) non-profit organization, is the statewide thought leader and clearinghouse for pro bono civil legal services in Maryland. As the designated pro bono arm of the MSBA, PBRC provides training, mentorship, and pro bono service opportunities to members of the private bar and offers direct legal services to over 6,200 clients annually.

In May 2017, with a grant from the Maryland Judiciary's Access to Justice Department, PBRC launched the **Tenant Volunteer Lawyer of the Day (TVLD) Program** in Baltimore City Rent Court to provide day-of-court legal representation to tenants who appear unrepresented for their proceedings. Since then, this continually expanding Program has allowed PBRC staff and volunteer attorneys to represent thousands of low-income tenants in both Baltimore City and Baltimore County in multiple types of legal actions that could result in eviction.

While we sympathize with the situation that SB 489 is attempting to remedy, PBRC opposes SB 489 based upon its potential impact on some of our most vulnerable clients. We are concerned that the expedited procedure for regaining possession and potential criminal charges contained in SB 489 could be used to evict low-income individuals from their homes without any judicial oversight and will further the criminalization of poverty by subjecting Maryland's most vulnerable individuals to criminal charges against which they have no means to defend themselves.

Under Maryland law the rightful owner of a property can regain possession from an individual who is fraudulently claiming a right to possess the property by filing a "wrongful detainer" action under Real Property Code § 41-132. This law sets forth an expedited process for a residential property owner to regain possession while also providing the individual who is removed with a measure of due process that would be missing in any action brought under SB 489 – due process that is not only humane but constitutionally required prior to depriving an individual of their home.

SB 489 is part of a national, right-wing movement to strip residents of constitutional rights and embolden property owners at all costs. It mirrors model legislation from American Legislative Exchange Council (ALEC), which has successfully passed in states such as Alabama, Tennessee, and West Virginia. Maryland should not join these states in passing legislation that will increase homelessness and the potential for violent law enforcement encounters.

PBRC attorneys have encountered numerous individuals who believed in good faith that they were renting from a legitimate landlord, only to find that they have been victimized by a scammer. The scam involves someone posing as the owner of a property, drafting a lease and collecting rent as a legitimate landlord would. Once the scam is discovered, the "renter" in this situation typically has no legal defense allowing them to remain in the property and cannot recover any "rent" paid. Under the procedure set forth in SB 489, they would also be in danger of being confronted by a law enforcement officer with no prior notice and required to produce evidence of a legitimate lease or be evicted immediately. **Eviction is a very serious matter, and our laws must provide for due process when it is a possibility.**

For the above reasons,
PBRC urges an UNFAVORABLE report on SB 489.

Please contact Katie Davis, Director of PBRC's Courtroom Advocacy Project, with any questions.
kdavis@probonomd.org • 443-703-3049

SB 489_Consumer Protection Division_Unfavorable_FI

Uploaded by: Kira Wilpone-Welborn

Position: UNF

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KIRA WILPONE-WELBORN
Assistant Attorney General

February 4, 2025

To: The Honorable William C. Smith, Jr.
Chair, Judicial Proceedings Committee

From: Kira Wilpone-Welborn, Assistant Attorney General
Consumer Protection Division

Re: Senate Bill 489 – Criminal Law - Fraud - Possession of Residential Real Property
(OPPOSE)

The Consumer Protection Division of the Office of the Attorney General (the “Division”) opposes Senate Bill 489 sponsored by Senator J.B. Jennings. While couched as a criminal law bill to address squatting, Senate Bill 489 would create an extra-judicial eviction process that could unconstitutionally deprive occupants of their property without the due process protections guaranteed by the 14th Amendment. For the following reasons, the Division opposes Senate Bill 489 and requests the Judicial Proceedings Committee issue an unfavorable report.

First, the extra-judicial eviction created by Senate Bill 489 lacks the constitutionally required notice and opportunity to be heard. *See Todman v. Mayor and City Council of Baltimore*, 104 F. 4th 479, 488 (2024)(“The essence of due process is the requirement that ‘a person in jeopardy of serious loss [be given] notice of the case against him and opportunity to meet it.’”). Instead, Senate Bill 489 creates a process by which the sheriff, after receiving an affidavit from the owner of real property that an unauthorized occupant remains in the property, goes to the property and demands “evidence of lawful possession.” The unexpected and unexplained appearance of the sheriff demanding “evidence of lawful possession” is neither notice nor opportunity to be heard demanded by the Constitution. Indeed, the process created by the bill could

ensnarl lawful occupants including homeowners whose property was sold at tax sale, and legal tenants with an oral lease agreement or with a written agreement withheld by the landlord.¹

Second, Senate Bill 489's lack of process could promote unfair, abusive, and deceptive trade practices that would substantially harm Maryland consumers. Lawful occupants of property entangled by a false affidavit from a bad faith owner, or another, could find themselves out of their homes without any of their personal possessions or ability to contest the ejectment.² Likewise, the threat of an ejectment under Senate Bill 489 could be weaponized to retaliate against lawful occupants who submit complaints to the owner about conditions or other violations of the Real Property Article.

Finally, Senate Bill 489 obscures this extra-judicial eviction process in the Criminal Article instead of within the Real Property Article. Any process by which occupants (lawful or unlawful) of real property are to be removed should be within the Real Property Article, where other rights and protections are provided.

For these reasons, the Division urges the Judicial Proceedings Committee to issue an unfavorable report.

Cc: The Honorable J.B. Jennings
Members, Judicial Proceedings Committee

¹ Senate Bill 489's exemption when a remedy is available under Title 8 of the Real Property Article does little to prevent bad actors from submitting false affidavits to the sheriff seeking an extra-judicial eviction and provides no remedy to the unlawfully ejected lawful residents when such eviction occurs.

² Of note, while Senate Bill 489 demands the Sheriff examine "evidence of lawful possession" from the occupant, it demands no proof of ownership from the person submitting the affidavit before the removal of occupants in a property. It takes little imagination to conjure a scenario whereby a non-owner submits a false affidavit to seek the ejectment of lawful occupants in a manner similar to swatting.

2 6 25 SB 489 FraudPossRealProp MOPD OPPOSE.pdf

Uploaded by: Kirsten Downs

Position: UNF



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PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
CHIEF OF EXTERNAL AFFAIRS

ELIZABETH HILLIARD
DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON PROPOSED LEGISLATION

BILL: Senate Bill 489 – Criminal Law – Fraud – Possession of Residential Real Property

FROM: Maryland Office of the Public Defender

POSITION: UNFAVORABLE

DATE: February 6, 2025

The Maryland Office of the Public Defender respectfully requests that the Committee issue an unfavorable report on Senate Bill 489.

Overview of Senate Bill 489

Senate Bill 489 aims to criminalize the unauthorized occupation of residential properties in Maryland. The bill allows property owners to submit an affidavit asserting their legal claim to the property. In response, law enforcement can remove the occupant without a court hearing.

Senate Bill 489 addresses individuals who unlawfully occupy properties, including rental and housing fraud victims. However, it does not provide legal protections for those who may unknowingly fall victim to such schemes. Furthermore, the bill fails to tackle the ongoing housing crisis in Maryland, which Governor Wes Moore. This crisis has heightened the risk of exploitation for those in need of immediate and affordable housing.¹ While the bill is intended to speed up the process of reclaiming properties, it raises significant concerns about due process and the potential for unjust outcomes, especially for vulnerable populations.

Overview of Maryland's Housing Crisis

Maryland is grappling with a significant housing shortfall, with over 120,000 units needed, including a deficit of nearly 96,000 affordable units, as highlighted in Governor Moore's 2024 housing assessment.² This crisis is particularly pressing in urban centers like Baltimore and Montgomery County, where demand and rents are soaring. The situation has left more than 50% of renters in the state cost-burdened, meaning they spend over 30% of their income on housing. As a result, many low-income renters find themselves in precarious housing situations, struggling to make ends meet.

¹ Maryland Office of the Governor. "Housing Priorities." Maryland Governor's Office. Accessed January 17, 2025. <https://priorities.maryland.gov/pages/housing>.

² Governor Wes Moore, 2024 Housing Assessment, Annapolis: Maryland Governor's Office, 2024.

Governor Moore has identified the housing shortage as a top priority, emphasizing the need for systemic solutions to increase affordable housing and stabilize the rental market. His administration has proposed investments in housing development and assistance programs, yet legislation like Senate Bill 489 undermines these goals by disproportionately targeting vulnerable renters instead of addressing root causes.

The Growing Prevalence of Housing Scams and Their Victims.

Recent data indicates a significant rise in housing scams, particularly in the rental market. TransUnion reported a nearly 30% increase in fraud triggers among rental applicants from March to August 2020.³ The Federal Bureau of Investigation (FBI) also warned of a spike in rental and real estate scams, attributing surging rents, home prices, and inflation in a competitive real estate market.⁴ The FBI reported that in 2021, 11,578 people reported losing \$350,328,166 due to these types of scams, a 64% increase from 2020, and more than \$396 million was lost in 2022.⁵ These findings underscore the growing prevalence of housing scams, highlighting the need for increased vigilance among renters and property owners.

The Federal Trade Commission (FTC) and local authorities have reported a significant increase in housing scams, especially in Maryland's competitive rental market. Scammers create fake listings and pose as landlords to collect deposits for properties they do not own. In 2023, the FTC reported over 10,000 new rental scam cases, while the Better Business Bureau noted a 45% rise in rental scam complaints over the last two years.⁶ A survey conducted by Dwellsy in 2022 revealed that 60 percent of renters have faced fraudulent or questionable activities online, while 44 percent have personally experienced or are aware of someone who has lost money due to rental scams. The financial losses are considerable, with 85 percent of victims losing more than \$400 and 19 percent suffering losses exceeding \$5,000. The total possible annual losses are estimated at a staggering \$16.1 billion.⁷

Among the most vulnerable are low-income individuals seeking affordable housing, often enticed by below-market rents.⁸ Recently, the Maryland Department of Housing and Community Development warned about online scams by individuals falsely claiming to administer Section 8 Housing Choice vouchers. The warning indicated that low-income renters are a primary target for these scams.⁹

³ TransUnion. "A Rise in Fraud Indicators Hits the Rental Industry During the Pandemic." TransUnion Newsroom, 2020. <https://newsroom.transunion.com/a-rise-in-fraud-indicators-hits-the-rental-industry-during-the-pandemic/>

⁴ Federal Bureau of Investigation. "FBI Warns of Spike in Rental and Real Estate Scams." FBI Boston Press Releases, July 12, 2022, <https://www.fbi.gov/contact-us/field-offices/boston/news/press-releases/fbi-warns-of-spike-in-rental-and-real-estate-scams>.

⁵ ABC Action News. "Rental Rip-Offs Spike in 2022: FBI Reports Over \$396 Million Lost." ABC Action News, February 2, 2023. Accessed January 31, 2025. https://www.abcactionnews.com/money/consumer/taking-action-for-you/rental-rip-offs-spike-in-2022-fbi-reports-over-396-million-lost?utm_source=chatgpt.com.

⁶ Rently. "Rental Fraudsters Prey on Desperation in Tight Housing Market." December 9, 2024. <https://use.rently.com/blog/rental-fraudsters-prey-on-desperation-in-tight-housing-market/>.

⁷ Ziprent. "Rental Scams: A Crisis Demanding Tech-Driven Solutions." *Ziprent Blog*, n.d. Accessed January 31, 2025. <https://www.ziprent.com/blog/articles/rental-scams-a-crisis-demanding-tech-driven-solutions>.

⁸ National Low Income Housing Coalition. "State Housing Agencies Warn of Social Media Scam Involving HCV Waitlist Openings." National Low Income Housing Coalition, 2024. Accessed January 31, 2025. <https://nlihc.org/resource/state-housing-agencies-warn-social-media-scam-involving-hcv-waitlist-openings>.

⁹ Maryland Department of Housing and Community Development. "Maryland Department of Housing and Community Development Warns of Housing Scam." Maryland.gov, June 21, 2024. Accessed January 31, 2025.

Black and Latinx renters are overrepresented among victims due to systemic barriers and historical inequities that hinder homeownership.¹⁰ Elderly renters are also frequent targets, as they may be less familiar with the complexities of online rental processes. Furthermore, immigrants face increased vulnerability due to language barriers and a lack of knowledge about local laws, making them prime targets for scammers.

The Lack of Judicial Oversight Before Occupant Removal

Senate Bill 489 mandates that the sheriff's office or law enforcement makes a legal determination regarding the legality of occupancy without judicial oversight, which raises significant concerns about due process and fair enforcement.¹¹ Law enforcement officers lack the training to evaluate the validity of complex legal claims, such as the authenticity of leases or the intricacies of property law, which are usually resolved in court.^{12 13} This practice poses a serious risk of wrongful removals, disproportionately impacting vulnerable populations - many of whom may face significant challenges in proving lawful possession. By circumventing judicial oversight, these actions erode the fairness of the legal process and bypass the essential checks and balances that courts provide to safeguard the rights of all parties. Additionally, residents subjected to unjust or unlawful removals are left without access to legal remedies, leaving them defenseless against wrongful eviction.

Collateral Consequences of Immediate Removal of Occupants

Removing tenants without providing adequate time to secure alternative housing or manage their belongings can lead to several significant consequences:

- *Increased Risk of Homelessness:* Immediate eviction leaves tenants with limited options, often resulting in temporary shelter use or homelessness. This abrupt displacement disrupts lives and can exacerbate existing vulnerabilities
- *Loss of Personal Belongings:* Without sufficient time, tenants may be unable to retrieve or arrange storage for their possessions. This can lead to the loss of essential items, further compounding the trauma of eviction.
- *Emotional and Psychological Distress:* The sudden upheaval associated with immediate eviction can cause significant stress, anxiety, and other mental health challenges, impacting overall well-being.
- *Negative Impact on Employment and Education:* Displacement can disrupt employment due to relocation challenges and affect children's education, leading to broader socioeconomic instability.

<https://news.maryland.gov/dhcd/2024/06/21/maryland-department-of-housing-and-community-development-warns-of-housing-scam/>.

¹⁰ Solomon, Danyelle, Connor Maxwell, and Abril Castro. "Systematic Inequality and Economic Opportunity." Center for American Progress, August 7, 2019. Accessed January 31, 2025.

<https://www.americanprogress.org/article/systematic-inequality/>.

¹¹ Urban Institute. The Risks of Eviction Without Judicial Oversight. Washington, D.C.: Urban Institute, 2023.

¹² People's Law Library of Maryland. "Evictions and the Role of Law Enforcement." Accessed January 17, 2025. <https://peoples-law.org>

¹³ American Bar Association. Judicial Oversight and Due Process in Eviction Cases. Washington, D.C.: ABA Publishing, 2023

- *Legal and Financial Repercussions:* Criminal charges can appear on a tenant's record, making it difficult to secure future housing and potentially affecting credit scores, which can have long-term financial implications. The ACLU of Maryland has reported that criminal penalties linked to housing laws disproportionately affect Black renters, worsening their economic and housing stability.¹⁴

Providing tenants with adequate notice and time to secure alternative housing and manage their belongings is crucial to mitigate these adverse outcomes and promote fair housing practices.

Collateral Racial Disparities Created by Senate Bill 489

The impact of housing challenges on Black and Latinx communities is both profound and alarming. In Maryland, Black and Latino renters, already grappling with significant income disparities, find themselves more vulnerable to scams as they often rely on informal networks or unverified platforms for housing.¹⁵ This economic vulnerability is exacerbated by systemic barriers rooted in historical redlining and housing discrimination, which have disproportionately affected these communities, making them heavily reliant on rental housing and more susceptible to fraud and displacement.^{16 17} Compounding this crisis, immigrant communities often steer clear of law enforcement and legal processes out of mistrust, leaving them defenseless against wrongful evictions and further trapping them in a cycle of instability.¹⁸

Furthermore, data reveals that policies incorporating criminal elements related to housing violations often lead to higher eviction rates among Black people and low-income populations. This is exacerbated by the economic disparities faced by Black families, who are more vulnerable to the negative consequences of expedited eviction processes and criminal penalties, making them particularly susceptible to these new challenges.^{19 20}

Existing Legal Protections for Property Owners

Maryland's current legal framework provides property owners with civil remedies to address unauthorized occupancy through wrongful detainer actions. Under Maryland Real Property Code §14-132, a wrongful detainer is defined as holding possession of real property without the right of possession.²¹ Property owners can file a complaint in the District Court of the county where the property is located. The court then issued a summons requiring the occupant to appear and show

¹⁴ ACLU Maryland. *Criminalizing Poverty: How Evictions and Fines Trap Black Communities*. Baltimore, MD: ACLU Maryland, 2023

¹⁵ Maryland Center on Economic Policy. *Racial Disparities in Housing and Wealth in Maryland*. Annapolis, MD: Maryland Center on Economic Policy, 2024.

¹⁶ Urban Institute. *The Legacy of Redlining: Housing Discrimination and Systemic Inequities*. Washington, D.C.: Urban Institute, 2023.

¹⁷ National Low Income Housing Coalition. *Out of Reach: The High Cost of Housing in America*. Washington, D.C.: NLIHC, 2024. <https://nlihc.org>.

¹⁸ ACLU Maryland. *Immigrant Rights and Housing Stability*. Baltimore, MD: ACLU Maryland, 2024.

¹⁹ Legal Aid Bureau of Maryland. *The Racial Impact of Evictions in Maryland*. Baltimore, MD: Maryland Legal Aid, 2024.

²⁰ Maryland Center on Economic Policy. *Racial Disparities in Housing and Wealth in Maryland*. Annapolis, MD: Maryland Center on Economic Policy, 2024

²¹ Maryland Real Property Code §14-132. "Wrongful Detainer Actions." Accessed January 17, 2025. <https://mgaleg.maryland.gov>.

the cause of the possession not being restored to the owner. If the court finds in favor of the property owner, it orders the sheriff to return possession to the complainant. Maryland's current wrongful detainer laws are sufficient to protect property owners who encounter illegal residents on their property because they provide a clear, civil legal process for owners to regain possession.²² This ensures due process for both the owner and the occupant, balancing the need for property owners to reclaim their property with protections against wrongful eviction.²³ The existing framework addresses such disputes without imposing criminal penalties or violating the tenants of due process.²⁴

While Senate Bill 489 aims to provide property owners a faster way to reclaim their property, it raises significant concerns regarding due process and the potential for disproportionately adverse effects on low-income renters and Black families in Maryland. It is crucial to balance the rights of property owners with the protections granted to tenants, ensuring that any legal measures do not unintentionally perpetuate systemic inequities or contribute to housing instability.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on Senate Bill 489.

Submitted by: Maryland Office of the Public Defender, Government Relations Division.

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²² Maryland District Court. Landlord and Tenant Cases: A Procedural Guide for Property Owners. Annapolis, MD: Maryland Judiciary, 2024

²³ Maryland Legal Aid. Tenant Rights and Responsibilities in Maryland. Baltimore, MD: Legal Aid Bureau of Maryland, 2024

²⁴ Maryland Center on Economic Policy. Balancing Property Rights and Housing Equity in Maryland. Annapolis, MD: Maryland Center on Economic Policy, 2024

CLS Opposition to SB0489 - Eviction wo Court Order

Uploaded by: Lisa Sarro

Position: UNF

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SB0489 –Criminal Law – Fraud – Possession of Residential Real Property

Hearing Before the Judicial Proceedings Committee February 6, 2025

Position: OPPOSED/UNFAVORABLE

To the Honorable Members of the Judicial Proceedings Committee:

Community Legal Services (CLS) appreciates the opportunity to share the reasons for our strong opposition to Senate Bill 0489. CLS provides free legal services to support and advocate for the rights and well-being of Maryland's most under-served communities. Our practice includes representation of victims of domestic violence and parties to contentious family law matters, often where there is an extreme power and financial imbalance.

SB 556 eliminates critical court oversight in eviction proceedings. This could easily result in the perpetuation of domestic abuse and circumvention of the family law process to evict households *lawfully* in possession of properties that are not titled in their names under court orders, such as protective orders or family law rulings granting use and possession of a home.

The Eviction Process in SB0489 Endangers Domestic Violence Survivors and Family Law Litigants

Domestic violence survivors frequently remain in the home they shared with their abuser as part of a protective order or a family court order awarding them use and possession of the home, even when they are not on the title or lease. These legal protections are lifesaving for survivors who need stability to rebuild their lives, keep their children safe, and avoid further harm from an abuser.

This is not hyperbole. Our office has a large and busy housing practice. We have lawyers in courts daily providing same day and extended representation for tenants in eviction actions, including unlawful detainers. We have experienced many more instances than one might expect where unlawful detainer actions were filed by owners on title to property hoping to circumvent ongoing protective and family law orders in an effort to evict their now-former spouse or intimate partner. In those cases, the current court process mandates court oversight, so judges can assess the situation and the parties' legal rights to ensure wrongful evictions do not occur. Under this bill, no such protection is provided.

By removing judicial oversight from the eviction process, SB0489 allows landlords, property owners, and even abusers or their family members to bypass the legal system and forcibly remove survivors from their homes. Because there is no requirement for actual notice of eviction dates in Maryland, survivors who have fought for and obtained a court order ensuring their safety could find themselves locked out, their belongings discarded, and their abuser reclaiming the home, all without any opportunity to assert their legal rights before a judge.

Law Enforcement Officers Are Not Equipped to Determine Lawful Possession, Nor Should They Be Required to Do So.

Without significant and ongoing training, law enforcement officers will not have the legal expertise necessary to determine whether an eviction is lawful, leading to wrongful evictions, including evictions that violate existing court orders. If deputies and constables are to be the final arbiters of whether an eviction is lawful, they must be extensively trained on:

- How to determine legal title to property versus lawful possession under court orders;
- How to determine in advance if there is a protective order or family law order in place related to the subject property;
- How to interpret protective orders and family law rulings that grant someone the right to remain in a home even if they are not on the title;
- How to assess valid claims of domestic violence and coercion to ensure that survivors are not being unlawfully removed from their homes by abusive partners or landlords acting in concert with abusers.

The Eviction Process in SB0489 Puts the Most Vulnerable at Risk of Losing Everything

A significant number of evictions occur when the person in possession is not home. If the

only mechanism to prevent an illegal eviction under SB 556 is for the resident to be physically present to object and provide proof of their right to remain, then countless individuals - especially working parents with children at daycare or in school and domestic violence survivors fearing for their safety if made to physically be present to object to their removal - will lose their homes without ever having a chance to defend themselves and their right to remain in the property.

This means that survivors who have finally secured stability and safety after escaping abuse could return home to find their locks changed and their belongings thrown to the curb. The irreparable harm caused by such wrongful evictions cannot be overstated. Survivors will be left homeless, lose irreplaceable personal property, and, in many cases, be forced back into dangerous situations with their abuser.

Conclusion

The eviction process provided in SB0489 is deeply flawed and dangerous for Maryland's most vulnerable residents. Eliminating judicial oversight in evictions will expose domestic violence survivors and family law litigants and their children to wrongful eviction, homelessness, and further violence.

For these reasons and more, **we urge the Committee to reject SB0489** and ensure that Maryland's eviction process remains fair, just, and protective of those who rely on the law for safety and stability. Please feel free to reach out to Jessica Quincosa, Executive Director, or Lisa Sarro, Community Legal Services Director of Litigation and Advocacy, with any questions at quincosa@clspgc.org and sarro@clspgc.org, respectively.

SB489 Criminal Trespass Wrongful Detainer PJC UNF

Uploaded by: Matt Hill

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SB 489: Criminal Law – Fraud – Possession of Residential Real Property

Hearing before the Senate Judicial Proceedings Committee on February 6, 2025

Position: OPPOSE (UNF)

The Public Justice Center (PJC) is a part of Renters United Maryland, which strongly opposes SB 489 because it will increase homelessness and the potential for violent encounters with law enforcement in our communities. We have seen too many tenants and other residents victimized by scams and predatory property owners. SB 489 will empower those predatory property owners to *evict residents without court process* and *make the Sheriff the judge and jury* in every case. We strongly oppose this assault on our communities.

A recent Public Justice Center client demonstrates the unconstitutional denial of due process, homelessness, and potential for violence that SB 489 would wreak. Our client and 6 other elderly or disabled tenants had been living in a home in Baltimore City for years, paying rent each month. A new owner purchased the property and even though he knew that there were seven elderly or disabled tenants in the home, he decided that he did not want to maintain the property and filed a complaint for Wrongful Detainer. The new owner thought that since he hadn't signed a lease, the residents were not tenants, which is completely wrong. Our clients never received notice of a court date, and didn't even know about the case until they received an eviction notice. We filed an emergency motion to stay the eviction with the court which was granted on the day that the eviction was supposed to take place. The parties subsequently settled. **If SB 489 were enacted, this new owner would only need to claim that the renters were not authorized to live in the home, and then the Sheriff would be required to evict them without any court process.**

Landlords already have a process for removal of unwanted occupants: Wrongful detainer, and even that process is riddled with errors. We have seen far too many clients who have been victims of scams, predatory landlords, and owner-management disputes. For example, some of our clients find a home online, are taken on a tour of the property, sign a lease, pay a security deposit and first month's rent, and are given keys to the property. Two weeks later they hear a knock on the door and are told that the rightful owner of the property did not authorize leasing the property. In another variation on this scheme, we have found instances in which a property management company claimed that they had the right to lease the property, but the owner disagreed. The tenant-resident is caught in the middle. Still in other cases, we have seen some unscrupulous landlords enter into a verbal agreement to lease and take the tenant's money, but after the tenant enters the property and starts to complain about

serious and substantial defects, the unscrupulous owner claims that there was never a landlord-tenant relationship.

Predatory landlords will abuse this process to evict tenants who complain about unsafe conditions. And landlords who threaten to report tenants as squatters will prompt plenty of tenants to vacate – even if that means homelessness – for fear of having the police called to their residences.

Rental scams are pervasive and increasing. Victims of these scams will quickly be made homeless under SB 489. A [2022 survey of renters showed that 44% of renters have personally experienced or are aware of someone who has lost money due to rental scams. The financial losses are estimated at a staggering \\$16.1 billion.](#) Such rental scams have spiked in recent years, with [the Better Business Bureau reporting a 45% increase in rental scam complaints over the past two years.](#) In one 2018 survey, [more than 5 million renters reported losing money in such scams.](#)

[Up to 25% of families who are evicted become homeless.](#) Becoming homeless is even more likely for residents evicted after a rental scam because those residents are often the most desperate for affordable housing. [Homelessness has a devastating impact, leading to negative education outcomes for children, increased foster care, job loss, and poor health outcomes.](#)

SB 489 will increase violent confrontations with law enforcement. [Eviction court processes were created to reduce the violence inherent in self-help evictions.](#) By removing any opportunity for a renter to make a defense in court, SB 489 will increase potentially violent confrontations among law enforcement, renters, and property owners.

SB 489 will have a disparate impact on Black, woman-led households. Maryland's long history of housing segregation and discriminatory policies mean that Black and Brown Marylanders are much more likely to be renters and at risk of eviction, and therefore more likely to be most in need of affordable housing and victims of rental scams. [73% of MD households that obtained eviction prevention funds in the pandemic's wake identified as Black, and 71% identified as being woman-led.](#)

SB 489 is part of a national, right-wing movement to strip residents of constitutional rights and embolden property owners at all costs. [SB 556 mirrors model legislation from American Legislative Exchange Council \(ALEC\), which has successfully passed in states such as Alabama, Tennessee, Florida, Georgia, and West Virginia.](#) Maryland should not join these states in passing legislation that will increase homelessness and the potential for violent law enforcement encounters.

Owners must adopt new processes and technologies to secure their units. Rental scammers are becoming more sophisticated, and [property owners of vacant units must keep up by using smart locks, security cameras, video doorbells, motion sensors, and smart lighting,](#) which allow for remote monitoring and access control, providing real-time alerts about potential security threats.

There is no data to support this bill. The General Assembly should conduct a summer study of ways to improve Wrongful Detainer. This Committee is operating in a total absence of data related to Wrongful Detainer and the prevalence of squatting. How long does it take for a wrongful detainer complaint to be heard in court? How long from judgment to eviction? What best practices could sheriffs and courts adopt in wrongful detainer cases? Can Maryland revise the Wrongful Detainer process to address legitimate concerns while preserving due process for unsuspecting residents who believe that they are tenants? How can Maryland better assist victims of rental scams?

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.

Public Justice Center is a member of Renters United Maryland, which strongly opposes SB 489 and urges as unfavorable report. If you have any questions, please contact C. Matthew Hill, hillm@publicjustice.org, (410) 625-9409 Ext. 229.

SB 489 - MSAA Unfavorable.pdf

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Position: UNF



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Rich Gibson
President

Steven I. Kroll
Coordinator

DATE: February 4, 2025

BILL NUMBER: SB 489

POSITION: Unfavorable

The Maryland State's Attorneys' Association (MSAA) opposes Senate Bill 489 and urges this Committee to issue an unfavorable report.

SB 489 has two components. The first prohibits an individual from falsely possessing or claiming a right to possess real property with the intent to defraud another. Although Maryland law currently affords prosecutors adequate tools to hold accountable those that would engage in this conduct, MSAA applauds the General Assembly's attention to the unique harm caused by these types of criminal offenses.

The second component of SB 489, however, establishes an unworkable system that authorizes a sheriff's office to function much like a court, albeit without any of the procedural guardrails or due process protections normally observed in eviction proceedings. The bill requires a sheriff to remove an occupant from real property upon receipt of an affidavit stating that the occupant is fraudulently in possession of that property. If the occupant provides the sheriff with evidence that they are lawfully in possession of that property, however, the sheriff may not remove them.

Questions of whether an individual is lawfully in possession of property can be subtle and nuanced – these cases often involve complex legal analysis, close examination of records and documents, and evaluations of witness credibility. Given the magnitude of the outcome – potentially removing an individual from their residence using the force of the state – these questions are best left to the judicial system. MSAA understands that these situations can be frustrating for victims, as the process to obtain a court order can be lengthy and expensive, but the solution created by SB 489 moves too far in the other direction and creates a new system that is even more ripe for abuse than the current one. MSAA is eager to work with legislators to develop solutions that would afford victims prompt recourse when a perpetrator is fraudulently in possession of their property, but opposes SB 489 in its current form.