



Maryland State's Attorneys' Association

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DATE: **January 17, 2025**

BILL NUMBER: **HB 164**

POSITION: **Unfavorable**

The Maryland State's Attorneys' Association (MSAA) opposes House Bill 164 and urges this Committee to issue an unfavorable report.

HB 164 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 HB 164, 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 HB 164 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 HB 164 in its current form.