

# SENATE BILL 46

E1, N1

5lr0913

(PRE-FILED)

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By: **Senator Watson**

Requested: September 20, 2024

Introduced and read first time: January 8, 2025

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Fraud – Possession of Residential Real Property**

3 FOR the purpose of prohibiting a person from possessing or claiming a right to possess  
4 residential real property the person does not lawfully possess or own, with the intent  
5 to defraud another; authorizing the owner of certain residential real property to file  
6 a certain sworn affidavit and requiring a sheriff to remove a certain person from  
7 residential real property under certain circumstances; providing this Act does not  
8 prohibit the owner of residential real property from filing a wrongful detainer action;  
9 and generally relating to fraudulent possession of residential real property.

10 BY adding to

11 Article – Criminal Law

12 Section 8–906

13 Annotated Code of Maryland

14 (2021 Replacement Volume and 2024 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
16 That the Laws of Maryland read as follows:

17 **Article – Criminal Law**

18 **8–906.**

19 **(A) A PERSON MAY NOT, WITH INTENT TO DEFRAUD ANOTHER, POSSESS OR**  
20 **CLAIM A RIGHT TO POSSESS RESIDENTIAL REAL PROPERTY THE PERSON DOES NOT**  
21 **LAWFULLY POSSESS OR OWN.**

22 **(B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR**  
23 **AND ON CONVICTION IS SUBJECT TO:**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           **(1) FOR A FIRST VIOLATION, IMPRISONMENT NOT EXCEEDING 90**  
2 **DAYS OR A FINE NOT EXCEEDING \$500 OR BOTH;**

3           **(2) FOR A SECOND VIOLATION OCCURRING WITHIN 2 YEARS AFTER**  
4 **THE FIRST VIOLATION, IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT**  
5 **EXCEEDING \$1,000 OR BOTH; AND**

6           **(3) FOR EACH SUBSEQUENT VIOLATION OCCURRING WITHIN 2 YEARS**  
7 **AFTER THE PRECEDING VIOLATION, IMPRISONMENT NOT EXCEEDING 1 YEAR OR A**  
8 **FINE NOT EXCEEDING \$2,500 OR BOTH.**

9           **(c) (1) THIS SUBSECTION DOES NOT APPLY IF:**

10                   **(i) THE PERSON IN ACTUAL POSSESSION OF THE RESIDENTIAL**  
11 **REAL PROPERTY HAS BEEN GRANTED POSSESSION UNDER A COURT ORDER; OR**

12                   **(ii) A REMEDY IS AVAILABLE UNDER TITLE 8 OF THE REAL**  
13 **PROPERTY ARTICLE.**

14           **(2) THE OWNER OF RESIDENTIAL REAL PROPERTY IN THE**  
15 **POSSESSION OF ANOTHER ALLEGEDLY IN VIOLATION OF SUBSECTION (A) OF THIS**  
16 **SECTION MAY SUBMIT A SWORN AFFIDAVIT TO THE SHERIFF FOR A COUNTY IN**  
17 **WHICH THE PROPERTY IS LOCATED STATING THAT THE PERSON IS FRAUDULENTLY**  
18 **IN POSSESSION OF THE PROPERTY.**

19           **(3) (i) SUBJECT TO SUBPARAGRAPH (ii) OF THIS PARAGRAPH, A**  
20 **SHERIFF SHALL REMOVE A PERSON IN POSSESSION OF RESIDENTIAL REAL**  
21 **PROPERTY AFTER RECEIVING AN AFFIDAVIT SUBMITTED UNDER PARAGRAPH (2) OF**  
22 **THIS SUBSECTION AND RETURN POSSESSION OF THE PROPERTY TO THE OWNER.**

23                   **(ii) A DEPUTY SHERIFF MAY NOT REMOVE A PERSON IN**  
24 **POSSESSION OF RESIDENTIAL REAL PROPERTY FOLLOWING THE FILING OF AN**  
25 **AFFIDAVIT UNDER SUBPARAGRAPH (i) OF THIS PARAGRAPH IF THE PERSON IN**  
26 **POSSESSION PRODUCES EVIDENCE OF LAWFUL POSSESSION OF THE PROPERTY TO**  
27 **THE LAW ENFORCEMENT OFFICER.**

28           **(d) THIS SECTION DOES NOT PROHIBIT THE OWNER OF RESIDENTIAL REAL**  
29 **PROPERTY FROM FILING A SUIT UNDER § 14–132 OF THE REAL PROPERTY ARTICLE.**

30           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
31 October 1, 2025.