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MEMORANDUM

To: Senate Committee on Judiciary

From: Office of Revisor of Statutes

Date: March 17, 2025

Subject: Bill Brief on HB 2378 (As Amended by House Committee of the Whole)

House Bill 2378 establishes the removal of squatters act, provides a procedure to remove a squatter from a dwelling unit, requires owners or agents of dwelling units to provide an affidavit to the sheriff, requires notice to vacate by the sheriff, establishes the crime of providing a false affidavit and establishes a civil cause of action for wrongful removal of a person from a dwelling unit, and allows attorney fees and punitive damages.

Section 1 provides a policy statement for the act.

Section 2 provides that the owner or agent of a dwelling unit may request the removal of an unauthorized person from the dwelling unit by submitting a notarized affidavit to a law enforcement agency in the county where the dwelling unit is located. The affidavit is required to contain statements that (1) the affiant is the owner or agent, (2) a person has entered and is remaining unlawfully in the dwelling, (3) the person was not authorized to enter the dwelling, (4) the person is not a tenant or holdover tenant, (5) the affiant has requested the unauthorized person to vacate the dwelling unit and the person has not, and (6) the unauthorized person is not an immediate family member of the property owner. An affiant who knowingly provides a false affidavit under this section may be charged with a class A nonperson misdemeanor.

Section 3 provides that upon receipt of an affidavit, the applicable law enforcement agency shall verify that the affiant is the owner or agent of the dwelling unit and appears to be entitled to relief. After verification and at least 24 hours from receipt of the affidavit, a law enforcement officer shall serve a notice on the unauthorized person to vacate immediately. Service may be by hand delivery or by posting notice on the front door or entrance of the dwelling unit. The law enforcement agency shall attempt to verify the identities of all persons

occupying the dwelling and note the identities on the return of service. The law enforcement officer may charge a fee of not more than \$50 to process an affidavit under this act.

Section 4 requires the affiant owner of a dwelling unit to provide notice at the dwelling unit notifying the unauthorized person that such person has no right to occupant the dwelling unit and must vacate immediately. The notice shall include the address of the law enforcement agency where the affidavit was delivered, and a copy of such notice shall be attached to the affidavit.

Section 5 provides that no law enforcement agency or such agency's deputies or employees or a political subdivision shall be liable for any action or omission made in good faith pursuant to this act. A law enforcement officer is not liable to an unauthorized person for loss, destruction or damage to property.

Section 6 authorizes a person to bring a civil cause of action for wrongful removal under this act against an owner or agent of a dwelling unit. A person harmed by a wrongful removal may have possession of the dwelling unit restored and may recover actual costs and damages as well as punitive damages of triple the fair market rent of the dwelling plus court costs and attorney fees.

Section 7 provides definitions used throughout the act and provides that occupancy by a squatter is excluded from the residential landlord tenant act and the removal of a squatter shall not require the use of an eviction action under that act.