
SUBSTITUTE SENATE BILL 5553

State of Washington

58th Legislature

2004 Regular Session

By Senate Committee on Financial Services, Insurance & Housing
(originally sponsored by Senators Mulliken, Oke, T. Sheldon and
Stevens)

READ FIRST TIME 02/04/04.

1 AN ACT Relating to providing for the option for immediate eviction
2 of tenants who are involved in criminal actions or unlawful civil
3 disruptions; amending RCW 59.18.130 and 59.12.030; adding new sections
4 to chapter 59.18 RCW; and creating a new section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that under existing
7 landlord tenant laws, persons who are renting or leasing properties, as
8 well as their agencies and neighbors of the properties, do not have
9 means to immediately evict tenants involved in criminal actions.

10 The legislature further finds that with the absence of an immediate
11 legal means to remove disruptive tenants, the property owners, agents,
12 and neighbors suffer significant losses in the property and quiet
13 enjoyment of their residence. These losses continue when disruptive
14 tenants are allowed to remain on the premises pending court action,
15 under existing unlawful detainer law.

16 The legislature intends to protect property owners, agents, and
17 neighbors from further mental anguish, threats, physical harm, and
18 financial loss by providing for the immediate eviction of persons

1 committing criminal actions or unlawful civil disruptions based upon
2 the findings of fact and the legal conclusions of a court of law.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 59.18 RCW
4 to read as follows:

5 (1) A landlord or neighbor petitioner, with supporting evidence and
6 documentation, may request a court having jurisdiction to authorize the
7 immediate eviction of a tenant, if the tenant has:

8 (a) Misbranded drugs by misleading representation under RCW
9 69.04.530;

10 (b) Possessed, manufactured, or delivered drugs in violation of the
11 uniform controlled substances act, chapter 69.50 RCW;

12 (c) Committed a violation involving methamphetamine under RCW
13 69.50.401 or 69.50.440;

14 (d) Committed arson, reckless burning, and/or malicious mischief
15 under chapter 9A.48 RCW;

16 (e) Committed acts of domestic violence as defined in RCW
17 26.50.010;

18 (f) Committed malicious placement of an explosive, malicious
19 explosion of a substance, and/or threatened to bomb or injure property
20 under RCW 70.74.270, 70.74.272, 70.74.275, 70.74.280, or 9.61.160;

21 (g) Committed a public disturbance under RCW 9A.84.010 or
22 9A.84.020;

23 (h) Committed assault under chapter 9A.36 RCW;

24 (i) Committed homicide as defined under RCW 9A.32.010; or

25 (j) Committed a felony sexual offense as defined under chapter
26 9A.44 RCW.

27 (2)(a) Following a request under subsection (1) of this section, a
28 court shall convene a hearing attended by the tenant and petitioner to
29 determine whether the tenant should be immediately removed from the
30 property. The court may request attendance of a social services agency
31 for temporary relocation assistance. The court may issue a writ of
32 restitution for the eviction of the tenant.

33 (b) The judge presiding over the hearing under (a) of this
34 subsection must make an eviction determination based upon findings of
35 fact and conclusions of law that is supported by a preponderance of
36 evidence establishing that the tenant poses either a safety or health
37 threat to the tenant's neighbors, cotenants, landowner, landowner's

1 property, or to the public welfare which outweighs the tenant's
2 interest in remaining at the premises. In the event a health or safety
3 threat is found to exist, the tenant will not be entitled to return to
4 the premises except as provided in subsection (3)(b) of this section.

5 (c) Persons giving false statements or testimony may be prosecuted
6 by law under RCW 9.72.090 and 5.28.060.

7 (3)(a) Upon eviction, the tenant as well as all persons and animals
8 living with the tenant must be permanently removed from the premises,
9 except that a cotenant shall not be removed or evicted if:

10 (i) The cotenant is a victim of any of the criminal or civil
11 illegal activities under subsection (1) of this section that is the
12 basis for the proceeding; or

13 (ii) The cotenant did not know of and could not reasonably have
14 known of, or could not reasonably have prevented the commission of the
15 act that is the basis for the proceeding.

16 (b) Personal property must be retrieved within three days,
17 accompanied by a sheriff or sheriff's deputy. If the third day should
18 fall upon a weekend or holiday recognized by the court of jurisdiction,
19 the property is not required to be retrieved until the next business
20 day.

21 (4)(a) The eviction and writ of restitution must take place on the
22 same day signed by the court. If scheduling does not permit for issue
23 of the writ of eviction and writ of restitution the same day, the writs
24 must be served by noon the following day.

25 (b) To enforce the court-ordered eviction, the petitioner must be
26 accompanied by the sheriff.

27 (5) Nothing in this section shall be construed to reduce the
28 requirements of the landlord or owner having to post a bond under RCW
29 59.12.090.

30 (6) A petitioner proceeding under this section must comply with the
31 service of notice requirements in RCW 59.12.040 and all requirements
32 concerning the complaint and summons under RCW 59.12.070.

33 (7) All requirements pertaining to unlawful detainer actions in
34 chapter 59.12 RCW are applicable to this section and RCW 59.18.130,
35 with the exceptions of RCW 59.12.100, 59.12.110, 59.12.130, 59.12.140,
36 59.12.150, 59.12.160, 59.12.170, 59.12.190, 59.12.210, and 59.12.220.

37 (8) A neighbor petitioner must comply with the same requirements
38 applicable to a landlord or owner under this section.

1 **Sec. 3.** RCW 59.18.130 and 1998 c 276 s 2 are each amended to read
2 as follows:

3 Each tenant shall pay the rental amount at such times and in such
4 amounts as provided for in the rental agreement or as otherwise
5 provided by law and comply with all obligations imposed upon tenants by
6 applicable provisions of all municipal, county, and state codes,
7 statutes, ordinances, and regulations, and in addition shall:

8 (1) Keep that part of the premises which he or she occupies and
9 uses as clean and sanitary as the conditions of the premises permit;

10 (2) Properly dispose from his or her dwelling unit all rubbish,
11 garbage, and other organic or flammable waste, in a clean and sanitary
12 manner at reasonable and regular intervals, and assume all costs of
13 extermination and fumigation for infestation caused by the tenant;

14 (3) Properly use and operate all electrical, gas, heating, plumbing
15 and other fixtures and appliances supplied by the landlord;

16 (4) Not intentionally or negligently destroy, deface, damage,
17 impair, or remove any part of the structure or dwelling, with the
18 appurtenances thereto, including the facilities, equipment, furniture,
19 furnishings, and appliances, or permit any member of his or her family,
20 invitee, licensee, or any person acting under his or her control to do
21 so. Violations may be prosecuted under chapter 9A.48 RCW if the
22 destruction is intentional and malicious;

23 (5) Not permit a nuisance or common waste;

24 (6) Not engage in drug-related activity at the rental premises, or
25 allow a subtenant, sublessee, resident, or anyone else to engage in
26 drug-related activity at the rental premises with the knowledge or
27 consent of the tenant. "Drug-related activity" means that activity
28 which constitutes a violation of chapter 69.41, 69.50, or 69.52 RCW;

29 (7) Maintain the smoke detection device in accordance with the
30 manufacturer's recommendations, including the replacement of batteries
31 where required for the proper operation of the smoke detection device,
32 as required in RCW 48.48.140(3);

33 (8) Not engage in any activity at the rental premises that is:

34 (a) Imminently hazardous to the physical safety of other persons on
35 the premises; and

36 (b)(i) Entails physical assaults upon another person which result
37 in an arrest; or

1 (ii) Entails the unlawful use of a firearm or other deadly weapon
2 as defined in RCW 9A.04.110 which results in an arrest, including
3 threatening another tenant or the landlord with a firearm or other
4 deadly weapon under RCW 59.18.352. Nothing in this subsection (8)
5 shall authorize the termination of tenancy and eviction of the victim
6 of a physical assault or the victim of the use or threatened use of a
7 firearm or other deadly weapon;

8 (9) Not engage in any gang-related activity at the premises, as
9 defined in RCW 59.18.030, or allow another to engage in such activity
10 at the premises, that renders people in at least two or more dwelling
11 units or residences insecure in life or the use of property or that
12 injures or endangers the safety or health of people in at least two or
13 more dwelling units or residences. In determining whether a tenant is
14 engaged in gang-related activity, a court should consider the totality
15 of the circumstances, including factors such as whether there have been
16 a significant number of complaints to the landlord about the tenant's
17 activities at the property, damages done by the tenant to the property,
18 including the property of other tenants or neighbors, harassment or
19 threats made by the tenant to other tenants or neighbors that have been
20 reported to law enforcement agencies, any police incident reports
21 involving the tenant, and the tenant's criminal history; (~~and~~)

22 (10) Upon termination and vacation, restore the premises to their
23 initial condition except for reasonable wear and tear or conditions
24 caused by failure of the landlord to comply with his or her obligations
25 under this chapter: PROVIDED, That the tenant shall not be charged for
26 normal cleaning if he or she has paid a nonrefundable cleaning fee; and

27 (11) Not engage in any prohibited activities, at the premises, as
28 provided in section 2(1) of this act. Section 2(3)(a) of this act
29 applies to this subsection.

30 **Sec. 4.** RCW 59.12.030 and 1998 c 276 s 6 are each amended to read
31 as follows:

32 A tenant of real property for a term less than life is guilty of
33 unlawful detainer either:

34 (1) When he or she holds over or continues in possession, in person
35 or by subtenant, of the property or any part thereof after the
36 expiration of the term for which it is let to him or her. When real

1 property is leased for a specified term or period by express or implied
2 contract, whether written or oral, the tenancy shall be terminated
3 without notice at the expiration of the specified term or period;

4 (2) When he or she, having leased property for an indefinite time
5 with monthly or other periodic rent reserved, continues in possession
6 thereof, in person or by subtenant, after the end of any such month or
7 period, when the landlord, more than twenty days prior to the end of
8 such month or period, has served notice (in manner in RCW 59.12.040
9 provided) requiring him or her to quit the premises at the expiration
10 of such month or period;

11 (3) When he or she continues in possession in person or by
12 subtenant after a default in the payment of rent, and after notice in
13 writing requiring in the alternative the payment of the rent or the
14 surrender of the detained premises, served (in manner in RCW 59.12.040
15 provided) in behalf of the person entitled to the rent upon the person
16 owing it, has remained uncomplied with for the period of three days
17 after service thereof. The notice may be served at any time after the
18 rent becomes due;

19 (4) When he or she continues in possession in person or by
20 subtenant after a neglect or failure to keep or perform any other
21 condition or covenant of the lease or agreement under which the
22 property is held, including any covenant not to assign or sublet, than
23 one for the payment of rent, and after notice in writing requiring in
24 the alternative the performance of such condition or covenant or the
25 surrender of the property, served (in manner in RCW 59.12.040 provided)
26 upon him or her, and if there is a subtenant in actual possession of
27 the premises, also upon such subtenant, shall remain uncomplied with
28 for ten days after service thereof. Within ten days after the service
29 of such notice the tenant, or any subtenant in actual occupation of the
30 premises, or any mortgagee of the term, or other person interested in
31 its continuance, may perform such condition or covenant and thereby
32 save the lease from such forfeiture;

33 (5) When he or she commits or permits waste upon the demised
34 premises, or when he or she sets up or carries on thereon any unlawful
35 business, or when he or she erects, suffers, permits, or maintains on
36 or about the premises any nuisance, and remains in possession after the
37 service (in manner in RCW 59.12.040 provided) upon him or her of three
38 days' notice to quit;

1 (6) A person who, without the permission of the owner and without
2 having color of title thereto, enters upon land of another and who
3 fails or refuses to remove therefrom after three days' notice, in
4 writing and served upon him or her in the manner provided in RCW
5 59.12.040. Such person may also be subject to the criminal provisions
6 of chapter 9A.52 RCW; ((~~or~~))

7 (7) When he or she commits or permits any gang-related activity at
8 the premises as prohibited by RCW 59.18.130; or

9 (8) When he or she commits or permits any of the prohibited
10 activities at the premises as provided in section 2(1) of this act.

11 NEW SECTION. Sec. 5. A new section is added to chapter 59.18 RCW
12 to read as follows:

13 A writ of restitution must be issued as provided in section 2(4)(a)
14 of this act. The provisions of chapter 59.12 RCW, with the exception
15 of RCW 59.12.100 and 59.12.110, apply to this section.

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