
SENATE BILL 5905

State of Washington

59th Legislature

2005 Regular Session

By Senators Mulliken and Oke

Read first time 02/14/2005. Referred to Committee on Financial Institutions, Housing & Consumer Protection.

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, and may move for a restraining order or
8 permanent injunction against a tenant pursuant to chapter 7.40 RCW, if
9 the tenant has:

10 (a) Misbranded drugs by misleading representation under RCW
11 69.04.530;

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

14 (c) Committed a violation involving methamphetamine under RCW
15 69.50.401 or 69.50.440;

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

18 (e) Committed acts of domestic violence as defined in RCW
19 26.50.010;

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

23 (g) Committed a public disturbance under RCW 9A.84.010 or
24 9A.84.020;

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

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

27 (j) Committed a felony sexual offense as defined under chapter
28 9A.44 RCW.

29 (2)(a) Following a request under subsection (1) of this section, a
30 court shall convene a hearing attended by the tenant and petitioner to
31 determine whether the tenant should be immediately removed from the
32 property, and in the case of a restraining order or permanent
33 injunction, whether the tenant should be allowed to return to the
34 property. The court may request attendance of a social services agency
35 for temporary relocation assistance. The court may issue a writ of
36 restitution for the eviction of the tenant.

1 (b) The judge presiding over the hearing under (a) of this
2 subsection must make an eviction determination based upon findings of
3 fact and conclusions of law that is supported by a preponderance of
4 evidence establishing that the tenant poses either a safety or health
5 threat to the tenant's neighbors, cotenants, landowner, landowner's
6 property, or to the public welfare which outweighs the tenant's
7 interest in remaining at the premises. In the event a health or safety
8 threat is found to exist, the tenant will not be entitled to return to
9 the premises except as provided in subsection (3)(b) of this section.

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

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

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

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

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

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

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

32 (5) Nothing in this section shall be construed to reduce the
33 requirements of the landlord or owner having to post a bond under RCW
34 59.12.090.

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

1 (7) All requirements pertaining to unlawful detainer actions in
2 chapter 59.12 RCW are applicable to this section and RCW 59.18.130,
3 with the exceptions of RCW 59.12.100, 59.12.110, 59.12.130, 59.12.140,
4 59.12.150, 59.12.160, 59.12.170, 59.12.190, 59.12.210, and 59.12.220.

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

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

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

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

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

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

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

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

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

35 (7) Maintain the smoke detection device in accordance with the
36 manufacturer's recommendations, including the replacement of batteries

1 where required for the proper operation of the smoke detection device,
2 as required in RCW 48.48.140(3);

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

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

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

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

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

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

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

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

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

5 (1) When he or she holds over or continues in possession, in person
6 or by subtenant, of the property or any part thereof after the
7 expiration of the term for which it is let to him or her. When real
8 property is leased for a specified term or period by express or implied
9 contract, whether written or oral, the tenancy shall be terminated
10 without notice at the expiration of the specified term or period;

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

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

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

1 its continuance, may perform such condition or covenant and thereby
2 save the lease from such forfeiture;

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

9 (6) A person who, without the permission of the owner and without
10 having color of title thereto, enters upon land of another and who
11 fails or refuses to remove therefrom after three days' notice, in
12 writing and served upon him or her in the manner provided in RCW
13 59.12.040. Such person may also be subject to the criminal provisions
14 of chapter 9A.52 RCW; (~~or~~)

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

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

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

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

--- END ---