
ENGROSSED SUBSTITUTE SENATE BILL 5388

State of Washington

65th Legislature

2017 Regular Session

By Senate Law & Justice (originally sponsored by Senators Zeiger, Sheldon, Kuderer, Padden, Wilson, Conway, Fortunato, Hobbs, Becker, Warnick, and Honeyford)

READ FIRST TIME 02/09/17.

1 AN ACT Relating to the removal of unauthorized persons from
2 certain premises; adding new sections to chapter 9A.52 RCW; and
3 adding a new section to chapter 4.24 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 9A.52
6 RCW to read as follows:

7 (1) Subject to subsections (2) and (3) of this section and upon
8 the receipt of a declaration signed under penalty of perjury and
9 containing all of the required information and in the form prescribed
10 in section 2 of this act, a peace officer shall have the authority
11 to:

12 (a) Remove the person or persons from the premises, with or
13 without arresting the person or persons; and

14 (b) Order the person or persons to remain off the premises or be
15 subject to arrest for criminal trespass.

16 (2) Only a peace officer having probable cause to believe that a
17 person is guilty of criminal trespass under RCW 9A.52.070 for
18 knowingly entering or remaining unlawfully in a building considered
19 residential real property, as defined in RCW 61.24.005, has the
20 authority and discretion to make an arrest or exclude anyone under
21 penalty of criminal trespass.

1 (3) While a peace officer can take into account a declaration
2 from the property owner signed under penalty of perjury containing
3 all of the required information and in the form prescribed in section
4 2 of this act, the peace officer must provide the occupant or
5 occupants with a reasonable opportunity to secure and present any
6 credible evidence provided by the person or persons on the premises,
7 which the peace officer must consider, showing that the person or
8 persons are tenants, legal occupants, or the guests or invitees of
9 tenants or legal occupants.

10 (4) Neither the peace officer nor his or her law enforcement
11 agency shall be held liable for actions or omissions made in good
12 faith under this section.

13 (5) This section may not be construed to allow a peace officer to
14 remove or exclude an occupant who is entitled to occupy a dwelling
15 unit under a rental agreement or the occupant's guests or invitees.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 9A.52
17 RCW to read as follows:

18 The owner of premises, or his or her authorized agent, may
19 initiate the investigation and request the removal of an unauthorized
20 person or persons from the premises by providing to law enforcement a
21 declaration containing all of the following required information and
22 in substantially the following form:

23 REQUEST TO REMOVE TRESPASSER(S) FORM

24 The undersigned owner, or authorized agent of the owner, of the
25 premises located at hereby represents and declares under
26 the penalty of perjury that (initial each box):

27 (1) [] The declarant is the owner of the premises or the
28 authorized agent of the owner of the premises;

29 (2) [] An unauthorized person or persons have entered and are
30 remaining unlawfully on the premises;

31 (3) [] The person or persons were not authorized to enter or
32 remain;

33 (4) [] The person or persons are not a tenant or tenants and
34 have not been a tenant or tenants for the last twelve months on that
35 property;

36 (5) [] The declarant has demanded that the unauthorized person
37 or persons vacate the premises but they have not done so;

1 (6) [] The premises were not abandoned at the time the
2 unauthorized person or persons entered;

3 (7) [] The premises were not open to members of the public at
4 the time the unauthorized person or persons entered;

5 (8) [] The declarant understands that a person or persons
6 removed from the premises pursuant to section 1 of this act may bring
7 a cause of action under section 3 of this act against the declarant
8 for any false statements made in this declaration, and that as a
9 result of such action the declarant may be held liable for actual
10 damages, costs, and reasonable attorneys' fees;

11 (9) [] The declarant understands and acknowledges the
12 prohibitions in RCW 59.18.230 and 59.18.290 against taking or
13 detaining an occupant's personal property or removing or excluding an
14 occupant from a dwelling unit or rental premises without an
15 authorizing court order;

16 (10) [] The declarant agrees to indemnify and hold harmless law
17 enforcement for its actions or omissions made in good faith pursuant
18 to this declaration; and

19 (11) [] Additional Optional Explanatory Comments:
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22 An owner of premises who falsely swears on a declaration provided
23 under this section may be guilty of false swearing under RCW
24 9A.72.040 or of making a false or misleading statement to a public
25 servant under RCW 9A.76.175, both of which are gross misdemeanors.

26 NEW SECTION. **Sec. 3.** A new section is added to chapter 4.24 RCW
27 to read as follows:

28 All persons removed from premises pursuant to section 1 of this
29 act on the basis of false statements made by a declarant pursuant to
30 section 2 of this act shall have a cause of action to recover from
31 the declarant for the full amount of damages caused thereby, together
32 with costs and reasonable attorneys' fees.

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