

1 SENATE BILL 359

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

4 Craig W. Brandt

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10 AN ACT

11 RELATING TO PROPERTY CRIME; PROVIDING A PROCESS FOR REMOVING
12 UNLAWFUL OCCUPANTS OF REAL PROPERTY FROM THAT PROPERTY;
13 PROVIDING A FORM TO REQUEST THE REMOVAL OF AN UNLAWFUL OCCUPANT
14 FROM REAL PROPERTY; PROVIDING PROCEDURES FOR LAW ENFORCEMENT TO
15 REMOVE UNLAWFUL OCCUPANTS FROM REAL PROPERTY; PRESCRIBING
16 PROCEDURES FOR NOTICE; CREATING A CAUSE OF ACTION FOR PERSONS
17 WHO WERE WRONGFULLY REMOVED FROM REAL PROPERTY; AMENDING THE
18 CLASSIFICATION OF THE CRIMES OF CRIMINAL DAMAGE TO PROPERTY AND
19 FRAUD.

20
21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

22 SECTION 1. A new section of Chapter 31 NMSA 1978 is
23 enacted to read:

24 "[NEW MATERIAL] REMOVAL OF UNLAWFUL OCCUPANTS--FORM.--

25 A. As used in this section, "unlawfully occupying"

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1 means a crime constituting trespassing pursuant to Chapter 30,
2 Article 14 NMSA 1978.

3 B. A property owner or the property owner's
4 authorized agent may request from the sheriff of a county in
5 which the real property is located the immediate removal of a
6 person or persons unlawfully occupying real property owned by
7 that property owner; provided that:

8 (1) the requester is the property owner or
9 authorized agent of the property owner;

10 (2) the real property that is being occupied
11 includes a residential dwelling;

12 (3) the purported unlawful occupant or
13 occupants entered without permission from the property owner or
14 the authorized agent of the property owner and continuously
15 reside on the real property in question;

16 (4) the real property was not open to members
17 of the public at the time the unlawful occupant or occupants
18 entered;

19 (5) the property owner or authorized agent of
20 the property owner has directed the unlawful occupant or
21 occupants to leave the real property;

22 (6) the unlawful occupant or occupants are not
23 current or former residents of the real property at issue
24 pursuant to a written or oral rental agreement pursuant to the
25 Uniform Owner-Resident Relations Act;

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1 (7) the unlawful occupant or occupants are not
2 immediate family members of the property owner; and

3 (8) there is no pending litigation related to
4 the real property between the property owner and any known
5 unlawful occupant or occupants.

6 C. To request the immediate removal of an unlawful
7 occupant of real property, the property owner or the property
8 owner's authorized agent shall submit a complaint by presenting
9 a completed and verified complaint to remove unlawful occupants
10 of real property to the sheriff of the county in which the real
11 property is located. The submitted complaint shall be in the
12 following form:

13 "COMPLAINT TO REMOVE UNLAWFUL OCCUPANTS OF REAL PROPERTY

14 I, _____,

15 (Property owner or property owner's authorized
16 agent's name)

17 the owner of the real property located at

18 _____, declare

19 under the penalty of perjury that:

20 (1) I am the owner of the real property or the
21 authorized agent of the owner of the real property;

22 (2) the real property is a residential
23 dwelling;

24 (3) an unlawful occupant trespassed, pursuant
25 to Chapter 30, Article 14 NMSA 1978, and is residing unlawfully

1 on the real property;

2 (4) the real property was not open to members
3 of the public at the time the unlawful occupant or occupants
4 entered;

5 (5) I have directed the unlawful occupant or
6 occupants to leave the real property, but the unlawful occupant
7 or occupants refuse to do so;

8 (6) the unlawful occupant or occupants are not
9 immediate family members of the property owner;

10 (7) the unlawful occupant or occupants are not
11 current or former tenants constituting holdover tenants
12 pursuant to a rental agreement between the property owner and
13 that tenant pursuant to the Uniform Owner-Resident Relations
14 Act;

15 (8) the unlawful occupant or occupants sought
16 to be removed are not owners or co-owners of the property and
17 are not lawfully listed on the title to the property;

18 (9) there is no pending litigation involving
19 the real property between the property owner and any person
20 sought to be removed;

21 (10) I understand that the unlawful occupant
22 or occupants that I seek to remove from the real property
23 pursuant to this procedure may bring a cause of action against
24 me for any false statements made in this complaint, or for
25 wrongfully using this procedure, and that as a result of such

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1 action, I may be held liable for actual damages, penalties,
2 costs and reasonable attorney fees;

3 (11) I am requesting the sheriff to
4 immediately remove the unlawful occupant or occupants from my
5 property; and

6 (12) a copy of my valid, government-issued
7 identification is attached to this form or, as an agent of the
8 property owner, documents evidencing my authority to act on the
9 property owner's behalf are attached.

10 I have read the statements contained in this petition and
11 each statement is true and correct. I understand that the
12 statements made in this petition are being made under penalty
13 of perjury, punishable as provided in Section 30-25-1 NMSA
14 1978.

15 _____
16 (Signature of the Property Owner or the Authorized Agent)"."

17 SECTION 2. A new section of Chapter 31 NMSA 1978 is
18 enacted to read:

19 "[NEW MATERIAL] REMOVAL OF UNLAWFUL OCCUPANTS--LAW
20 ENFORCEMENT PROCEDURES--NOTICE.--

21 A. Upon the receipt of a form provided pursuant to
22 Section 1 of this 2025 act, the sheriff of the county in which
23 the real property at issue is located shall verify that the
24 person submitting the form is the record owner of the real
25 property or the authorized agent of the owner and appears

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1 otherwise entitled to relief pursuant to this 2025 act. If
2 verified, the sheriff shall serve a notice to immediately
3 vacate on all unlawful occupants and shall put the person
4 submitting the form in actual possession of the real property.
5 The sheriff shall also attempt to verify the identities of all
6 persons unlawfully occupying the real property and note those
7 identities on the return of service, as provided pursuant to
8 Subsection B of this section. If appropriate, the sheriff may
9 arrest any person found on the real property for trespass,
10 outstanding warrants or any other legal cause, where warranted.

11 B. Pursuant to Subsection A of this section,
12 service may be accomplished by:

13 (1) hand delivery of notice to the alleged
14 unlawful occupant; or

15 (2) posting the notice on the front door or
16 entrance of the real property at issue.

17 C. After the sheriff serves the notice to
18 immediately vacate, the property owner or authorized agent may
19 request that the sheriff stand by to keep the peace while the
20 property owner or authorized agent of the property owner
21 changes the locks and removes the personal property of the
22 unlawful occupants from the premises to or near the property
23 line. When such a request is made, the law enforcement agency
24 that employs the sheriff may charge a reasonable fee, and the
25 person requesting the sheriff to stand by is responsible for

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1 paying the fee. The property owner or the property owner's
2 authorized agent is not liable to an unlawful occupant or any
3 other party for the loss, destruction or damage to the personal
4 property unless the removal was wrongful.

5 D. Nothing in this section shall limit the rights
6 of a property owner or limit the authority of a law enforcement
7 officer to arrest an unlawful occupant for trespassing,
8 vandalism, theft or other crimes."

9 SECTION 3. Section 30-15-1 NMSA 1978 (being Laws 1963,
10 Chapter 303, Section 15-1) is amended to read:

11 "30-15-1. CRIMINAL DAMAGE TO PROPERTY.--Criminal damage
12 to property consists of intentionally damaging any real or
13 personal property of another without the consent of the owner
14 of the property.

15 Whoever commits criminal damage to property is guilty of a
16 petty misdemeanor, except that when the damage to the property
17 amounts to more than one thousand dollars (\$1,000), ~~[he]~~ the
18 person is guilty of a ~~[fourth]~~ second degree felony."

19 SECTION 4. Section 30-16-6 NMSA 1978 (being Laws 1963,
20 Chapter 303, Section 16-6, as amended) is amended to read:

21 "30-16-6. FRAUD.--

22 A. Fraud consists of the intentional
23 misappropriation or taking of anything of value that belongs to
24 another by means of fraudulent conduct, practices or
25 representations.

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1 B. Whoever commits fraud when the value of the
2 property misappropriated or taken is two hundred fifty dollars
3 (\$250) or less is guilty of a petty misdemeanor.

4 C. Whoever commits fraud when the value of the
5 property misappropriated or taken is over two hundred fifty
6 dollars (\$250) but not more than five hundred dollars (\$500) is
7 guilty of a misdemeanor.

8 D. Whoever commits fraud when the value of the
9 property misappropriated or taken is over five hundred dollars
10 (\$500) but not more than two thousand five hundred dollars
11 (\$2,500) is guilty of a fourth degree felony.

12 E. Whoever commits fraud when the value of the
13 property misappropriated or taken is over two thousand five
14 hundred dollars (\$2,500) but not more than twenty thousand
15 dollars (\$20,000) is guilty of a third degree felony.

16 F. Whoever commits fraud when the value of the
17 property misappropriated or taken exceeds twenty thousand
18 dollars (\$20,000) is guilty of a [~~second~~] first degree felony.

19 G. Whoever commits fraud when the property
20 misappropriated or taken is a firearm that is valued at less
21 than two thousand five hundred dollars (\$2,500) is guilty of a
22 fourth degree felony."

23 SECTION 5. A new section of Chapter 42, Article 4 NMSA
24 1978 is enacted to read:

25 "[NEW MATERIAL] CAUSE OF ACTION--EJECTMENT--ACTION FOR
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1 UNLAWFUL REMOVAL FROM REAL PROPERTY.--A person removed pursuant
2 to Section 1 of this 2025 act may bring a civil cause of action
3 for ejectment to seek to restore possession of the real
4 property at issue. A person entitled to possession of the real
5 property pursuant to this section may recover actual costs and
6 damages incurred and statutory damages. The court shall
7 advance the cause on the calendar."