

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE BILL 359

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

AN ACT

RELATING TO PROPERTY CRIME; PROVIDING A PROCESS FOR REMOVING
UNLAWFUL OCCUPANTS OF REAL PROPERTY FROM THAT PROPERTY;
PROVIDING A FORM TO REQUEST THE REMOVAL OF AN UNLAWFUL OCCUPANT
FROM REAL PROPERTY; PROVIDING PROCEDURES FOR LAW ENFORCEMENT TO
REMOVE UNLAWFUL OCCUPANTS FROM REAL PROPERTY; PRESCRIBING
PROCEDURES FOR NOTICE; CREATING A CAUSE OF ACTION FOR PERSONS
WHO WERE WRONGFULLY REMOVED FROM REAL PROPERTY.

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

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

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

A. As used in this section, "unlawfully occupying"
means a crime constituting trespassing pursuant to Chapter 30,
Article 14 NMSA 1978.

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

6 (1) the requester is the property owner or
7 authorized agent of the property owner;

8 (2) the real property that is being occupied
9 includes a residential dwelling;

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

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

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

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

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

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

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

11 "COMPLAINT TO REMOVE UNLAWFUL OCCUPANTS OF REAL PROPERTY

12 I, _____,

13 (Property owner or property owner's authorized
14 agent's name)

15 the owner of the real property located at

16 _____, declare

17 under the penalty of perjury that:

18 (1) I am the owner of the real property or the
19 authorized agent of the owner of the real property;

20 (2) the real property is a residential
21 dwelling;

22 (3) an unlawful occupant trespassed, pursuant
23 to Chapter 30, Article 14 NMSA 1978, and is residing unlawfully
24 on the real property;

25 (4) the real property was not open to members

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1 of the public at the time the unlawful occupant or occupants
2 entered;

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

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

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

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

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

19 (10) I understand that the unlawful occupant
20 or occupants that I seek to remove from the real property
21 pursuant to this procedure may bring a cause of action against
22 me for any false statements made in this complaint, or for
23 wrongfully using this procedure, and that as a result of such
24 action, I may be held liable for actual damages, penalties,
25 costs and reasonable attorney fees;

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

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

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

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

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

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

A. Upon the receipt of a form provided pursuant to Section 1 of this 2025 act, the sheriff of the county in which the real property at issue is located shall verify that the person submitting the form is the record owner of the real property or the authorized agent of the owner and appears otherwise entitled to relief pursuant to this 2025 act. If verified, the sheriff shall serve a notice to immediately

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1 vacate on all unlawful occupants and shall put the person
2 submitting the form in actual possession of the real property.
3 If appropriate, the sheriff may arrest any person found on the
4 real property for trespass, outstanding warrants or any other
5 legal cause, where warranted.

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

8 (1) hand delivery of notice to the alleged
9 unlawful occupant; or

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

12 C. After the sheriff serves the notice to
13 immediately vacate, the sheriff shall stand by to keep the
14 peace while the property owner or authorized agent of the
15 property owner changes the locks and removes the personal
16 property of the unlawful occupants from the premises to or near
17 the property line. The sheriff may charge a reasonable fee to
18 stand by, and the person requesting the sheriff to stand by is
19 responsible for paying the fee. The property owner or the
20 property owner's authorized agent is not liable to an unlawful
21 occupant or any other party for the loss, destruction or damage
22 to the personal property unless the removal was wrongful.

23 D. Nothing in this section shall limit the rights
24 of a property owner or limit the authority of a law enforcement
25 officer to arrest an unlawful occupant for trespassing,

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vandalism, theft or other crimes."

SECTION 3. A new section of Chapter 42, Article 4 NMSA 1978 is enacted to read:

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

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