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HOUSE BILL 309

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

INTRODUCED BY

Joseph L. Sanchez and Randall T. Pettigrew  
and Cathrynn N. Brown

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 A PEACE OFFICER TO  
REMOVE UNLAWFUL OCCUPANTS FROM REAL PROPERTY; PRESCRIBING  
PROCEDURES FOR NOTICE; PROVIDING FEES; 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,  
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1 Article 14 NMSA 1978.

2 B. A property owner or the property owner's  
3 authorized agent may request at a police station or sheriff's  
4 office located in the county in which the real property is  
5 located the immediate removal of a person or persons unlawfully  
6 occupying real property owned by that property owner; provided  
7 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 completed and verified  
9 complaint to remove unlawful occupants of real property to the  
10 staff of a police station or sheriff's office located in the  
11 county in which the real property is located. The submitted  
12 complaint shall be in the 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

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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 that a peace officer  
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, a peace officer of the county in  
23 which the real property at issue is located shall verify that  
24 the 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, a peace officer 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 A peace officer shall also attempt to verify the identities of  
6 all persons unlawfully occupying the real property and note  
7 those identities on the return of service, as provided pursuant  
8 to Subsection B of this section. If appropriate, the peace  
9 officer may arrest any person found on the real property for  
10 trespass, outstanding warrants or any other legal cause, where  
11 warranted.

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

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

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

18 C. After a peace officer serves the notice to  
19 immediately vacate, the property owner or authorized agent of  
20 the owner may request that the peace officer stand by to keep  
21 the peace while the property owner or authorized agent of the  
22 property owner changes the locks and removes the personal  
23 property of the unlawful occupants from the premises to or near  
24 the property line. When such a request is made, the police  
25 station or sheriff's office that employs the peace officer may

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1 charge a reasonable fee, and the person requesting the peace  
2 officer to stand by is responsible for paying the fee. The  
3 property owner or the property owner's authorized agent is not  
4 liable to an unlawful occupant or any other party for the loss,  
5 destruction or damage to the personal property unless the  
6 removal was wrongful.

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

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

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

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

21 SECTION 4. A new section of Chapter 42, Article 4 NMSA  
22 1978 is enacted to read:

23 "[NEW MATERIAL] CAUSE OF ACTION--EJECTMENT--ACTION FOR  
24 UNLAWFUL REMOVAL FROM REAL PROPERTY.--A person removed pursuant  
25 to Section 2 of this 2025 act may bring a civil cause of action

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1 for ejectment to seek to restore possession of the real  
2 property at issue. A person entitled to possession of the real  
3 property pursuant to this section may recover actual costs and  
4 damages incurred and statutory damages. The court shall  
5 advance the cause on the calendar."