

HOUSE BILL 144

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

INTRODUCED BY

Catherine J. Cullen and Rod Montoya and John Block

AN ACT

RELATING TO CRIMINAL OFFENSES; CREATING THE CRIME OF UNLAWFUL SQUATTING; PROVIDING FOR A PROPERTY OWNER TO RECEIVE DAMAGES FOR INJURY TO PROPERTY THAT RESULTS FROM UNLAWFUL SQUATTING; PROVIDING A PROCESS FOR REMOVING AN ALLEGED UNLAWFUL SQUATTER; ALLOWING AN ALLEGED UNLAWFUL SQUATTER THE OPPORTUNITY TO CONTEST A CITATION FOR UNLAWFUL SQUATTING; REQUIRING A TRIAL TO DETERMINE PROPERTY RIGHTS WHERE A PURPORTED PROPERTY OWNER AND AN ALLEGED SQUATTER CLAIM A RIGHT TO THE SAME REAL PROPERTY; PROVIDING PENALTIES.

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

SECTION 1. A new section of Chapter 30, Article 14 NMSA 1978 is enacted to read:

"[NEW MATERIAL] UNLAWFUL SQUATTING.--

A. Unlawful squatting consists of a person entering

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1 upon the real property of another and residing on the real
2 property for any period of time without the knowledge or
3 consent of the property owner, rightful occupant or authorized
4 representative of the property owner.

5 B. Whoever commits unlawful squatting is guilty of
6 a fourth degree felony."

7 **SECTION 2.** Section 30-14-1.1 NMSA 1978 (being Laws 1979,
8 Chapter 186, Section 2, as amended) is amended to read:

9 **"30-14-1.1. TYPES OF TRESPASS--INJURY TO REALTY--CIVIL
10 DAMAGES FOR TRESPASS AND UNLAWFUL SQUATTING.--**

11 A. Any person who enters and remains on the lands
12 of another after having been requested to leave is guilty of a
13 misdemeanor.

14 B. Any person who enters upon the lands of another
15 when such lands are posted against trespass at every roadway or
16 apparent way of access is guilty of a misdemeanor.

17 C. Any person who drives a vehicle upon the lands
18 of another except through a roadway or other apparent way of
19 access, when such lands are fenced in any manner, is guilty of
20 a misdemeanor.

21 D. In the event any person enters upon the lands of
22 another without prior permission and injures, damages or
23 destroys any part of the realty or its improvements, including
24 buildings, structures, trees, shrubs or other natural features,
25 [he] that person shall be liable to the owner, lessee or person

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1 in lawful possession for damages in an amount equal to double
2 the amount of the appraised value of the damage of the property
3 injured or destroyed.

4 E. A person who commits unlawful squatting and
5 injures, damages or destroys any part of the real property or
6 its improvements, including buildings, structures, trees,
7 shrubs or other natural features, shall be liable to the
8 property owner, rightful occupant or authorized representative
9 of the property owner for damages in an amount equal to double
10 the amount of the appraised value of the damage of the property
11 injured or destroyed."

12 SECTION 3. A new section of Chapter 31 NMSA 1978 is
13 enacted to read:

14 "[NEW MATERIAL] UNLAWFUL SQUATTER--CITATION--CONTESTING A
15 CITATION.--

16 A. A person who is accused of committing the
17 offense of unlawful squatting as provided for in Section 1 of
18 this 2026 act shall be issued a citation advising that the
19 person may present documentation that authorizes the person's
20 entry on the land or premises to the head of the issuing law
21 enforcement agency or the head's designee within three business
22 days of receiving the citation. If the person is unable to
23 provide the required documentation, that person shall be
24 subject to arrest for unlawful squatting pursuant to Section 1
25 of this 2026 act.

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B. Documentation provided pursuant to Subsection A of this section may include a validly executed lease or rental agreement, proof of rental payments or a deed of real property in the name of the cited person.

C. Nothing in this section shall be construed to prohibit a property owner, a rightful occupant or an authorized representative of the owner from shutting off utilities servicing the owner's or occupant's property."

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

"NEW MATERIAL] REMOVAL OF AN UNLAWFUL SQUATTER FROM
POSSESSION OF REAL PROPERTY--AFFIDAVIT--OPPORTUNITY TO PRESENT
A COUNTER AFFIDAVIT--TRIAL--DAMAGES.--

A. If a person, the person's agent or the person's attorney presents an affidavit in writing before an officer authorized to administer an oath that sets forth that the person claims in good faith the right of possession to real property and that the real property is in the hands of another person who is allegedly unlawfully squatting in violation of Section 1 of this 2026 act, a law enforcement officer in the county where the real property is located, upon receipt of the affidavit, shall present the affidavit to the person alleged to be unlawfully squatting on the real property at least three days prior to turning that person out of possession, unless the person alleged to be unlawfully squatting tenders to the law

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1 enforcement officer a counter affidavit stating that that
2 person claims, in good faith, a legal right to possession of
3 the real property. The law enforcement officer shall turn the
4 alleged unlawful squatter out of possession once three days
5 have elapsed from the day the affidavit was exhibited.

6 B. If the person alleged to be unlawfully squatting
7 on the real property at issue submits a counter affidavit
8 pursuant to Subsection A of this section, the law enforcement
9 officer shall not turn that person out of possession of the
10 real property but shall leave both parties in their respective
11 positions. In that event, the law enforcement officer shall
12 return both affidavits to the office of the clerk of the
13 district court in which the real property at issue is located
14 for a nonjury trial pursuant to the laws of this state.

15 C. If the person alleged to be unlawfully squatting
16 submits a counter affidavit or other documentation at trial,
17 upon the determination of the district court that the affidavit
18 is not meritorious based on a preponderance of the evidence, a
19 law enforcement officer shall turn the person alleged to be
20 unlawfully squatting out of possession as soon as practicable
21 pursuant to a writ of possession.

22 D. The court may award the plaintiff the fair
23 market value of rent for the duration of the unlawful
24 squatter's occupancy and other monetary relief found
25 appropriate by the court. A party shall have the right to

1 appeal the decision of the court, and the decision shall be
2 directly appealable but shall not be subject to de novo review
3 by the New Mexico supreme court.

4 E. If the court finds a verdict for the plaintiff,
5 the clerk of the court shall issue a writ of possession
6 pursuant to Section 42-4-12 NMSA 1978 and shall award the costs
7 of the proceeding and any other monetary relief awarded by the
8 court. The plaintiff and the court shall be authorized to
9 present the final order to law enforcement for investigation or
10 prosecution."

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