

2024 Regular Session

HOUSE BILL NO. 850

BY REPRESENTATIVE MIKE JOHNSON

TRESPASS: Provides relative to the removal of unauthorized persons from immovable property

1 AN ACT

2 To amend and reenact R.S. 14:59(B) and 70.7(B)(3)(h) and to enact Code of Criminal  
3 Procedure Article 132 and R.S. 14:59(A)(10) and 71.5, relative to offenses against  
4 property; to provide for the removal of unauthorized persons from immovable  
5 property; to provide for legislative intent; to provide for procedures; to provide for  
6 a form; to provide for service; to provide for duties of law enforcement; to provide  
7 relative to liability; to provide for a cause of action; to provide for a definition; to  
8 provide for an additional act of criminal mischief; to provide relative to the crime of  
9 unlawful production, manufacturing, distribution, or possession of fraudulent  
10 documents for identification purposes; to provide relative to the fraudulent sale or  
11 lease of immovable property; to provide for penalties; and to provide for related  
12 matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. Code of Criminal Procedure Article 132 is hereby enacted to read as  
15 follows:

16 Art. 132. Limited alternative remedy to remove unauthorized persons from  
17 immovable property

18 A. The legislature finds that the right to exclude others from entering, and  
19 the right to direct others to immediately vacate, immovable property are the most  
20 important immovable property rights. The legislature further finds that existing

1 remedies regarding unauthorized persons who unlawfully remain on immovable  
2 property fail to adequately protect the rights of the property owner and fail to  
3 adequately discourage theft and vandalism. The intent of this Article is to quickly  
4 restore possession of immovable property to the lawful owner of the property when  
5 the property is being unlawfully occupied and to thereby preserve property rights  
6 while limiting the opportunity for criminal activity.

7 B.(1) A property owner or his authorized agent may request the sheriff of the  
8 parish or the constable of the municipality in which the property is located to  
9 immediately remove a person or persons who are unlawfully occupying immovable  
10 property pursuant to this Article if all of the following conditions are met:

11 (a) The requesting person is the property owner or an authorized agent of the  
12 property owner.

13 (b) An unauthorized person or persons have unlawfully entered and remain  
14 or continue to reside on the immovable property of the owner.

15 (c) The immovable property was not open to members of the public at the  
16 time the unauthorized person or persons entered.

17 (d) The property owner has directed the unauthorized person to leave the  
18 property.

19 (e) The unauthorized person or persons are not current or former tenants  
20 pursuant to a written or oral rental agreement authorized by the property owner.

21 (g) The unauthorized person or persons are not immediate family members  
22 of the property owner.

23 (f) There is no pending litigation related to the immovable property between  
24 the property owner and any known unauthorized person.

25 (2) To request the immediate removal of an unlawful occupant of an  
26 immovable property, the property owner or his authorized agent shall submit a  
27 complaint by presenting a completed and verified Complaint to Remove Persons  
28 Unlawfully Occupying Immovable Property form to the sheriff of the parish or the

1        constable of the municipality in which the immovable property is located. The  
2        submitted complaint shall be in substantially the following form:

3                    "COMPLAINT TO REMOVE PERSONS UNLAWFULLY

4                                OCCUPYING IMMOVABLE PROPERTY

5                I, the owner or authorized agent of the owner of the immovable property  
6        located at \_\_\_\_\_, declare under the penalty of perjury that (initial each box):

7                 I am the owner of the immovable property or the authorized agent of the  
8        owner of the immovable property.

9                 I purchased the property on \_\_\_\_\_.

10               An unauthorized person or persons have unlawfully entered and are  
11        remaining or residing unlawfully on the immovable property.

12               The immovable property was not open to members of the public at the  
13        time the unauthorized person or persons entered.

14               I have directed the unauthorized person or persons to leave the immovable  
15        property, but they have not done so.

16               The person or persons are not current or former tenants pursuant to any  
17        valid lease authorized by the property owner, and any lease that may be produced by  
18        an occupant is fraudulent.

19               The unauthorized person or persons sought to be removed are not an  
20        owner or a co-owner of the immovable property and have not been listed on the title  
21        to the immovable property unless the person or persons have engaged in title fraud.

22               The unauthorized person or persons are not immediate family members  
23        of the property owner.

24               There is no litigation related to the immovable property pending between  
25        the property owner and any person sought to be removed.

26               I understand that a person or persons removed from the property pursuant  
27        to this procedure may bring a cause of action against me for any false statements  
28        made in this complaint, or for wrongfully using this procedure, and that as a result

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

3  I am requesting the sheriff or constable to immediately remove the  
4 unauthorized person or persons from the immovable property.

5  A copy of my valid government-issued identification is attached, or I am  
6 an agent of the property owner, and documents evidencing my authority to act on the  
7 property owner's behalf are attached.

8 I HAVE READ EVERY STATEMENT MADE IN THIS PETITION AND  
9 EACH STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT THE  
10 STATEMENTS MADE IN THIS PETITION ARE BEING MADE UNDER  
11 PENALTY OF PERJURY, PUNISHABLE AS PROVIDED IN SECTION 123 OF  
12 TITLE 14 OF THE LOUISIANA REVISED STATUTES OF 1950.

13 Signature of Property Owner or Agent of \_\_\_\_\_ "

14 C.(1) Upon receipt of the complaint, the sheriff or constable shall verify that  
15 the person submitting the complaint is the record owner of the immovable property  
16 or the authorized agent of the owner and appears otherwise entitled to relief under  
17 this Article. If verified, the sheriff or constable shall, without delay, serve on all the  
18 unlawful occupants a notice to immediately vacate and shall put the owner in  
19 possession of the immovable property.

20 (2) Service may be accomplished by hand delivery of the notice to an  
21 occupant or by posting the notice on the front door or entrance of the dwelling. The  
22 sheriff or constable shall also attempt to verify the identities of all persons occupying  
23 the dwelling and note the identities on the return of service. If appropriate, the  
24 sheriff or constable may arrest any person who is unlawfully on the immovable  
25 property for trespass, criminal mischief, outstanding warrants, or any other offense  
26 provided by law.

27 D.(1) The sheriff or constable is entitled to the same fee for service of the  
28 notice to immediately vacate as if the sheriff or constable were serving a writ of  
29 possession or writ of ejectment under R.S. 13:2158, 5530, or 5807. After the sheriff





1           (2) Rent or lease the immovable property with knowledge that he has no  
2           lawful ownership in the property or leasehold interest in the property.

3           B. Whoever violates the provisions of this Section shall be fined not more  
4           than ten thousand dollars, imprisoned with or without hard labor for not more than  
5           ten years, or both.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 850 Original

2024 Regular Session

Mike Johnson

**Abstract:** Provides relative to the removal of unauthorized persons from immovable property.

Proposed law (C.Cr.P. Art. 132) provides for a statement of legislative intent.

Proposed law further provides that a property owner or his authorized agent may request the sheriff of the parish or constable of the municipality in which the property is located to immediately remove a person or persons who are unlawfully occupying immovable property pursuant to proposed law if all of the following conditions are met:

- (1) The requesting person is the property owner or an authorized agent of the property owner.
- (2) An unauthorized person or persons have unlawfully entered and remain or continue to reside on the immovable property of the owner.
- (3) The immovable property was not open to members of the public at the time the unauthorized person or persons entered.
- (4) The property owner has directed the unauthorized person to leave the property.
- (5) The unauthorized person or persons are not current or former tenants pursuant to a written or oral rental agreement authorized by the property owner.
- (6) The unauthorized person or persons are not immediate family members of the property owner.
- (7) There is no pending litigation related to the immovable property between the property owner and any known unauthorized person.

Proposed law provides that to request the immediate removal of an unlawful occupant of an immovable property, the property owner or his authorized agent shall submit a complaint by presenting a completed and verified Complaint to Remove Persons Unlawfully Occupying Immovable Property form to the sheriff of the parish or constable of the municipality in which the immovable property is located.

Proposed law provides for the Complaint to Remove Persons Unlawfully Occupying Immovable Property form.

Proposed law provides that upon receipt of the complaint, the sheriff or constable shall verify that the person submitting the complaint is the record owner of the immovable property or the authorized agent of the owner and appears otherwise entitled to relief under proposed law. Further provides that if verified, the sheriff or constable shall, without delay, serve on all the unlawful occupants a notice to immediately vacate and shall put the owner in possession of the immovable property.

Proposed law provides that service may be accomplished by hand delivery of the notice to an occupant or by posting the notice on the front door or entrance of the dwelling. Further provides that the sheriff or constable shall also attempt to verify the identities of all persons occupying the dwelling and note the identities on the return of service and if appropriate, the sheriff or constable may arrest any person found in the dwelling for trespass, criminal mischief, outstanding warrants, or any other offense provided by law.

Proposed law provides that the sheriff or constable is entitled to the same fee for service of the notice to immediately vacate as if the sheriff or constable were serving a writ of possession or writ of ejectment under present law (R.S. 13:2158, 5530, or 5807). Further provides that after the sheriff or constable serves the notice to immediately vacate, the property owner or authorized agent may request that the sheriff or constable stand by to keep the peace while the property owner or agent of the owner changes the locks and removes the personal property of the unlawful occupants from the premises to or near the property line.

Proposed law provides that when such a request is made, the sheriff or constable may charge a reasonable hourly rate, and the person requesting the sheriff or constable to stand by and keep the peace is responsible for paying the reasonable hourly rate set by the sheriff or constable.

Proposed law provides that the sheriff or constable is not liable to the unlawful occupant or any other party for loss, destruction, or damage of property. Further provides that the property owner or his authorized agent is not liable to an unlawful occupant or any other party for the loss, destruction, or damage to the personal property unless the removal was wrongful.

Proposed law provides that a person may bring a civil cause of action for wrongful removal under proposed law. Further provides that a person harmed by a wrongful removal under proposed law may be restored to possession of the immovable property and may recover actual costs and damages incurred, statutory damages equal to triple the fair market rent of the dwelling, court costs, and reasonable attorney fees.

Proposed law does not limit the rights of a property owner or limit the authority of a law enforcement officer to arrest an unlawful occupant for trespassing, vandalism, theft, or any other criminal offense.

Proposed law defines the term "immovable property".

Present law (R.S. 14:59) provides for the crime of criminal mischief and provides for penalties.

Proposed law retains present law.

Proposed law adds, as an additional act of criminal mischief, the detaining, occupying or trespassing upon the immovable property of another person and intentionally damaging the immovable property in an amount of \$1,000 or more.

Present law provides that whoever commits the crime of criminal mischief shall be fined not more than \$500, or be imprisoned for not more than six months in the parish jail, or both.



Proposed law amends present law to provide that whoever violates any of the provisions of present law (R.S. 14:59(A)(1)-(9)) shall be fined not more than \$500, or be imprisoned for not more than six months in the parish jail, or both.

Proposed law further provides that whoever violates the provisions of proposed law (R.S. 14:59(A)(10)) shall be subject to the penalties provided in present law (R.S. 14:56).

Present law (R.S. 14:70.7) provides for the crime of unlawful production, manufacturing, distribution, or possession of fraudulent documents for identification purposes and provides for penalties.

Proposed law retains present law.

Present law defines the phrase "personal identification information" to include various forms of identification. Further provides that one of these forms is any proof of residency, including utility bills, bank statements, or other government document showing the name and address of a person.

Proposed law amends present law to include a lease agreement, deed, property title, or any other instrument that conveys immovable property rights.

Proposed law (R.S. 14:71.5) provides that it shall be unlawful for any person to intentionally do any of the following:

- (1) List or advertise immovable property with knowledge that the purported seller of the property has no legal title or authority to sell the property.
- (2) Rent or lease the immovable property with knowledge that he has no lawful ownership in the property or leasehold interest in the property.

Proposed law provides for penalties consisting of a fine of not more than \$10,000, imprisonment with or without hard labor for not more than 10 years, or both.

(Amends R.S. 14:59(B) and 70.7(B)(3)(h); Adds C.Cr.P. Art. 132 and R.S. 14:59(A)(10) and 71.5)