
SENATE BILL 5874

State of Washington

68th Legislature

2024 Regular Session

By Senator Fortunato

Prefiled 12/19/23.

1 AN ACT Relating to the removal of unauthorized persons; and
2 amending RCW 9A.52.105 and 4.24.355.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 9A.52.105 and 2017 c 284 s 1 are each amended to
5 read as follows:

6 (1) Subject to subsections (2) and (3) of this section and upon
7 the receipt of a declaration signed under penalty of perjury, in the
8 form prescribed in RCW 9A.52.115, declaring the truth of all of the
9 required elements set forth in subsection (4) of this section, a
10 peace officer shall have the authority to:

11 (a) Remove the person or persons from the premises, with or
12 without arresting the person or persons; and

13 (b) Order the person or persons to remain off the premises or be
14 subject to arrest for criminal trespass.

15 (2) Only a peace officer having probable cause to believe that a
16 person is guilty of criminal trespass under RCW 9A.52.070 for
17 knowingly entering or remaining unlawfully in a building considered
18 residential real property, as defined in RCW 61.24.005, has the
19 authority and discretion to make an arrest or exclude anyone under
20 penalty of criminal trespass.

1 (3) While a peace officer can take into account a declaration
2 from the property owner signed under penalty of perjury containing
3 all of the required elements and in the form prescribed in RCW
4 9A.52.115, the peace officer must provide the occupant or occupants
5 with a reasonable opportunity to secure and present any credible
6 evidence provided by the person or persons on the premises, which the
7 peace officer must consider, showing that the person or persons are
8 tenants, legal occupants, or the guests or invitees of tenants or
9 legal occupants. If the person or persons on the premises present
10 falsified or invalid documents to the peace officer including, but
11 not limited to, counterfeit or inauthentic rental agreements, they
12 may be guilty of making a false or misleading statement to a public
13 servant under RCW 9A.76.175 and give rise to a cause of action under
14 RCW 4.24.355.

15 (4) The declaration must include the following elements:

16 (a) That the declarant is the owner of the premises or the
17 authorized agent of the owner of the premises;

18 (b) That an unauthorized person or persons have entered and are
19 remaining unlawfully on the premises;

20 (c) That the person or persons were not authorized to enter or
21 remain;

22 (d) That the person or persons are not a tenant or tenants and
23 have not been a tenant or tenants, or a homeowner or homeowners who
24 have been on title, within the last (~~twelve~~) 12 months on the
25 property;

26 (e) That the declarant has demanded that the unauthorized person
27 or persons vacate the premises but they have not done so;

28 (f) That the premises were not abandoned at the time the
29 unauthorized person or persons entered;

30 (g) That the premises were not open to members of the public at
31 the time the unauthorized person or persons entered;

32 (h) That the declarant understands that a person or persons
33 removed from the premises pursuant to this section may bring a cause
34 of action under RCW 4.24.355 against the declarant for any false
35 statements made in the declaration, and that as a result of such
36 action the declarant may be held liable for actual damages, costs,
37 and reasonable attorneys' fees;

38 (i) That the declarant understands and acknowledges the
39 prohibitions in RCW 59.18.230 and 59.18.290 against taking or
40 detaining an occupant's personal property or removing or excluding an

1 occupant from a dwelling unit or rental premises without an
2 authorizing court order; and

3 (j) That the declarant agrees to indemnify and hold harmless law
4 enforcement for its actions or omissions made in good faith pursuant
5 to the declaration.

6 (5) Neither the peace officer nor his or her law enforcement
7 agency shall be held liable for actions or omissions made in good
8 faith under this section.

9 (6) This section may not be construed to in any way limit rights
10 under RCW 61.24.060 or to allow a peace officer to remove or exclude
11 an occupant who is entitled to occupy a dwelling unit under a rental
12 agreement or the occupant's guests or invitees.

13 **Sec. 2.** RCW 4.24.355 and 2017 c 284 s 3 are each amended to read
14 as follows:

15 (1) All persons removed from premises pursuant to RCW 9A.52.105
16 on the basis of false statements made by a declarant pursuant to RCW
17 9A.52.115 shall have a cause of action to recover from the declarant
18 for actual damages, together with costs and reasonable attorneys'
19 fees.

20 (2) The declarant shall have a cause of action against any person
21 who presents falsified or invalid documents to a peace officer during
22 the process described in RCW 9A.52.105(3) to recover from the person
23 for actual damages, together with costs and reasonable attorneys'
24 fees.

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