**South Carolina General Assembly**

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**STATUS INFORMATION**

General Bill

Sponsors: Reps. G.M. Smith, W. Newton, B. Newton, Robbins, Mitchell and Pope

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Currently residing in the House Committee on **Judiciary**

Summary: Unlawful occupants of property

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

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**VERSIONS OF THIS BILL**

[12/05/2024](https://www.scstatehouse.gov/sess126_2025-2026/prever/3387_20241205.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING ARTICLE 3 TO CHAPTER 37, TITLE 27 SO AS TO ENTITLE THE ARTICLE “EJECTMENT OF UNLAWFUL OCCUPANTS OF A RESIDENTIAL DWELLING,” TO DEFINE NECESSARY TERMS, TO PROVIDE AN ALTERNATIVE REMEDY TO REMOVE PERSONS UNLAWFULLY OCCUPYING A RESIDENTIAL DWELLING; TO REDESIGNATE CHAPTER 37, TITLE 27 AS “EJECTMENT PROCEEDINGS”; TO REDESIGNATE THE EXISTING SECTIONS OF CHAPTER 37, TITLE 27 AS ARTICLE 1, CHAPTER 37, TITLE 27 AND ENTITLE IT “EJECTMENT OF TENANTS”; AND BY ADDING SECTION 16‑11‑521 SO AS TO ESTABLISH THE OFFENSE OF CRIMINAL MISCHIEF.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1.A. Chapter 37, Title 27 of the S.C. Code is amended by adding:

Article 3

Ejectment of Unlawful Occupants of a Residential Dwelling

 Section 27‑37‑200. As used in this article:

 (1) “Petitioner” means the owner of property containing a residential dwelling who has filed a verified petition under the provisions of this article.

 (2) “Respondent” means the person or persons unlawfully occupying property containing a residential dwelling, against whom a verified petition has been filed.

 (3) “Unlawful occupant or occupants” means any person or persons who detain, occupy, or trespass on property containing a residential dwelling without the permission of the property owner, who otherwise have no legal right to occupy the property under state law, and who are not afforded any protections provided to a tenant under state law.

 Section 27‑37‑210. Notwithstanding any provision of this chapter to the contrary, a property owner or his or her authorized agent may seek relief for the removal of a person or persons unlawfully occupying property containing a residential dwelling under this article by filing a verified petition with the clerk of court or chief magistrate of the county in which the property is located.

 Section 27‑37‑220. Filing fees and court costs under this article shall be the same as filing fees and court costs required when filing a claim in the court of common pleas.

 Section 27‑37‑230. (A) Upon the filing of a verified petition under this section, and for good cause shown in the petition, the court shall immediately issue an ex parte order to remove an unlawful occupant or occupants from property containing a residential dwelling. The assertion of sufficient evidence that the person or persons are unlawfully occupying property containing a residential dwelling shall constitute good cause for purposes of this section. The petition shall set forth the following:

 (1) the petitioner is the property owner or authorized agent of the property owner;

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

 (3) an unlawful occupant or occupants have entered and remain or continue to reside on the property owner’s property;

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

 (5) the unlawful occupant or occupants are occupying the property without the permission of the property owner and are not guests of the property owner nor otherwise authorized to make use of the property;

 (6) the property owner has directed the unlawful occupant or occupants to leave the property and the unlawful occupant or occupants have failed or refused to vacate the premises;

 (7) the property has not been leased to any person for three consecutive months, and the unlawful occupant or occupants are not current or former tenants of the property pursuant to any agreement with the property owner;

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

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

 (B) An ex parte order to have the unlawful occupant or occupants removed from property containing a residential dwelling entered by the court shall take effect when entered and shall remain in effect until there is valid service of process and a hearing is held on the motion. Such hearing shall be held within twenty‑four hours of filing the verified petition unless good cause is shown for a delay. The court shall deny the ex parte order and dismiss the petition if the petitioner is not authorized to seek relief or does not show good cause.

 (C) Failure to serve an ex parte order on the person or persons who are unlawfully occupying property containing a residential dwelling shall not affect the validity or enforceability of such order.

 Section 27‑37‑240. Any ex parte order granted under this article shall be to protect the petitioner from trespass by an unlawful occupant or occupants and may include such terms as the court reasonably deems necessary to ensure the petitioner’s safety including, but not limited to:

 (1) restraining the respondent from committing or threatening to commit any act of violence, molestation, stalking, assault, or disturbing the peace of the petitioner or the petitioner’s property, including violence against a pet;

 (2) restraining the respondent from entering the petitioner’s premises or dwelling unit or coming within a certain proximity of the petitioner’s premises or dwelling unit; and

 (3) restraining the respondent from communicating with the petitioner in any manner or through any medium.

 Section 27‑37‑250. When the court has, after a hearing on the petition, issued an order for relief to permanently exclude an unlawful occupant or occupants from the petitioner’s property, it may additionally:

 (1) permanently restrain the respondent from committing or threatening to commit any act of violence, molestation, stalking, assault, or disturbing the peace of the petitioner or the petitioner’s property, including violence against a pet;

 (2) permanently restrain the respondent from entering the petitioner’s premises or dwelling unit or coming within a certain proximity of petitioner’s premises or dwelling unit;

 (3) permanently restrain the respondent from communicating with the petitioner in any manner or through any medium;

 (4) permanently expel the respondent from occupying petitioner’s premises or dwelling unit;

 (5) permanently expel the respondent’s personal property from petitioner’s premises or dwelling unit;

 (6) order the respondent to pay all costs of repair to the petitioner’s premises or dwelling unit relating to damages caused by the respondent;

 (7) order the respondent to pay all costs associated with service of any ex parte order authorized against the respondent; or

 (8) order the respondent to pay court costs.

 Section 27‑37‑260. A verified petition seeking an ex parte order under this article shall contain allegations relating to those orders and shall pray for the orders desired.

 Section 27‑37‑270. Once the court grants the order under this article, the sheriff of the county in which the property is located shall enforce such order by removing the person or persons unlawfully occupying the property.

 Section 27‑37‑280. If appropriate, the sheriff may arrest any person found in the dwelling for trespass, outstanding warrants, or any other legal cause.

 Section 27‑37‑290. The sheriff is entitled to the same fee for the service of the ex parte order granted under this article as that provided for the execution of a warrant for the ejection of a trespasser pursuant to Section 15‑67‑630. After the sheriff serves the order, the property owner or authorized agent may request that the sheriff 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 occupants from the premises to or near the property line. When such a request is made, the sheriff may charge a reasonable hourly rate, and the person requesting the sheriff to stand by and keep the peace is responsible for paying the reasonable hourly rate set by the sheriff. The sheriff is not liable to the unlawful occupant or occupants or to any other party for the loss, destruction, or damage of property. The property owner or his or her 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.

 Section 27‑37‑300. A person may bring a civil cause of action if the person was removed from the property under this article without just cause. Such person may seek restored possession to the real property, actual damages to personal property when personal property was removed, statutory damages in the amount of one thousand dollars, and reimbursement of court costs. Any damages authorized under this section shall be offset by any damages to the real property inflicted by the person who was removed from the real property without just cause. Such damages to real property shall be proven by the property owner. Awards of actual damages shall not exceed the value of the damaged personal property.

 Section 27‑37‑310. The provisions of this article do 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 other crimes.

 Section 27‑37‑320. All proceedings under this article are in addition to any other available civil or criminal remedies, unless otherwise specifically provided herein.

 Section 27‑37‑330. (A) The court shall retain jurisdiction over the ex parte order or full order of protection issued under this article for its entire duration. The court may schedule compliance review hearings to monitor the respondent’s compliance with the order.

 (B) The terms of the ex parte order or full order of protection issued under this article are enforceable by all remedies available at law for the enforcement of a judgment, and the court may punish a respondent who wilfully violates the ex parte order to the same extent as provided by law for contempt of the court in any other suit or proceeding cognizable by the court.

 Section 27‑37‑340. (A) When a law enforcement officer has probable cause to believe that a party, against whom an ex parte order under this article has been entered and who has notice of such order entered, has committed an act in violation of such order, the officer shall arrest the offending party‑respondent regardless of whether the violation occurred in the presence of the arresting officer.

 (B) In an arrest in which a law enforcement officer acted in good faith reliance on this section, the arresting and assisting law enforcement officers and their employing entities and superiors shall be immune from liability in any civil action alleging false arrest, false imprisonment, or malicious prosecution.

 (C) A person who violates the terms and conditions of an ex parte order under this article is guilty of a felony and, upon conviction, must be imprisoned not more than three years or fined not more than three thousand dollars, or both. For the purposes of this subsection, in addition to the notice provided by actual service of the order, a party is deemed to have notice of an ex parte order under this article if:

 (1) the law enforcement officer responding to a call of a violation of an ex parte order under this article presented a copy of the ex parte order to the respondent; or

 (2) notice is given by actual communication to the respondent in a manner reasonably likely to advise the respondent.

 Section 27‑37‑350. Nothing in this article shall be interpreted as creating a private cause of action for damages to enforce the provisions set forth herein.

B. Chapter 37, Title 27 is retitled “Ejectment Proceedings,” and the existing sections of Chapter 37, Title 27 are designated as Article 1, Chapter 37, Title 27 and entitled “Ejectment of Tenants.”

SECTION 2. Article 7, Chapter 11, Title 16 of the S.C. Code is amended by adding:

 Section 16‑11‑521. A person commits the offense of criminal mischief if he or she unlawfully detains, occupies, or trespasses upon a residential dwelling. A person who violates this section is guilty of a felony and, upon conviction, must be imprisoned not more than three years or fined not more than three thousand dollars, or both.

SECTION 3. This act takes effect upon approval by the Governor.

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