

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 365 Session of 2019

INTRODUCED BY WHITE, HERSHEY, DOWLING AND NEILSON, FEBRUARY 4, 2019

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, SEPTEMBER 17, 2019

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, in burglary and other criminal
3 intrusion, providing for ~~arrest or~~ removal of persons from <--
4 residential property.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Title 18 of the Pennsylvania Consolidated
8 Statutes is amended by adding a section to read:

9 § 3503.1. ~~Arrest or removal~~ REMOVAL of persons from residential <--
10 property.

11 (a) General rule.--A law enforcement officer having probable
12 cause BASED ON AN AFFIDAVIT UNDER SUBSECTION (D) to believe that <--
13 a person on residential property has no lawful right of
14 occupancy or entry on the property or is trespassing as provided
15 under section 3503 (relating to criminal trespass), shall have
16 the authority to ~~arrest the person or to remove the person from <--~~
17 the premises without making an arrest.

18 (b) Warrant required.--If probable cause exists to believe

1 that a person on a residential property has no lawful right of
2 occupancy or entry based on an affidavit submitted under
3 subsection (d), a law enforcement officer shall obtain a search
4 warrant prior to entering the property.

5 (c) Limitation.--A law enforcement officer ~~arresting or~~ <--
6 removing a person under this section shall provide the person
7 with a reasonable opportunity to secure and present credible
8 evidence showing that the person is an owner or tenant or a
9 guest or invitee of an owner or tenant.

10 (d) Affidavit.--The owner of residential property may
11 initiate an investigation and request removal of a person by
12 providing to law enforcement a signed affidavit stating all of
13 the following:

14 (1) The affiant is the owner or authorized agent of the
15 owner of residential property located at a given address.

16 (2) A person who is not licensed or privileged to do so
17 has entered or remained on the premises.

18 (3) The person is not and, to the affiant's knowledge
19 and belief, has not been a tenant at the address.

20 (4) The affiant has demanded that the person vacate the
21 premises and the person has not done so.

22 (5) The affiant understands that a person removed from
23 residential property under this section may bring a cause of
24 action for damages resulting from a false statement made in
25 the affidavit.

26 (6) The affiant understands and acknowledges the
27 prohibitions in the act of April 6, 1951 (P.L.69, No.20),
28 known as The Landlord and Tenant Act of 1951, against taking
29 or detaining a tenant's personal property or removing or
30 excluding a tenant from residential property without an

1 authorizing court order.

2 (e) False statements.--A person who makes a false statement
3 in an affidavit under subsection (d) when the person does not
4 believe the statement to be true commits an offense under
5 section 4903 (relating to false swearing). In addition to
6 criminal penalties, the affiant may be liable for civil damages
7 resulting from the false statement.

8 (F) SAVINGS CLAUSE.--NOTHING IN THIS SECTION SHALL BE <--
9 CONSTRUED TO ABROGATE OR OTHERWISE LIMIT THE AUTHORITY OR
10 JURISDICTION OF LAW ENFORCEMENT OTHERWISE PROVIDED BY LAW.

11 ~~(f)~~ (G) Definition.--As used in this section, the term <--
12 "residential property" means a dwelling intended for human
13 habitation, including a house, apartment, mobile home or
14 manufactured home.

15 Section 2. This act shall take effect in 60 days.