

SENATE BILL REPORT

SB 5553

As Reported By Senate Committee On:
Financial Services, Insurance & Housing, February 3, 2004

Title: An act relating to providing for the option for immediate eviction of tenants who are involved in criminal actions or unlawful civil disruptions.

Brief Description: Creating a procedure for landlords to immediately evict tenants involved in criminal activity.

Sponsors: Senators Mulliken, Oke, T. Sheldon and Stevens.

Brief History:

Committee Activity: Financial Services, Insurance & Housing: 2/2/04, 2/3/04 [DPS-WM].

SENATE COMMITTEE ON FINANCIAL SERVICES, INSURANCE & HOUSING

Majority Report: That Substitute Senate Bill No. 5553 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Benton, Chair; Berkey, Murray and Roach.

Staff: Jennifer Arnold (786-7543)

Background: Under current law, if a landlord wishes to evict a tenant for unlawful detainer, after serving the proper notice, the landlord must attend a show cause hearing (in the event the tenant responded to the notice). If no cause is found for the tenant to remain at the premises, the judge may issue a writ of restitution and notice to vacate will be served upon the tenant. If the tenant does not vacate, the landowner may schedule a physical eviction with the sheriff. The tenant has a right to a jury trial if cause is found at the show cause hearing to support finding the tenant should remain at the premises. All decisions may be appealed to an appellate court. Neighbors that are not landowners of the premises in which the tenant is residing do not have standing to bring an action for unlawful detainer.

Summary of Substitute Bill: The Residential Landlord Tenant Act is amended to provide an alternative relief mechanism for landlords or neighbors with tenants involved in criminal activity or unlawful civil disruptions. The revised statute provides a means for obtaining expedited court-ordered evictions in certain circumstances. The petitioner, either the landlord or neighbor, may request an immediate eviction from a superior court judge, provided the petitioner submits supporting evidence and documentation that the tenant is involved in one of the following criminal or civil illegal activities: (1) misbranding drugs by misleading representation; (2) possession of drugs in violation of the Uniform Controlled Substance Act; (3) manufacture, delivery, possession of methamphetamines or the intent to do so; (4) criminal malicious mischief; (5) possession of stolen property; (6) homicide; (7) assault; (8) felonious sexual assault; (9) domestic violence; and (10) certain public disturbance crimes (that involve force or the threatened use of force against a person or property).

At the court hearing to determine the issue of eviction, both the petitioner and the tenant must be present. The court may issue an eviction order and request that a social services agency attend the hearing to assist with temporary relocation assistance. If the court finds that an eviction is warranted based upon a preponderance of the evidence, the eviction order and writ of restitution must be signed at the latest by noon the following day.

After the eviction has been signed by the court, the tenant, as well as all other persons or animals residing with the tenant, must vacate the premises immediately. A judicial representative will accompany the tenant to retrieve all belongs within three days of the court order. There is an exception that provides co-tenants will not be evicted if: (1) the co-tenant is the victim of any of the criminal or unlawful civil actions that resulted in this proceeding, or (2) the co-tenant did not know, could not have reasonably known, or could not have reasonably prevented the occurrence of the act that is the basis for eviction.

A petitioner must be accompanied by the sheriff to enforce a court-order eviction under these provisions.

The same procedural requirements for notice, summons, complaints, default judgments, rules of practice, and jurisdiction apply to this process as for an unlawful detainer under current law. If by a preponderance of the evidence, the court finds that a safety or health threat to a neighbor or landowner exists by allowing the tenant to remain in the premises that outweighs the tenant's interest and, therefore, issues an eviction order under this act, the order is not appealable and the tenant is not entitled to a trial by a jury. If a safety or health threat is not found to exist, the petitioner may not pursue an expedited eviction and must follow the standard procedures set forth for evictions under current law.

Substitute Bill Compared to Original Bill: The original bill was not considered.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The increase in drug production in homes is a growing problem that needs to be addressed. Illegal activity in residential areas creates a lingering disruption to the entire community. There needs to be an alternative expedient way for a neighborhood to maintain its livability. Pre-screening of tenants is not an effective way to keep out crime. This bill is necessary to keep children away from the chemicals used in making drugs and needles, which leads to child deaths and is a matter of public safety.

Testimony Against: Allowing neighbors to bring a cause of action is a significant departure from current law. It is not clear whether a conviction is required, if it is, then there is no need for this law. A member of the executive branch should accompany the tenant to retrieve their belongings, not a judicial representative. This process will be an expense to the courts. It undermines due process by allowing neighbors to seek eviction actions based on frivolous or malicious complaints. These matters should be dealt with by the police, not the courts.

Testified: PRO: Senator Mulliken, prime sponsor; E.B. Stubington, Mark Paulsen, Commercial Association of Realtors; CON: Martha Harden, Superior Court Judges Association; Nick Federici, Washington Low-Income Housing Alliance.