



# Recent Laws and Legislation on Squatting: A Summary and Comparison to Wisconsin Law

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“Squatting” generally refers to inhabiting a residential property without the consent or permission of the lawful owner or occupant of the property. Recently, the Legislative Reference Bureau has fielded various questions relating to state laws that prohibit squatting or that provide remedies for property owners against squatters. Of particular interest are recent enactments in other states that create or modify penalties for squatting, establish law enforcement procedures for removing squatters, and allow for damages to be paid to property owners by squatters. This issue of *LRB Reports* describes current Wisconsin law as it relates to squatting, summarizes recently enacted laws on squatting in Florida and Georgia, and provides a brief comparison of these new laws with current Wisconsin law.

### **Current Wisconsin law**

Current Wisconsin law establishes various criminal penalties relating to trespass that are applicable to squatting. “Trespass” refers to entering or remaining in another’s dwelling without the consent of a person lawfully on the premises or without the consent of the property owner under circumstances that tend to create or provoke a breach of the peace. Per Wis. Stat. § [943.14](#), trespass to dwellings is Class A misdemeanor, which carries a penalty of a maximum fine of \$10,000 or maximum imprisonment of nine months, or both.<sup>1</sup> Depending on the circumstances, a trespasser may also be subject to arrest for other criminal violations. Wis. Stat. § [943.15](#) prohibits trespass to a locked and enclosed dwelling, and Wis. Stat. § [943.01 \(1\)](#) prohibits trespass causing damage to a property. Both offenses are Class A misdemeanors. In addition, a trespasser who presents a document purporting to be a valid lease could be subject to felony penalties for forgery or, if the trespasser presents such a document to a law enforcement officer, misdemeanor penalties for obstructing an officer.<sup>2</sup>

With respect to removal of squatters, Wis. Stat. § [175.403 \(2\)](#) requires each law enforcement agency in the state to have a written policy requiring a law enforcement officer who has probable cause to arrest a person for a criminal trespass violation to remove the person from a dwelling. In addition, Wisconsin law establishes civil penalties for trespass<sup>3</sup> and provides for civil remedies to remove a trespasser, in addition to common law remedies. (See, generally, Wis. Stat. § [840.03](#) and Wis. Stat. ch. [843](#).) Wisconsin law also

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1. Wis. Stat. § [939.51 \(3\) \(a\)](#).

2. Wis. Stat. § [943.38 \(1\) \(a\)](#) prohibits falsely making with the intent to defraud any writing or object that creates, terminates, or transfers legal rights or obligations. This offense (i.e., forgery) is a Class H felony, which carries a penalty of a maximum fine of \$10,000 or maximum imprisonment of six years, or both. See Wis. Stat. § [939.50 \(3\) \(h\)](#). Wis. Stat. § [946.41 \(2\) \(a\)](#) defines obstruction to include knowingly giving false information to an officer with the intent to mislead the officer in the performance of his or her duty. This offense is generally a Class A misdemeanor, which carries a penalty of a maximum fine of \$10,000 or maximum imprisonment of nine months, or both. See Wis. Stat. § [939.51 \(3\) \(a\)](#).

3. Wis. Stat. § [943.13](#) generally prohibits entering another’s land without the express or implied consent of the owner or occupant. This offense is subject to a Class B forfeiture not to exceed \$1,000, per Wis. Stat. § [939.52 \(3\) \(b\)](#).

specifically authorizes the disposal of personal property left behind by a trespasser after seven days have passed since the discovery of the personal property.<sup>4</sup>

Note that the penalties and procedures specified above do not apply if a person may be considered a tenant. “Tenant” refers to a person occupying or entitled to present or future occupancy of a dwelling unit under a rental agreement, which may be oral or written.<sup>5</sup> Law enforcement may remove such a person only after certain statutory requirements are met and a court has entered an eviction order.<sup>6</sup> Generally, this process begins with the property owner giving notice to the tenant to vacate the premises or remedy a default in rent or other conditions of the rental agreement. Notice requirements vary on the basis of the type of tenancy but range from five to 28 days.<sup>7</sup> If the tenant fails to comply, the property owner may terminate the tenancy and file an eviction action in small claims court. The court may subsequently issue an eviction order. Within 10 days of receiving such an order, the sheriff must remove the former tenant and the former tenant’s property from the premises.<sup>8</sup> At that point, the property owner may also recover damages.<sup>9</sup>

Finally, although there are certain circumstances under which a trespasser may claim ownership of another person’s property—i.e., adverse possession—such circumstances are rare. For adverse possession to occur, various conditions must be met, including the person’s uninterrupted possession of the property for 10 years (in cases of adverse possession founded on a recorded written instrument) or 20 years (in cases of adverse possession not founded on a written instrument).<sup>10</sup>

### **Florida law**

A newly enacted Florida law, introduced as [2024 Florida House Bill 621](#), creates a process by which a property owner may request that the sheriff remove an unauthorized person from the property. If various conditions are met, the sheriff must remove the unauthorized person without delay.

Prior Florida law provided various civil means for a property owner to remove an unauthorized person.<sup>11</sup> These procedures generally applied to persons whom the property owner authorized to be present at some point, either as tenants or guests.<sup>12</sup>

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4. Wis. Stat. § [704.055](#).

5. The term also includes persons occupying dwelling units under periodic tenancies and tenancies at will and applies to persons holding over after termination of tenancy until removed from the dwelling unit by sheriff’s execution of a judicial writ of restitution. Wis. Admin. Code ATCP § [134.02 \(12\)](#). See also definitions of “periodic tenant” and “tenant at will” under Wis. Stat. § [704.01](#).

6. See Wis. Stat. §§ [799.40](#) to [799.45](#).

7. Wis. Stat. §§ [704.17](#), [704.19](#), and [704.21](#).

8. Wis. Stat. § [799.45](#).

9. Wis. Stat. §§ [704.27](#) and [704.29](#).

10. See Wis. Stat. §§ [893.25](#) and [893.26](#).

11. Fla. House of Representatives, staff analysis, [2024 Fla. House Bill 621](#) (Feb. 21, 2024), <https://flsenate.gov>.

12. The procedures include eviction, if the owner and occupant have a landlord-tenant relationship; unlawful detainer, if

Prior Florida law also provided various criminal penalties relating to the presence of unauthorized persons—i.e., trespassers. Among other things, Fla. Stat. § [810.08](#) defines “trespass” to apply to “[w]hoever, without being authorized, licensed, or invited, willfully enters or remains in any structure or conveyance, or, having been authorized, licensed, or invited, is warned by the owner or lessee of the premises, or by a person authorized by the owner or lessee, to depart and refuses to do so.” The offense is generally a second-degree misdemeanor. Depending on the circumstances, other criminal penalties may apply. For example, an unauthorized person who damages the property may be subject to misdemeanor penalties for criminal mischief, and an unauthorized person who presents a document purporting to be a lease may be subject to misdemeanor penalties for fraud.<sup>13</sup>

Although prior law provided a means to remove unauthorized persons (i.e., arrest or removal for criminal trespass), a bill analysis for [2024 Florida House Bill 621](#) notes that “where the criminal trespass offense is not readily observable . . . the law enforcement officer may decide not to force the unwanted person to surrender possession of the property without a court order.” As the analysis further notes, obtaining a court order may take weeks or months.<sup>14</sup> Against this backdrop, the bill requires—rather than simply authorizes—law enforcement to serve a notice to vacate on any unauthorized person, provided certain circumstances are met. Per the legislative findings included under § 1 of the bill, “The intent . . . is to *quickly* restore possession of residential real property to the lawful owner of the property when the property is being unlawfully occupied” (emphasis added).

Specifically, [2024 Florida House Bill 621](#) creates Fla. Stat. § 82.036, which provides a process under which a property owner may submit a complaint with the sheriff regarding the removal of unauthorized persons from the owner’s residential real property. Upon receipt of such a complaint, the sheriff must verify that the person who submitted the complaint is the actual property owner. Pursuant to such verification, the sheriff “shall, without delay, serve a notice to immediately vacate on all the unlawful persons and shall put the owner in possession of the real property.” Among other things, the bill protects the sheriff and the property owner from liability related to loss, destruction, or damage of property, provided the removal of such property was lawful.

In addition, the bill creates a number of new criminal violations relating to unlawfully occupying another person’s property or providing false documents to that end. As created under the bill, Fla. Stat. § 806.13 (4) provides a felony offense relating to trespass upon a residential dwelling and intentionally causing \$1,000 or more in damages to the dwelling, and Fla. Stat. § 817.03 provides a misdemeanor offense relating to knowingly or

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the occupant initially occupied the property with the consent of the owner but such consent has expired or been revoked; and ejectment, if the occupant may have initially occupied the property with the permission of the owner but subsequently refused to leave, citing a legal right to occupy the property. See Fla. Stat. chs. [66](#), [82](#), and [83](#).

13. Fla. House of Representatives, staff analysis, *2024 Fla. House Bill 621*.

14. *Id.*

willfully presenting false documents with intent to detain or remain upon real property. Finally, Fla. Stat. § 817.0311, as created in the bill, prohibits listing or advertising residential real property for sale or rental without the legal authority to do so.

### **Georgia law**

In contrast to the new Florida law summarized above, a newly enacted Georgia law, introduced as [2023 Georgia House Bill 1017](#), modifies an existing process by which a sheriff must remove an unauthorized person from a property at the request of the property owner, provided certain conditions are met. (This existing process appears to have been obscure and not widely used.) In addition to revising the process, the new law also creates a new criminal offense relating to squatting and specifies a process for making arrests for this offense that appears to buffer against circumstances wherein an alleged trespasser is actually a tenant.

Prior law under Ga. Code §§ [44-11-30](#) to [44-11-33](#) created a procedure for “ejecting intruders” not subject to landlord-tenant laws.<sup>15</sup> Under these statutes, a property owner may provide an affidavit stating “that he claims, in good faith, the right of possession to [the property] and that such [property] is in the hands of another named person who does not in good faith claim a right to such possession and yet refuses to abandon the same.” Upon receipt of such an affidavit, the sheriff must show the affidavit to the person occupying the property and must “turn such person out of possession” unless the person tenders a counteraffidavit claiming a legal right to the property.<sup>16</sup> If the person occupying the property presents a counteraffidavit, the person is entitled to a trial by jury before the superior court of the county.<sup>17</sup> However, as one Georgia law firm website notes, this last statute is “not very well-known, even among attorneys,” so nearly any person presented with an ejection affidavit would be “baffled” and “may not know how to contest the owner’s affidavit or delay its impacts.”<sup>18</sup>

Separately, prior Georgia law also provided for the offense of criminal trespass, defined as intentionally damaging the property of another without consent of that person and maliciously interfering with the possession or use of the property without consent of that person.<sup>19</sup> This offense is generally a misdemeanor. Among other things, a person who causes damages in excess of \$500 may also be subject to penalties for second-degree criminal damage to property.<sup>20</sup>

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15. Ga. Code §§ [44-7-49](#) to [44-7-59](#).

16. Ga. Code § [44-11-30](#).

17. Ga. Code § [44-11-32](#).

18. David Metzger, “[Ejecting Squatters and Intruders in Georgia](#)” (blog post), Williams Teusink, Aug. 7, 2023, <http://www.williamsteusink.com>.

19. Ga. Code § [16-7-21](#).

20. Ga. Code § [16-7-23](#).

[2023 Georgia House Bill 1017](#) modifies various aspects of Ga. Code §§ [44-11-30](#) to [44-11-33](#). The bill establishes specific timelines by which the sheriff must show the affidavit to the occupant (three days) and turn out an occupant who has not provided a counteraffidavit (also three days). If a counteraffidavit is provided, the bill eliminates the requirement for a jury trial and instead requires a nonjury trial under the jurisdiction of the county magistrate court.<sup>21</sup> The bill further requires the sheriff to remove the occupant if the county magistrate court determines that the counteraffidavit is not meritorious. Finally, the bill creates a fine in the form of market rent for the duration of the unauthorized occupancy, which amount the court may award to the property owner along with other monetary relief that the court finds appropriate.

In addition to modifying this existing civil remedy, the bill creates the criminal offense of unlawful squatting under Ga. Code § [16-7-21](#), the existing statute relating to criminal trespass. A person cited with such a violation must present to the issuing law enforcement agency within three days documentation of a properly executed lease or rental agreement or proof of rental payments. A person unable to provide such documentation is subject to arrest, whereas a person who provides such documentation is subject to a court hearing within seven days. Upon a court finding that the documentation is not properly executed or is not meritorious, the person is subject to removal under Ga. Code §§ [44-11-30](#) to [44-11-33](#), is subject to arrest for unlawful squatting, and must be assessed a fine on the basis of the market rent of the land or premises.

### Comparison of state laws

The tables below provide a brief comparison of current Wisconsin law relating to squatting with the newly enacted Florida and Georgia laws on squatting. Table 1 summarizes procedures relating to the removal of a trespasser or squatter, and table 2 summarizes criminal penalties relating to trespassing and squatting.

**Table 1. Procedures relating to the removal of a person who is not subject to landlord-tenant laws and who has not received prior authorization to occupy a property**

Note: Former law appears shaded in blue.

Florida	<p>An officer may arrest or remove a trespass suspect from a dwelling.</p> <p>An officer may arrest or remove a trespass suspect from a dwelling.</p> <p>A property owner may submit a complaint to the sheriff. If certain conditions are met, the sheriff must serve notice to immediately vacate to any unauthorized person occupying the dwelling and must put the owner in possession of the property. The sheriff may arrest any person found in the dwelling for trespass.</p>
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21. Ga. Code § [15-10-2](#).

**Table 1. Procedures relating to the removal of a person who is not subject to landlord-tenant laws and who has not received prior authorization to occupy a property, continued**

Note: Former law appears shaded in blue.

Georgia	The sheriff must remove an intruder unless tendered a counteraffidavit by the intruder.
	The sheriff must remove an intruder within three days unless tendered a counteraffidavit by the intruder.
	Law enforcement must arrest a person cited with the offense of unlawful squatting unless the person presents required documentation within three days.
Wisconsin	An officer with probable cause to arrest for trespass to a dwelling must remove the suspect from the dwelling.

**Table 2. New criminal prohibitions relating to squatting and presenting false leases under recently enacted Florida and Georgia laws, as compared to existing prohibitions under Wisconsin law**

	Squatting	Presenting a false lease
Florida	Unlawfully detaining or occupying or trespassing upon a residential dwelling and intentionally damaging the dwelling causing \$1,000 or more in damages Florida Chapter 2024-44, § 2 Second-degree felony	Knowingly and willfully presenting to another person a false document purporting to be a valid lease, agreement, deed, or other instrument conveying real property rights Florida Chapter 2024-44, § 3 First-degree misdemeanor
Georgia	Entering and residing upon the land or premises of another for any period of time knowingly acting without the knowledge or consent of the owner or rightful occupant 2023 Georgia Act 483, § 3 Misdemeanor punishable as provided under Ga. Code § <a href="#">17-10-3</a> (2022)	NA
Wisconsin	Entering or remaining in the dwelling of another without the consent of a person lawfully upon the premises or, if no person is lawfully upon the premises, without the consent of the owner of the property under circumstances tending to create or provoke a breach of the peace Entering the locked or posted dwelling or room of another without the consent of the owner or the person in lawful possession of the premises Intentionally causing damage to any physical property of another without the person's consent Wis. Stat. §§ <a href="#">943.01 (1)</a> , <a href="#">943.14</a> , and <a href="#">943.15</a> (2023) Class A misdemeanors	With the intent to defraud, making or altering a writing or object whereby legal rights or obligations are created, terminated, or transferred Wis. Stat. § <a href="#">943.38 (1) (a)</a> (2023) Class H felony

### Other states

Apart from Florida and Georgia, West Virginia is the only state to have recently enacted a law relating to squatting. However, unlike these other states' laws, West Virginia's



new law does not create criminal penalties relating to squatting or provide a procedure for removing squatters. Instead, [2024 West Virginia House Bill 4940](#) defines squatting, provides that squatters are not tenants, notes that squatting is synonymous with trespass, and provides that eviction is not an appropriate remedy to remove squatters.

Elsewhere, pending legislation relating to squatting has been introduced but not enacted. Bills introduced in Alabama, Michigan, Ohio, and South Carolina hew closely to Florida law in creating a process by which a property owner may file a complaint with the county sheriff, who must subsequently file a notice to vacate, provided certain conditions are met.<sup>22</sup> Also similar to Florida and Georgia laws, other introduced bills create or revise criminal penalties to specifically address squatting.<sup>23</sup>

Finally, other pending bills modify landlord-tenant laws to clarify that such laws, including eviction procedures, are not applicable to squatters. For example, [2023 Illinois Senate Bill 3658](#) creates a new statute specifying that no person has a right or legal standing to occupy or remain on a property if that person lacks documentation of a property interest, rental agreement, or payment of rent. Separately, [2023 New York Senate Bill 5979](#) proposes to modify an existing law that defines as a tenant any occupant “who has been in possession for thirty consecutive days or longer,” regardless of whether any rental agreement exists.<sup>24</sup> The bill would extend the period of possession from 30 to 45 days and expressly exclude “a person who enters onto property with the intent of squatting on such property or who otherwise settles on land or occupies property without title, right, permission of the rightful owner, or payment of rent.” ■

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22. [2024 Alabama House Bill 182](#), [2024 Michigan House Bill 5634](#), [2023 Ohio House Bill 478](#), [2023 Ohio House Bill 480](#), and [2023 South Carolina Senate Bill 1231](#).

23. [2024 Louisiana Senate Bill 448](#) and [2024 New Jersey Assembly Bill 731](#).

24. N.Y. Real Prop. Acts. Law § [711](#).