

[SECOND CORRECTED COPY]
CHAPTER 319

AN ACT concerning eviction, amending N.J.S.2A:39-1, P.L.1974, c.47 and N.J.S.2C:17-3, and supplementing chapter 33 of Title 2C of the New Jersey Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. N.J.S.2A:39-1 is amended to read as follows:

Unlawful entry prohibited.

2A:39-1. No person shall enter upon or into any real property or estate therein and detain and hold the same, except where entry is given by law, and then only in a peaceable manner. With regard to any real property occupied solely as a residence by the party in possession, such entry shall not be made in any manner without the consent of the party in possession unless the entry and detention is made pursuant to legal process as set out in N.J.S.2A:18-53 et seq., as amended and supplemented; P.L.1974, c.49 (C.2A:18-61.1 et al.), as amended and supplemented; P.L.1975, c.311 (C.2A:18-61.6 et al.), as amended and supplemented; P.L.1978, c.139 (C.2A:18-61.6 et al.), as amended and supplemented; the "Tenant Protection Act of 1992," P.L.1991, c.509 (C.2A:18-61.40 et al.); or N.J.S.2A:35-1 et seq. and "The Fair Eviction Notice Act," P.L.1974, c.47 (C.2A:42-10.15 et al.). A person violating this section regarding entry of rental property occupied solely as a residence by a party in possession shall be a disorderly person.

2. Section 2 of P.L.1974, c.47 (C.2A:42-10.16) is amended to read as follows:

C.2A:42-10.16 Warrant for possession; execution.

2. In any proceeding for the summary dispossession of a tenant, warrant for possession issued by a court of appropriate jurisdiction:

- a. Shall include a notice to the tenant of any right to apply to the court for a stay of execution of the warrant, together with a notice advising that the tenant may be eligible for temporary housing assistance or other social services and that the tenant should contact the appropriate county welfare agency, at the address and telephone number given in the notice, to determine eligibility;

- b. Shall be executed not earlier than the third day following the day of personal service upon the tenant by the appropriate court officer. In calculating the number of days hereby required, Saturday, Sunday and court holidays shall be excluded;

- c. Shall be executed during the hours of 8 a.m. to 6 p.m., unless the court, for good cause shown, otherwise provides in its judgment for possession;

- d. Shall state the earliest date and time that the warrant may be executed, and also shall state that the warrant shall only be executed by an officer of the court; and

- e. Shall include a notice that it is illegal as a disorderly person's offense for a landlord to padlock or otherwise block entry to a rental premises while a tenant is still in possession of the premises unless such action is done in accordance with a distraint action involving a non-residential premises as permitted by law; shall state that removal of a tenant's belongings from a premises by a landlord after the eviction of a tenant may be done only in accordance with the provisions of P.L.1999, c.340 (C.2A:18-72 et al.); shall contain a concise summary of the provisions of this section and section 3 of P.L.2005, c.319 (C.2C:33-11.1) with special emphasis placed on the duties and obligations of law enforcement officers under those sections of law; and shall advise the occupant of the right to file a court proceeding pursuant to N.J.S.2A:39-1 et seq.

Whenever a written notice, in accordance with the provisions of subsection a. of this section, is given to the tenant by the court, this shall constitute personal service in accordance with the provisions of subsection b. of this section.

At the time a warrant for possession is lawfully executed, the court officer involved shall prepare a statement of "Execution of Warrant for Possession" and shall immediately deliver the statement to the landlord or the landlord's representative by personal service. The court officer shall deliver a copy of the statement to the tenant by personal service, however, if it cannot be personally served, it may be delivered in the manner provided under N.J.S.2A:18-54. The statement shall also be affixed to the door to the unit to which the warrant applies. The

statement shall identify the warrant, the date of issuance of the warrant, the court and judge who issued the warrant, the date and time of execution of the warrant, and the name, signature and position of the person executing the warrant.

The Superior Court, Law Division, Special Civil Part shall retain jurisdiction for a period of 10 days subsequent to the actual execution of the warrant for possession for the purpose of hearing applications by the tenant for lawful relief.

C.2C:33-11.1 Certain actions relevant to evictions, disorderly persons offense.

3. a. A person commits a disorderly persons offense if, after being warned by a law enforcement or other public official of the illegality of that action, the person (1) takes possession of residential real property or effectuates a forcible entry or detainer of residential real property without lawful execution of a warrant for possession in accordance with the provisions of section 2 of P.L.1974, c.47 (C.2A:42-10.16) or without the consent of the occupant solely in possession of the residential real property; or (2) refuses to restore immediately to exclusive possession and occupancy any such occupant so displaced. Legal occupants unlawfully displaced shall be entitled without delay to reenter and reoccupy the premises, and shall not be considered trespassers or chargeable with any offense, provided that a law enforcement officer is present at the time of reentry. It shall be the duty of such officer to prevent the landlord or any other persons from obstructing or hindering the reentry and reoccupancy of the dwelling by the displaced occupant.

As used in this section, "forcible entry and detainer" means to enter upon or into any real property and detain and hold that property by:

- (1) any kind of violence including threatening to kill or injure the party in possession;
- (2) words, circumstances or actions which have a clear intention to incite fear or apprehension or danger in the party in possession;
- (3) putting outside of the residential premises the personal effects or furniture of the party in possession;
- (4) entering peaceably and then, by force or threats, turning the party out of possession;
- (5) padlocking or otherwise changing locks to the property;
- (6) shutting off, or causing to be shut off, vital services such as, but not limited to, heat, electricity or water, in an effort to regain possession; or by
- (7) any means other than compliance with lawful eviction procedures pursuant to section 2 of P.L.1974, c.47 (C.2A:42-10.16), as established through possession of a lawfully prepared and valid "Execution of Warrant."

b. A person who is convicted of an offense under this section more than once within a five-year period is guilty of a crime of the fourth degree.

C.52:17B-4.6 Notice to law enforcement explaining provisions of act on unlawful evictions.

4. Within 30 days of the effective date of P.L.2005, c.319 (C.2C:33-11.1 et al.), the Attorney General shall prepare a notice explaining the provisions of P.L.2005, c.319 (C.2C:33-11.1 et al.), with particular emphasis on the responsibilities of law enforcement officers and other public officials, and transmit the notice to the chief or director of every municipal police department, every municipal prosecutor, every county prosecutor, and the Superintendent of the New Jersey State Police. The notice shall be disseminated to every law enforcement officer and shall be reenforced at roll calls and academy service training and continuing education programs so to ensure that all officers and prosecutors are educated of their responsibilities under P.L.2005, c.319 (C.2C:33-11.1 et al.).

5. N.J.S.2C:17-3 is amended to read as follows:

Criminal mischief.

2C:17-3. a. Offense defined. A person is guilty of criminal mischief if he:

- (1) Purposely or knowingly damages tangible property of another or damages tangible property of another recklessly or negligently in the employment of fire, explosives or other

dangerous means listed in subsection a. of N.J.S.2C:17-2; or

(2) Purposely, knowingly or recklessly tampers with tangible property of another so as to endanger person or property, including the damaging or destroying of a rental premises by a tenant in retaliation for institution of eviction proceedings.

b. Grading. (1) Criminal mischief is a crime of the third degree if the actor purposely or knowingly causes pecuniary loss of \$2,000.00 or more.

(2) Criminal mischief is a crime of the fourth degree if the actor causes pecuniary loss in excess of \$500.00 but less than \$2000.00. It is a disorderly persons offense if the actor causes pecuniary loss of \$500.00 or less.

(3) Criminal mischief is a crime of the third degree if the actor damages, defaces, eradicates, alters, receives, releases or causes the loss of any research property used by the research facility, or otherwise causes physical disruption to the functioning of the research facility. The term "physical disruption" does not include any lawful activity that results from public, governmental, or research facility employee reaction to the disclosure of information about the research facility.

(4) Criminal mischief is a crime of the fourth degree if the actor damages, removes or impairs the operation of any device, including, but not limited to, a sign, signal, light or other equipment, which serves to regulate or ensure the safety of air traffic at any airport, landing field, landing strip, heliport, helistop or any other aviation facility; however, if the damage, removal or impediment of the device recklessly causes bodily injury or damage to property, the actor is guilty of a crime of the third degree, or if it recklessly causes a death, the actor is guilty of a crime of the second degree.

(5) Criminal mischief is a crime of the fourth degree if the actor interferes or tampers with any airport, landing field, landing strip, heliport, helistop or any other aviation facility; however if the interference or tampering with the airport, landing field, landing strip, heliport, helistop or other aviation facility recklessly causes bodily injury or damage to property, the actor is guilty of a crime of the third degree, or if it recklessly causes a death, the actor is guilty of a crime of the second degree.

(6) Criminal mischief is a crime of the third degree if the actor tampers with a grave, crypt, mausoleum or other site where human remains are stored or interred, with the purpose to desecrate, destroy or steal such human remains or any part thereof.

(7) Criminal mischief is a crime of the third degree if the actor purposely or knowingly causes a substantial interruption or impairment of public communication, transportation, supply of water, oil, gas or power, or other public service. Criminal mischief is a crime of the second degree if the substantial interruption or impairment recklessly causes death.

(8) Criminal mischief is a crime of the fourth degree if the actor purposely or knowingly breaks, digs up, obstructs or otherwise tampers with any pipes or mains for conducting gas, oil or water, or any works erected for supplying buildings with gas, oil or water, or any appurtenances or appendages therewith connected, or injures, cuts, breaks down, destroys or otherwise tampers with any electric light wires, poles or appurtenances, or any telephone, telecommunications, cable television or telegraph wires, lines, cable or appurtenances.

c. A person convicted of an offense of criminal mischief that involves an act of graffiti may, in addition to any other penalty imposed by the court, be required to pay to the owner of the damaged property monetary restitution in the amount of the pecuniary damage caused by the act of graffiti and to perform community service, which shall include removing the graffiti from the property, if appropriate. If community service is ordered, it shall be for either not less than 20 days or not less than the number of days necessary to remove the graffiti from the property.

d. As used in this section:

(1) "Act of graffiti" means the drawing, painting or making of any mark or inscription on public or private real or personal property without the permission of the owner.

(2) "Spray paint" means any paint or pigmented substance that is in an aerosol or similar spray container.

e. A person convicted of an offense of criminal mischief that involves the damaging or destroying of a rental premises by a tenant in retaliation for institution of eviction proceedings, may, in addition to any other penalty imposed by the court, be required to pay to the owner of the property monetary restitution in the amount of the pecuniary damage caused by the damage

or destruction.

6. This act shall take effect immediately.

Approved January 12, 2006.