**South Carolina General Assembly**

126th Session, 2025-2026

**H. 3387**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. G.M. Smith, W. Newton, B. Newton, Robbins, Mitchell, Pope, Chapman, McCravy, Chumley, Taylor, Forrest, Long, Ligon, Guest, Crawford, Edgerton, M.M. Smith, B.L. Cox, Holman, Davis, Brewer, Murphy and Calhoon

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Introduced in the House on January 14, 2025

Currently residing in the House

Summary: Unlawful occupants of property

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 12/5/2024 House Prefiled

 12/5/2024 House Referred to Committee on **Judiciary**

 1/14/2025 House Introduced and read first time (House Journal‑page 186)

 1/14/2025 House Referred to Committee on **Judiciary** (House Journal‑page 186)

 2/13/2025 House Member(s) request name added as sponsor: Ligon

 2/26/2025 House Member(s) request name added as sponsor: Guest,
 Crawford

 3/5/2025 House Member(s) request name added as sponsor:
 Edgerton, M.M. Smith, B.L. Cox, Holman,
 Davis, Brewer, Murphy

 3/11/2025 House Member(s) request name added as sponsor: Calhoon

 3/20/2025 House Committee report: Favorable with amendment **Judiciary** (House Journal‑page 7)

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**VERSIONS OF THIS BILL**

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

[03/20/2025](https://www.scstatehouse.gov/sess126_2025-2026/prever/3387_20250320.docx)

Indicates Matter Stricken

Indicates New Matter

Committee Report

March 20, 2025

H. 3387

Introduced by Reps. G. M. Smith, W. Newton, B. Newton, Robbins, Mitchell, Pope, Chapman, McCravy, Chumley, Taylor, Forrest, Long, Ligon, Guest, Crawford, Edgerton, M. M. Smith, B. L. Cox, Holman, Davis, Brewer, Murphy and Calhoon

S. Printed 3/20/25--H.

Read the first time January 14, 2025

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The committee on House Judiciary

To whom was referred a Bill (H. 3387) 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”, etc., respectfully

Report:

That they have duly and carefully considered the same, and recommend that the same do pass with amendment:

 Amend the bill, as and if amended, SECTION 1.A., by striking Section 27-37-200(1), (2), and (3) and inserting:

 (1) “Authorized enforcement official” means the county sheriff for the county in which the property is located or any county, city, or township constable, pursuant to Section 22-9-10, for the county, city, or township in which the property is located.

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

 (2)(3) “Representative of the property owner” includes any authorized agent or personal representative of the property owner. If the property at issue is part of an estate being probated, “representative of the property owner” refers to the representative of the estate during probate proceedings.

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

 (3)(5) “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.

Amend the bill further, SECTION 1.A., by striking Section 27-37-210 and inserting:

 Section 27‑37‑210. Notwithstanding any provision of this chapter to the contrary, a property owner or his or her authorized agentrepresentative of the property owner 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.

Amend the bill further, SECTION 1.A., by striking Section 27-37-230(A)(1) and inserting:

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

Amend the bill further, SECTION 1.A., by striking Sections 27-37-270, 27-37-280, and 27-37-290 and inserting:

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

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

 Section 27‑37‑290. The sheriff authorized enforcement official 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 authorized enforcement official serves the order, the property owner or authorized agentrepresentative of the property owner may request that the sheriff authorized enforcement official stand by to keep the peace while the property owner or agent of therepresentative of the property 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 authorized enforcement official may charge a reasonable hourly rate, and the person requesting the sheriff authorized enforcement official to stand by and keep the peace is responsible for paying the reasonable hourly rate set by the sheriffauthorized enforcement official. The sheriff authorized enforcement official 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 agentrepresentative of the property owner 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.

Amend the bill further, by adding an appropriately numbered SECTION to read:

SECTION X. Section 27-40-800 of the S.C. Code is amended to read:

 Section 27-40-800. (a) Upon appeal to the circuit court, the case must be heard, in a manner consistent with other appeals from magistrates' court, as soon as is feasible after the appeal is docketed.

 (b) It is sufficient toNo court shall stay an execution of a judgment for ejectment. that Upon appeal to the circuit court, the tenant sign an undertaking that he willmay file an affidavit with the circuit court or the magistrate having jurisdiction, in which the tenant promises to pay to the landlord the amount of rent, determined by the magistrate in accordance with § 27-40-780, as it becomes due periodically after the judgment was entered, in exchange for a stay of the execution of a judgment for ejectment. Once the affidavit is accepted by the court, Anyany magistrate, clerk, or circuit court judge shall order a stay of execution upon the undertaking.

 (c) The undertaking affidavit by the tenant and the order staying execution may be substantially in the following form:

|  |  |  |
| --- | --- | --- |
|  | State of South Carolina |  |
|  | County of \_\_\_\_\_\_\_\_\_\_\_ |  |
|  |  |  |
|  | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Landlord |  |
|  |  |  |
|  | vs. |  |
|  |  |  |
|  | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Tenant |  |

 Bond to Stay

 Execution on Appeal

 to Circuit Court

 Now comes the tenant in the above entitled action and respectfully shows the court that a judgment of ejectment was issued against the tenant and for the landlord on the \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_ , 1920\_, by the magistrate. The Tenanttenant also shows the court the tenant has appealedfiled an appeal of the judgment of ejectment to the circuit court on the \_\_\_ day of \_\_\_\_\_\_\_\_, 20\_\_.

 Pursuant to the findings of the magistrate, the tenant is obligated to pay rent in the amount of $ \_\_\_\_\_\_ per \_\_\_\_\_\_ , due on the \_\_\_\_ day of each \_\_\_\_\_\_\_\_\_\_\_ .

 Tenant hereby undertakes promises to pay the periodic rent hereinafter due according to the aforesaid findings of the court and moves the circuit court to stay execution on the judgment for ejectment until this matter is heard on appeal and decided by the circuit court.

 This the \_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_ , 1920 \_\_\_\_

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 Tenant

 Upon execution of the above bond, execution on the judgment of ejectment is hereby stayed until the action is heard on appeal and decided by the circuit court. If tenant fails to make any rental payment within five days of the due date under the agreed terms, upon application of the landlord to whichever court accepted the affidavit in exchange for the stay of ejectment following the initiation of the appeal, the stay of execution shall dissolve, the appeal by the tenant to the circuit court on issues dealing with possession must be dismissed and the sheriff may dispossess the tenant. If the application is submitted to the magistrate, the landlord shall be required to provide notice of the application to the circuit court having appellate jurisdiction prior to ejecting the tenant and to effectuate proper dismissal of the appeal.

 This the \_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_ , 19 20 \_\_\_\_

 \_

 Judge

 (d) If either party disputes the amount of the payment or the due date in the undertakingaffidavit, the aggrieved party may move for modification of the terms of the undertaking affidavit before the circuit court. Upon the motion and upon notice to all interested parties, the court shall hold a hearing as soon as is feasible after the filing of the motion and determine what modifications, if any, are appropriate. No judgment for ejectment may be executed pending a hearing on the motion, provided the tenant complied with the terms of the undertakingaffidavit prior to moving for modification. During the pendency of the motion, the tenant shall continue to pay rent in accordance with the terms of the affidavit, and at the discretion of the judge, make payments directly to the landlord or deposit the payments into an escrow account. Upon resolution of the motion, any difference between the total rent amount paid during the appeal and the total amount owed to the landlord, as modified by the court, shall be either refunded to the tenant or become an additional obligation of the tenant to be paid to the landlord.

 (e) If the tenant fails to make a payment within five days of the due date according to the undertakingaffidavit and order staying execution, the clerk, upon application of the landlord to whichever court accepted the affidavit in exchange for the stay of ejectment following the initiation of the appeal, shall issue a warrant of ejectment to be executed pursuant to § 27-37-40 of the 1976 Code. If the application is submitted to a court not having appellate jurisdiction over the matter, the landlord shall be required to provide notice of the application to the court having appellate jurisdiction prior to ejecting the tenant.

 (f)(1) Upon appeal to the Supreme Court or to the court of appeals, it is sufficient toa court shall not stay an execution of a judgment for ejectment that unless the tenant sign an undertaking that he will files an affidavit with the proper appellate court, in which the tenant promises to pay to the landlord the amount of rent, determined by order of the judge of the circuit court, as it becomes due periodically after judgment was entered. The Once the affidavit is accepted by the court, the judge of the court having jurisdiction shall order stay of execution upon the undertaking.

 (2) The tenant's failure to comply with the terms of the undertaking affidavit entitles the landlord to execution of the judgment for possession in accordance with the provisions of subsection (e) of this section.

Renumber sections to conform.

Amend title to conform.

W. NEWTON for Committee.

statement of estimated fiscal impact

Explanation of Fiscal Impact

State Expenditure

This bill allows a property owner to seek relief for the removal of a person or persons unlawfully occupying property containing a residential dwelling by filing a verified petition with the clerk of court or chief magistrate of the county in which the property is located. 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. Upon the filing of a verified petition, and for good cause, the court must immediately issue an ex parte order to remove an unlawful occupant or occupants from the property. Once the court grants the order, the sheriff of the county in which the property is located must enforce the order by removing the person or persons unlawfully occupying the property. The bill specifies that the sheriff is entitled to the same fee for service of the ex parte order as that provided for the execution of a warrant for the ejection of a trespasser pursuant to Section 15‑67‑630. The bill also provides for a civil cause of action for wrongful removal and allows for the recovery of real property, actual damages to personal property when personal property was removed, statutory damages in the amount of $1,000, and reimbursement of court costs. Additionally, the bill specifies that a person who violates the terms and conditions of an ex parte order is guilty of a felony and, upon conviction, must be imprisoned not more than three years or fined not more than $3,000, or both. The bill also creates a new offense for criminal mischief and provides that a person who unlawfully detains, occupies, or trespasses upon a residential dwelling is guilty of a felony and, upon conviction, must be imprisoned not more than three years or fined not more than $3,000, or both. As these are new offenses, there are no data to determine the number of new cases that may be heard in circuit court.

Judicial reports that the new process for ejectment and the new felony offense may increase circuit court caseloads. Judicial anticipates that any additional expenses can be managed within existing appropriations. However, if the bill has a significant impact on caseloads or downstream expenses, such as an increased need for court interpreters, Judicial indicates that it will request an increase in General Fund appropriations.

This bill may result in an increase in the number of circuit court cases, and potentially the number of incarcerations, which may increase the workload of the Commission of Indigent Defense, the Commission on Prosecution Coordination, Corrections, and PPP. The potential increase in expenses for each agency will depend upon the increase in the number of cases and the number of incarcerations. These agencies indicate that if this bill results in a significant increase in the workload, then an increase in General Fund appropriations may be requested. For information, according to Corrections, in FY 2023-24, the annual total cost per inmate was $40,439, of which $36,553 was state funded.

State Revenue

This bill may result in an increase in the fines and fees collected in court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, RFA anticipates this bill may result in an undetermined impact to General Fund and Other Funds revenue due to the increase in fines and fees collections in court.

Local Expenditure

This bill allows a property owner to seek relief for the removal of a person or persons unlawfully occupying property containing a residential dwelling by filing a verified petition with the clerk of court or chief magistrate of the county in which the property is located. Upon the filing of a verified petition, and for good cause, the court must immediately issue an ex parte order to remove an unlawful occupant from the property. Once the court grants the order, the sheriff of the county in which the property is located must enforce the order by removing the person unlawfully occupying the property. The bill specifies that the sheriff is entitled to a fee for service of the ex parte order and provides for a civil cause of action for wrongful removal. Additionally, the bill specifies that a person who violates the terms and conditions of an ex parte order is guilty of a felony. The bill also creates the new felony offense of criminal mischief. As these are new offenses, there are no data to determine the number of new cases that may be heard in circuit court.

RFA contacted all county governments and MASC regarding the impact of this bill and received responses from Chesterfield and Sumter counties and MASC. Based on the responses received, we do not anticipate an expenditure impact on local governments. For reference, the responding counties indicate that the bill will have no fiscal impact. Additionally, MASC does not anticipate any direct fiscal impact to municipalities. MASC indicates that because the bill grants county sheriffs the authority to conduct evictions of residential property but does not grant this authority to municipal public safety officers, any costs arising from this provision of the bill will be borne by county sheriff agencies and not by municipal governments. MASC further indicates that because the new offense of criminal mischief is a felony charge, individuals charged with this offense will not be eligible for prosecution in a municipal court.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

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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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