



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB1559

Introduced 2/26/2021, by Sen. Celina Villanueva

SYNOPSIS AS INTRODUCED:

735 ILCS 5/9-106.2

Amends the Eviction Article of the Code of Civil Procedure. Deletes language providing that a landlord shall have the power to bar the presence of a person from the premises owned by the landlord who is not a tenant or lessee or who is not a member of the tenant's or lessee's household. Deletes language providing that a landlord may give notice to a person that the person is barred from the premises owned by the landlord and providing criminal penalties for further trespass after the notice has been given. Provides instead that nothing precludes a landlord from exercising any rights the landlord may have under existing local, State, federal, or common law to bar from the property an individual who is not a tenant or member of the tenant's household, if that individual's presence on the property poses a direct threat to: (1) any tenant's health, safety, or right to quiet enjoyment of the premises; or (2) the health or safety of the landlord or the landlord's employees.

LRB102 15990 LNS 21360 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Civil Procedure is amended by
5 changing Section 9-106.2 as follows:

6 (735 ILCS 5/9-106.2)

7 Sec. 9-106.2. Affirmative defense for violence; barring
8 persons from property.

9 (a) It shall be an affirmative defense to an action
10 maintained under this Article IX if the court makes one of the
11 following findings that the demand for possession is:

12 (1) based solely on the tenant's, lessee's, or
13 household member's status as a victim of domestic violence
14 or sexual violence as those terms are defined in Section
15 10 of the Safe Homes Act, stalking as that term is defined
16 in the Criminal Code of 2012, or dating violence;

17 (2) based solely upon an incident of actual or
18 threatened domestic violence, dating violence, stalking,
19 or sexual violence against a tenant, lessee, or household
20 member;

21 (3) based solely upon criminal activity directly
22 relating to domestic violence, dating violence, stalking,
23 or sexual violence engaged in by a member of a tenant's or

1 lessee's household or any guest or other person under the
2 tenant's, lessee's, or household member's control, and
3 against the tenant, lessee, or household member; or

4 (4) based upon a demand for possession pursuant to
5 subsection (f) where the tenant, lessee, or household
6 member who was the victim of domestic violence, sexual
7 violence, stalking, or dating violence did not knowingly
8 consent to the barred person entering the premises or a
9 valid court order permitted the barred person's entry onto
10 the premises.

11 (b) When asserting the affirmative defense, at least one
12 form of the following types of evidence shall be provided to
13 support the affirmative defense: medical, court, or police
14 records documenting the violence or a statement from an
15 employee of a victim service organization or from a medical
16 professional from whom the tenant, lessee, or household member
17 has sought services.

18 (c) Nothing in subsection (a) shall prevent the landlord
19 from seeking possession solely against a tenant, household
20 member, or lessee of the premises who perpetrated the violence
21 referred to in subsection (a).

22 (d) Nothing in subsection (a) shall prevent the landlord
23 from seeking possession against the entire household,
24 including the tenant, lessee, or household member who is a
25 victim of domestic violence, dating violence, stalking, or
26 sexual violence if the tenant, lessee, or household member's

1 continued tenancy would pose an actual and imminent threat to
2 other tenants, lessees, household members, the landlord or
3 their agents at the property.

4 (e) Nothing in subsection (a) shall prevent the landlord
5 from seeking possession against the tenant, lessee, or
6 household member who is a victim of domestic violence, dating
7 violence, stalking, or sexual violence if that tenant, lessee,
8 or household member has committed the criminal activity on
9 which the demand for possession is based.

10 (f) Nothing in this Section precludes a landlord from
11 exercising any rights the landlord may have under existing
12 local, State, federal, or common law to bar from the property
13 an individual who is not a tenant or member of the tenant's
14 household, if that individual's presence on the property poses
15 a direct threat to: (1) any tenant's health, safety, or right
16 to quiet enjoyment of the premises; or (2) the health or safety
17 of the landlord or the landlord's employees. A landlord shall
18 have the power to bar the presence of a person from the
19 premises owned by the landlord who is not a tenant or lessee or
20 who is not a member of the tenant's or lessee's household. A
21 landlord bars a person from the premises by providing written
22 notice to the tenant or lessee that the person is no longer
23 allowed on the premises. That notice shall state that if the
24 tenant invites the barred person onto any portion of the
25 premises, then the landlord may treat this as a breach of the
26 lease, whether or not this provision is contained in the

1 ~~lease. Subject to paragraph (4) of subsection (a), the~~
2 ~~landlord may evict the tenant.~~

3 (g) (Blank). ~~Further, a landlord may give notice to a~~
4 ~~person that the person is barred from the premises owned by the~~
5 ~~landlord. A person has received notice from the landlord~~
6 ~~within the meaning of this subsection if he has been notified~~
7 ~~personally, either orally or in writing including a valid~~
8 ~~court order as defined by subsection (7) of Section 112A 3 of~~
9 ~~the Code of Criminal Procedure of 1963 granting remedy (2) of~~
10 ~~subsection (b) of Section 112A 14 of that Code, or if a printed~~
11 ~~or written notice forbidding such entry has been conspicuously~~
12 ~~posted or exhibited at the main entrance to such land or the~~
13 ~~forbidden part thereof. Any person entering the landlord's~~
14 ~~premises after such notice has been given shall be guilty of~~
15 ~~criminal trespass to real property as set forth in Section~~
16 ~~21 3 of the Criminal Code of 2012. After notice has been given,~~
17 ~~an invitation to the person to enter the premises shall be void~~
18 ~~if made by a tenant, lessee, or member of the tenant's or~~
19 ~~lessee's household and shall not constitute a valid invitation~~
20 ~~to come upon the premises or a defense to a criminal trespass~~
21 ~~to real property.~~

22 (Source: P.A. 96-1188, eff. 7-22-10; 97-1150, eff. 1-25-13.)