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BILL ANALYSIS

Senate Fiscal Agency

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Senate Bill 289 (as reported without amendment)

Sponsor: Senator Vern Ehlers

Committee: Judiciary

Date Completed: 5-27-87

RATIONALE

The Revised Judicature Act (RJA) provides that any building, vehicle, or place used for the unlawful manufacture, storage, possession, transportation, sale, or other disposal of any narcotic and/or hypnotic drug is a "nuisance". That means that the place is used for an activity considered harmful to the public welfare, and, under the Act's so-called "padlock law", the place is subject to closure in order to abate, or enjoin, the nuisance. It has been suggested that the nuisance law also should cover cocaine and other illegal drugs, in order to combat their use and distribution.

CONTENT

The bill would amend the Revised Judicature Act to refer to a "controlled substance" as defined in the Public Health Code, in place of "narcotic and/or hypnotic drug", in the provision under which any place used for the unlawful manufacture, storage, possession, transportation, sale, or other disposal of a narcotic and/or hypnotic drug is a nuisance.

MCL 600.3801

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

ARGUMENTS***Supporting Argument***

If places used for the manufacture, possession, or distribution of cocaine are to be closed down under the nuisance law, it is necessary that controlled substances be expressly included in the language of the Act. In addition to cocaine, many other controlled substances do not fall under the term "narcotic and/or hypnotic drug". While the RJA provides that a place used by or kept for the use of "disorderly persons" also is a nuisance, it is unlikely that the courts would consider drug suppliers "disorderly persons". (In refusing to extend the disorderly persons category to those engaged in obscenity, the Michigan Court of Appeals found that "the public nuisance abatement statute...concerns itself with prostitution, gambling and intoxicants". State v Northcrest Plaza, 146 Mich App 595) Thus, since the nuisance law probably will not be broadened judicially, the bill would expand it statutorily. In doing so, the bill would give law enforcement one more tool to fight the war against illegal drugs.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.

S.B. 289 (5-27-87)