



# HOUSE BILL No. 5345

February 10, 2000, Introduced by Reps. Scott, DeWeese, DeHart, Hale, Richner, Garza, Daniels, Price, Jacobs, Prusi, Thomas and Lemmons and referred to the Committee on Family and Civil Law.

A bill to provide for expedited eviction of persons engaged in certain drug-related activities and to enjoin persons engaged in certain drug-related activities from being at or near certain residential premises; to provide civil remedies; to prescribe duties for certain state agencies; to grant immunity to certain persons; to provide for the distribution of information and drug treatment services; and to provide opportunities for drug rehabilitation.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1. This act shall be known and may be cited as the  
2 "expedited eviction of drug traffickers act".

3       Sec. 2. As used in this act:

4       (a) "Complete eviction" means the eviction and removal of a  
5 tenant and all members of the tenant's household.

1 (b) "Controlled substance" means that term as defined in  
2 section 7104 of the public health code, 1978 PA 368, MCL  
3 333.7104.

4 (c) "Deliver" means that term as defined in section 7105 of  
5 the public health code, 1978 PA 368, MCL 333.7105.

6 (d) "Distribute" means that term as defined in section 7105  
7 of the public health code, 1978 PA 368, MCL 333.7105.

8 (e) "Drug dependent person" means a person who engages in  
9 substance abuse as that term is defined in section 6107 of the  
10 public health code, 1978 PA 368, MCL 333.6107.

11 (f) "Drug-related criminal activity" means the unlawful man-  
12 ufacture of, delivery of, or possession with intent to manufac-  
13 ture or deliver of a controlled substance in violation of section  
14 7401 of the public health code, 1978 PA 368, MCL 333.7401, or an  
15 unlawful attempt or conspiracy to commit such an act.

16 (g) "Guest" means an individual who has been given express  
17 or implied permission by a tenant, a member of the tenant's  
18 household, or another guest of the tenant to enter an individual  
19 rental unit or any portion of the leased residential premises.

20 (h) "Individual rental unit" means an apartment or individ-  
21 ual dwelling or accommodation that is leased to a particular  
22 tenant, whether or not it is used or occupied or intended to be  
23 used or occupied by a single family or household.

24 (i) "Landlord" means a person who owns, operates, or manages  
25 any leased residential premises.

26 (j) "Leased residential premises" means a house, building,  
27 mobile home, or apartment, whether publicly or privately owned,

1 that is leased for residential purposes. Leased residential  
2 premises includes the entire building or complex of buildings or  
3 mobile home park and all real property of any nature appurtenant  
4 to and used in connection with the building or mobile home park  
5 and all individual rental units and common areas. Leased resi-  
6 dential premises does not include a hotel, motel, or other guest  
7 house or part of a guest house rented to a transient guest.

8 (k) "Manufacture" means that term as defined in section 7106  
9 of the public health code, 1978 PA 368, MCL 333.7106.

10 (l) "Office of substance abuse services" means the state  
11 agency created in section 6201 of the public health code, 1978 PA  
12 368, MCL 333.6201, to plan, manage, monitor, and evaluate alcohol  
13 and other drug treatment services in the state.

14 (m) "Partial eviction" means the eviction and removal of  
15 specified persons other than the tenant from a leased residential  
16 premises.

17 (n) "Person" means an individual, corporation, association,  
18 partnership, trustee, lessee, agent, assignee, enterprise, gov-  
19 ernmental entity, and any other legal entity or group of individ-  
20 uals associated in fact that is capable of holding a legal or  
21 beneficial interest in property.

22 (o) "Resident" means an individual who lawfully resides in a  
23 leased residential premises who is not a signatory to a lease or  
24 who has no contractual relationship to a landlord. Resident  
25 includes, but is not limited to, members of the tenant's  
26 household.

1       (p) "Tenant" means an individual or entity who is a named  
2 party or signatory to a lease or rental agreement and who  
3 occupies, resides at, or has a legal right to possess and use an  
4 individual rental unit.

5       (q) "Tenant organization" means an organization or associa-  
6 tion, whether or not incorporated, that is representative of the  
7 tenants or residents of a leased residential premises and whose  
8 membership consists of tenants of the leased residential  
9 premises. Tenant organization also includes a community-based  
10 organization with members who are tenants of the leased residen-  
11 tial premises.

12       Sec. 3. The civil causes of action established in this act  
13 shall be proved by a preponderance of the evidence, except as  
14 otherwise provided in this act.

15       Sec. 4. (1) A civil action may be brought under this act by  
16 any of the following:

17       (a) The landlord of a leased residential premises, or his or  
18 her agent.

19       (b) A tenant organization.

20       (c) A criminal prosecuting attorney, or municipal, county,  
21 or state attorney.

22       (2) If the court determines in its discretion that the  
23 plaintiff bringing an action under this act has failed to prose-  
24 cute the matter with reasonable diligence, the court may substi-  
25 tute as plaintiff a person who consents if that substituted  
26 person would have been authorized to initiate the action.

1       (3) A civil action may be brought under this act against any  
2 person within the jurisdiction of the court, including, but not  
3 limited to, a tenant, adult or minor member of the tenant's  
4 household, guest, or resident of the leased residential  
5 premises. If any defendant's true name is unknown to the plain-  
6 tiff, process may issue against the defendant under a fictitious  
7 name, stating it to be fictitious and adding an appropriate  
8 description sufficient to identify that defendant.

9       (4) A complaint initiating an action under this act shall be  
10 personally served, and notice to all defendants shall be provided  
11 in the same manner as a complaint is served in civil actions.  
12 After filing an affidavit that personal service cannot be had  
13 after due diligence on 1 or more defendants within 20 days after  
14 the filing of the complaint, the plaintiff may serve a defendant  
15 by doing both of the following:

16       (a) Mailing a copy of the complaint to the defendant by cer-  
17 tified mail, restricted delivery, with return receipt requested  
18 to the clerk of court.

19       (b) Affixing a copy of the complaint conspicuously to the  
20 main entrance to the premises and to all entrances to the indi-  
21 vidual rental unit where the drug-related criminal activity is  
22 alleged to have occurred.

23       (5) Service is complete 5 days after filing with the court  
24 proof that the complaint has been mailed and an affidavit that a  
25 copy of the complaint has been affixed to the premises.

26       (6) All tenants or residents of a premises that is used in  
27 whole or in part as a home, residence, or dwelling, other than

1 transient guests of a guest house, hotel, or motel, who may be  
2 affected by an order issued under this act shall be given reason-  
3 able notice as ordered by the court and shall be afforded an  
4 opportunity to be heard at all hearings.

5       (7) Notwithstanding any other provision of law, rule, or  
6 regulation concerning the procedures used in eviction proceed-  
7 ings, a plaintiff may, but is not required to, provide notice to  
8 the tenant to vacate the premises prior to filing the complaint  
9 initiating a civil action under this act.

10       (8) If an action under this act is initiated by a tenant  
11 organization, prosecuting attorney, attorney general, or munici-  
12 pal or county attorney, the owner of the leased residential  
13 premises shall be named as a defendant and shall be served with a  
14 copy of the complaint pursuant to subsection (4). An agent of  
15 the owner may be named as a party and shall have the right to  
16 appear and participate in all proceedings under this act.

17       (9) A tenant organization shall not bring an action under  
18 this act unless the organization is represented by an attorney  
19 who is licensed in this state.

20       Sec. 5. (1) Subject to sections 6 and 13, the court shall  
21 order the immediate eviction of a tenant if it finds 1 or more of  
22 the following:

23       (a) Drug-related criminal activity has occurred on or within  
24 the individual rental unit leased to the tenant.

25       (b) The individual rental unit leased to the tenant was used  
26 in furtherance of or to promote drug-related criminal activity.

1 (c) The tenant, a member of the tenant's household, or a  
2 guest of the tenant or of a member of the tenant's household has  
3 engaged in drug-related criminal activity on or in the immediate  
4 vicinity of a portion of the leased residential premises.

5 (d) The tenant has given permission to or invited an indi-  
6 vidual to return or reenter a portion of the leased residential  
7 premises, knowing that the individual has been removed and barred  
8 from the leased residential premises under this act.

9 (e) The tenant has failed to notify law enforcement or  
10 public housing authorities immediately upon learning that an  
11 individual who has been removed and barred from the tenant's  
12 individual rental unit by order issued under this act has  
13 returned to or reentered the tenant's individual rental unit.

14 (2) The court shall, subject to sections 6 and 13, order the  
15 immediate removal from the leased residential premises of an  
16 individual other than the tenant, including, but not limited to,  
17 an adult or minor member of the tenant's household, if the court  
18 finds that the household member has engaged in drug-related crim-  
19 inal activity on or in the immediate vicinity of a portion of the  
20 leased residential premises. Individuals removed under this sec-  
21 tion shall be barred from returning to or reentering any portion  
22 of the leased residential premises.

23 (3) If the court finds that a member of the tenant's house-  
24 hold or guest or resident of the tenant's leased residential  
25 premises has engaged in drug-related criminal activity on or in  
26 the immediate vicinity of a portion of the leased residential  
27 premises, but the individual has not been named as a party

1 defendant, has not appeared in the action, or has not been  
2 subjected to the jurisdiction of the court, a removal order  
3 issued under subsection (2) shall be directed against the tenant,  
4 and shall provide that as an express condition of the tenancy,  
5 the tenant shall not give permission to or invite the barred  
6 individual to return to or reenter any portion of the leased res-  
7 idential premises. The tenant shall acknowledge in writing that  
8 he or she understands the terms of the court's order, and that he  
9 or she further understands that the failure to comply with the  
10 court's order will result in the mandatory termination of the  
11 tenancy under section 10.

12       Sec. 6. (1) The court may refrain from ordering the com-  
13 plete eviction of a tenant under section 5(1) of this act if the  
14 tenant establishes all of the following:

15       (a) The tenant was not involved in the drug-related criminal  
16 activity.

17       (b) The tenant did not know or have reason to know that  
18 drug-related criminal activity was occurring on or within the  
19 individual rental unit, that the individual rental unit was used  
20 in any way in furtherance of or to promote drug-related criminal  
21 activity, or that a member of the tenant's household or a guest  
22 had engaged in the drug-related criminal activity on or in the  
23 immediate vicinity of a portion of the entire premises.

24       (c) The tenant did everything that could reasonably be  
25 expected in the circumstances to prevent the commission of the  
26 drug-related criminal activity.



1 (d) The tenant promptly reported the drug-related criminal  
2 activity to appropriate law enforcement authorities.

3 (2) When the grounds for a complete eviction have been  
4 established, the court shall immediately order the eviction of  
5 the tenant, unless, due to the circumstances of the criminal  
6 activity and the condition of the tenant, the court is clearly  
7 convinced that immediate eviction or removal would be a serious  
8 injustice, the prevention of which overrides the need to protect  
9 the rights, safety, and health of the other tenants and residents  
10 of the leased residential premises.

11 (3) An affirmative defense under subsection (1) shall be  
12 established by a preponderance of the evidence. An exemption  
13 under subsection (2) shall be established by clear and convincing  
14 evidence.

15 Sec. 7. (1) If the plaintiff establishes grounds for a com-  
16 plete eviction but the court finds that the tenant satisfactorily  
17 established the basis for an affirmative defense or exemption  
18 under section 6, and the court in its discretion elects not to  
19 order the complete eviction of the tenant, the court, except as  
20 provided in section 13, shall order the immediate removal from  
21 the entire premises of any individual other than the tenant,  
22 including, but not limited to, adult or minor members of the  
23 tenant's household who have engaged in drug-related criminal  
24 activity on a portion of the entire premises. Individuals  
25 removed under this section shall be permanently barred from  
26 returning to or reentering any portion of the leased residential  
27 premises. The court shall further order as an express condition

1 of the tenancy that the tenant shall not give permission to or  
2 invite a person who has been removed under this act to return to  
3 or reenter any portion of the leased residential premises.

4       (2) The tenant who is subject to an order under subsection  
5 (1) shall acknowledge in writing that he or she understands the  
6 terms of the court's order issued under subsection (1) and that  
7 he or she further understands that the failure to comply with the  
8 court's order will result in the mandatory termination of the  
9 tenancy under section 5. Refusal by the tenant to acknowledge  
10 the terms of the court order shall vitiate a prior finding by the  
11 court that an exemption to a complete eviction exists, or that  
12 the tenant has satisfactorily established an affirmative  
13 defense.

14       Sec. 8. The court before which the civil action has been  
15 brought under this act may at any time issue a temporary  
16 restraining order, grant preliminary relief, or take other action  
17 the court considers necessary to enjoin or prevent the commission  
18 of drug-related criminal activity on or in the immediate vicinity  
19 of leased residential premises, or to protect the rights and  
20 interests of all tenants and residents. A person who violates  
21 the preliminary restraining order or preliminary relief shall be  
22 held in civil or criminal contempt.

23       Sec. 9. A removal or eviction order issued by a court under  
24 this act shall be enforced by the person bringing the action.  
25 However, the appropriate law enforcement agency shall, upon the  
26 request of the person bringing the action, assume responsibility  
27 for the actual execution of the removal or eviction.

1       Sec. 10. (1) A person authorized to bring an action under  
2 this act may at any time move to enforce a removal order issued  
3 under this act.

4       (2) A motion to enforce a removal order shall be heard on an  
5 expedited basis.

6       (3) The court shall order the immediate eviction of the  
7 tenant if it finds that the tenant has knowingly violated an  
8 express term or condition of an order issued by the court under  
9 this act.

10       Sec. 11. It is not a defense to an action brought under  
11 this act that the drug-related criminal activity was an isolated  
12 incident or has not recurred, and it is not a defense that the  
13 person who actually engaged in the drug-related criminal activity  
14 no longer resides in the tenant's individual rental unit.

15       Sec. 12. (1) When a complaint is filed initiating an action  
16 under this act, the court shall set the matter for a hearing to  
17 be held not more than 15 days after the filing of the complaint.

18       (2) The court shall not grant a continuance or stay the  
19 civil proceedings pending the disposition of a related criminal  
20 proceeding, except for compelling and extraordinary reasons or on  
21 application of the prosecuting attorney for good cause shown.

22       Sec. 13. (1) On the application of the tenant or other  
23 individual subject to removal, the court may suspend the execu-  
24 tion of an order of complete or partial eviction for a period of  
25 not more than 10 days in order to refer the tenant or other indi-  
26 vidual to a licensed substance abuse treatment program or  
27 facility for alcohol and other drug addiction assessment and

1 treatment recommendations, in order to determine whether the  
2 tenant or other individual is a suitable candidate for a stay of  
3 execution of eviction or removal under subsection (3) if all of  
4 the following circumstances exist:

5       (a) The tenant or other individual asserts all of the  
6 following:

7       (i) The tenant or other individual is drug dependent within  
8 the meaning of this act.

9       (ii) The tenant or other individual is willing to partici-  
10 pate in a licensed treatment and monitoring program recommended  
11 by the licensed substance abuse treatment program or facility and  
12 approved by the court.

13       (iii) The tenant or other individual meets the requirements  
14 set forth in subsection (3)(d) or (e).

15       (b) The court determines that the temporary suspension of  
16 execution of the order of eviction or removal will not endanger  
17 the safety of the community or otherwise unduly jeopardize the  
18 rights or interests of other tenants and residents of the leased  
19 residential premises.

20       (2) Pending the filing of an application for a stay of exe-  
21 cution under subsection (3), a temporary suspension issued under  
22 this subsection shall automatically expire on the date fixed by  
23 the court, or 10 days after the suspension is granted, whichever  
24 is earlier. The order of eviction or removal shall be immedi-  
25 ately enforced when the temporary suspension expires unless a  
26 stay is granted in accordance with the provisions of  
27 subsection (3).

1       (3) On application of the tenant or other individual subject  
2 to removal, the court may stay execution of an order of complete  
3 or partial eviction for a period of time as provided in  
4 subsection (7) while the tenant or other individual is partici-  
5 pating in a court-approved and licensed alcohol or other drug  
6 treatment program, if the tenant or other individual subject to  
7 complete or partial eviction establishes by clear and convincing  
8 evidence that all of the following circumstances exist:

9       (a) The tenant or other individual is drug dependent and the  
10 drug-related criminal activity that was the basis for the order  
11 of eviction or removal was committed in order to support the  
12 person's drug dependency.

13       (b) If the tenant or other individual is an adult, there is  
14 no evidence that, in the commission of the drug-related criminal  
15 activity, he or she distributed a controlled substance to an  
16 individual under 16 years of age.

17       (c) There is no evidence that the tenant or other individual  
18 unlawfully used or possessed a firearm on the leased premises or  
19 that the tenant or other individual used or threatened to use  
20 violence in committing any of the acts that are the basis for the  
21 order of eviction or removal.

22       (d) The tenant or other individual has not previously under-  
23 gone court-approved treatment under this section.

24       (e) The tenant or other individual has agreed to participate  
25 in the course of alcohol and other drug treatment recommended by  
26 the treatment facility conducting the court-ordered addiction  
27 assessment.

1 (f) The stay of execution of the order of complete or  
2 partial eviction will not endanger the safety of the community or  
3 otherwise unduly jeopardize the rights or interests of other  
4 tenants and residents of the leased residential premises.

5 (g) Admission to the recommended course of treatment will  
6 serve to benefit the tenant or other individual by addressing his  
7 or her drug dependency and will remove the incentive for the  
8 tenant or other individual to engage in drug-related criminal  
9 activity.

10 (4) The plaintiff in the civil action and the tenant organi-  
11 zation for the premises, whether or not the organization joined  
12 in the civil action, shall have an opportunity to be heard with  
13 respect to an application to temporarily suspend execution of an  
14 eviction order under subsection (1) or to stay execution of an  
15 eviction order under subsection (3), or to discharge the order of  
16 eviction or removal under subsection (12), and shall also have  
17 the right to participate in any action upon a violation under  
18 subsection (11).

19 (5) When the court is satisfied that the grounds for a stay  
20 set forth in subsection (3) have been established by clear and  
21 convincing evidence, the court shall order the tenant or other  
22 individual to participate in the recommended course of treatment  
23 and to undergo periodic drug testing as a condition of the stay  
24 of execution of the eviction or removal order. The course of  
25 treatment shall take place in a substance abuse treatment program  
26 licensed by the office of substance abuse services on alcohol and  
27 other drugs to provide substance abuse treatment. The court

1 shall impose reasonable terms and conditions of the tenant's or  
2 other individual's participation in the court-approved treatment  
3 program as if the tenant or other individual were placed on pro-  
4 bation following a conviction for a crime. The terms and condi-  
5 tions of participation shall include a requirement that the  
6 tenant or other individual comply with all rules and regulations  
7 established by the treatment program. The terms and conditions  
8 imposed by the court may also include, but are not limited to,  
9 establishing a curfew or imposing restrictions on the tenant's or  
10 other individual's associations and places where he or she may  
11 travel. The court may at any time modify or impose additional  
12 terms or conditions, if the court, prior to its removal of a sig-  
13 nificant term or condition, provides notice to all persons enti-  
14 tled under subsection (4) to participate in the proceedings. The  
15 tenant or other individual placed on probationary tenancy shall  
16 consent to the original or amended terms and conditions as a con-  
17 dition of the stay of execution of the eviction or removal order,  
18 and shall acknowledge in writing that he or she understands and  
19 accepts all of the terms and conditions of participation in the  
20 court-approved treatment program. If the tenant or other indi-  
21 vidual refuses to accept or comply with any of the original or  
22 amended terms and conditions, the stay of execution shall be  
23 automatically rescinded and the order of eviction or removal  
24 shall be immediately enforced.

25       (6) If the tenant or other individual maintains compliance  
26 with the terms and conditions of the court and with the  
27 requirements of the course of treatment and monitoring, the stay

1 of execution of an order of eviction or removal shall remain in  
2 force for a period of 6 months. The court, upon recommendation  
3 by the treatment program, may extend the initial period of the  
4 probationary tenancy for an additional 6 months.

5       (7) A stay of execution of an order of eviction or removal  
6 under this section shall be contingent upon the tenant or other  
7 individual commencing his or her participation in the recommended  
8 course of treatment, or being placed on a certified waiting list  
9 until a position for the recommended course of treatment becomes  
10 available, not more than 10 days after the entry of the court's  
11 order granting the stay of execution of eviction or removal. If  
12 the tenant or other individual is placed on a certified list, he  
13 or she shall submit to regular drug testing as ordered by the  
14 court and shall attend, with verification, no fewer than 5  
15 12-step recovery meetings per week until the course of treatment  
16 can begin. If the tenant or other individual fails to comply  
17 with the conditions of this subsection within this time period,  
18 the stay of execution shall be automatically rescinded unless the  
19 court determines that there are extraordinary and compelling rea-  
20 sons to reinstate the stay pending the tenant's or other  
21 individual's participation in the recommended course of treatment  
22 by a date to be fixed by the court.

23       (8) As a condition of the stay of execution of the eviction  
24 or removal order, the treatment program shall agree in writing to  
25 report periodically to the court on the tenant's or other  
26 individual's progress and compliance with court-imposed terms and  
27 conditions. The treatment program shall further agree to



1 promptly report any significant failure to comply with the  
2 requirements of the course of treatment and to immediately advise  
3 the court in the event that the tenant or other individual termi-  
4 nates his or her participation in the course of treatment. The  
5 tenant or other individual and, if the individual is a minor, the  
6 individual's parent or legal guardian shall sign, as a condition  
7 of the stay of execution, the necessary consent forms to release  
8 information to the court under this section.

9       (9) The court may assign the county probation department  
10 and, in the case of a juvenile, the family independence agency  
11 the responsibility to assist in monitoring and supervising the  
12 tenant's or other individual's participation in the recommended  
13 course of treatment and his or her compliance with all  
14 court-imposed terms and conditions of the probationary tenancy.  
15 The court may also assign the county probation department the  
16 responsibility of administering the periodic drug testing. The  
17 agency shall immediately report any significant violation of the  
18 court-imposed terms and conditions in accordance with  
19 subsection (8).

20       (10) Upon a first significant violation of any court-ordered  
21 term or condition of the probationary tenancy, the court may and  
22 upon recommendation of the treatment program or upon subsequent  
23 violation shall in the absence of extraordinary and compelling  
24 reasons rescind the stay of execution of the order of eviction or  
25 removal and immediately enforce the order of eviction and  
26 removal. In making its determination whether to rescind the stay  
27 after a first significant violation, the court shall consider the

1 nature and seriousness of the infraction in relation to the  
2 tenant's or other individual's progress in the course of treat-  
3 ment, and shall also consider the recommendations of the treat-  
4 ment program. If the treatment program discontinues the tenant's  
5 or other individual's course of treatment, the court shall revoke  
6 the probationary tenancy and rescind the stay of execution of the  
7 order of eviction or removal, unless the treatment program recom-  
8 mends that another treatment program be engaged to provide the  
9 course of treatment. Notwithstanding any other provision of this  
10 section, if the court finds reasonable grounds to believe that  
11 the tenant or other individual, during the term of the probation-  
12 ary tenancy, has been involved in drug-related criminal activity,  
13 whether or not the activity occurred on the leased residential  
14 premises, the court shall immediately rescind the stay of execu-  
15 tion of the order of eviction or removal and the order of evic-  
16 tion or removal shall be immediately enforced.

17 (11) An action may be instituted for a violation of any term  
18 or condition of the probationary tenancy by a person who was  
19 authorized under section 4 to initiate the eviction action under  
20 this act, by the treatment program, by any agency assigned by the  
21 court to assist in monitoring or supervising the probationary  
22 tenancy, or by the court on its own motion. The action shall be  
23 summary in nature and shall be heard and decided not more than 5  
24 days after the notice to the court of the violation.

25 (12) If after the expiration of the term of probationary  
26 tenancy the court determines that the tenant or other individual  
27 has satisfactorily complied with the terms and conditions of the

1 recommended course of treatment and that the tenant or other  
2 individual no longer poses a risk to the other residents and  
3 tenants of the leased residential premises, the court shall dis-  
4 charge the order of eviction or removal and shall dismiss the  
5 action brought under this act. This section shall not be con-  
6 strued to prevent the initiation at any time of a new action  
7 under this act.

8       Sec. 14. (1) The fact that a criminal prosecution involving  
9 drug-related criminal activity is not commenced or, if commenced,  
10 has not yet been concluded or has terminated without a conviction  
11 or adjudication of delinquency does not preclude a civil action  
12 or the issuance of an order under this act.

13       (2) If a criminal prosecution involving the drug-related  
14 criminal activity results in a final criminal conviction or adju-  
15 dication of delinquency, the conviction or adjudication creates a  
16 rebuttable presumption that the drug violation occurred. A final  
17 conviction or adjudication estops the convicted defendant or  
18 adjudicated juvenile from denying the essential allegations of  
19 the criminal offense in any subsequent civil proceeding brought  
20 under this act.

21       (3) Evidence or testimony admitted in the criminal proceed-  
22 ing, including recordings or transcripts of the adult or juvenile  
23 criminal proceedings, whether or not they have been transcribed,  
24 may be admitted in the civil action initiated under this act.

25       (4) If the evidence or records of a criminal proceeding that  
26 did not result in an adjudication of delinquency have been closed  
27 in accordance with section 28 of chapter XIIA of the probate code

1 of 1939, 1939 PA 288, MCL 712A.28, the court in a civil action  
2 brought under this act, notwithstanding any other provision of  
3 law, may order the evidence or records, whether or not they have  
4 been transcribed, to be opened if the court finds that the evi-  
5 dence or records are relevant to the fair disposition of the  
6 civil action.

7       Sec. 15. The parties to an action brought under this act  
8 shall not conduct discovery otherwise available in a civil action  
9 except by leave of the court if required to ensure the fair dis-  
10 position of the civil action. However, the plaintiff in a civil  
11 action brought under this act shall provide to the tenant and all  
12 other named defendants a reasonable opportunity prior to the  
13 hearing to examine relevant documents or records within the  
14 plaintiff's possession that directly relate to the action,  
15 subject to the limitations of section 16.

16       Sec. 16. A law enforcement agency may make available to a  
17 person authorized to bring an action under this act a police  
18 report, edited portion of a police report, forensic laboratory  
19 report, or edited portion of a forensic laboratory report, con-  
20 cerning drug-related criminal activity committed on or in the  
21 immediate vicinity of the leased residential premises. The  
22 agency shall not disclose this information if, in the agency's  
23 opinion, the disclosure would jeopardize an investigation, prose-  
24 cution, or other proceeding, or if the disclosure would violate  
25 any federal or state statute. A law enforcement agency shall  
26 also make an officer available to testify as a fact witness or  
27 expert witness in a civil action brought under this act.

1       Sec. 17. If proof necessary to establish the grounds for  
2 eviction depends, in whole or in part, upon the affidavit or tes-  
3 timony of witnesses who are not peace officers, the court, upon a  
4 showing of prior threats of violence or acts of violence by a  
5 defendant or another individual, may issue orders to protect  
6 those witnesses, including, but not limited to, the nondisclosure  
7 of the name, address, or other information that may identify  
8 those witnesses.

9       Sec. 18. A landlord or owner is entitled to collect rent  
10 due from the tenant during the pendency of a civil action brought  
11 under this act.

12       Sec. 19. A tenant organization, prosecuting attorney,  
13 attorney general, or municipal or county attorney who brings a  
14 successful action under this act, including an action that is  
15 ultimately discharged under section 13(12), is entitled to  
16 recover the cost of the action, including, but not limited to,  
17 reasonable attorney fees and costs, from the landlord or owner of  
18 the leased residential premises involved, if the landlord or  
19 owner, or his or her appropriate agent, refused to bring the  
20 action not more than 10 days after having been requested to do so  
21 in writing, if the request was delivered personally or by certi-  
22 fied mail, return receipt requested. If the court determines,  
23 under section 5, that an owner or landlord of the leased residen-  
24 tial premises, or his or her agent, has failed to prosecute the  
25 action with reasonable diligence, the owner, landlord, or agent  
26 is responsible for the payment of all reasonable costs of the

1 action expended by a prevailing substitute plaintiff designated  
2 under section 5.

3       Sec. 20. The causes of action and remedies authorized by  
4 this act are cumulative and shall be in addition to any other  
5 causes of action or other available legal or equitable remedies.

6       Sec. 21. A person who, in good faith, institutes or partic-  
7 ipates in, who encourages a person to institute or participate  
8 in, or who in good faith provides any information relied upon by  
9 a person in instituting or participating in a civil action under  
10 this act is immune from civil liability that might otherwise be  
11 incurred or imposed. A person who provides information has the  
12 same immunity from civil liability with respect to testimony  
13 given in a judicial proceeding conducted under this act.

14       Sec. 22. (1) The court, prior to the removal of an individ-  
15 ual under this act, shall provide that individual with notice of  
16 the removal, outreach information, and referral materials on how  
17 to obtain alcohol and other drug treatment.

18       (2) Not less than 10 days prior to the removal of a person  
19 under this act, the court shall notify the local alcohol and  
20 other drug agency, the local child welfare agency if applicable,  
21 and other appropriate social service agencies of the removal.

22       (3) The office of substance abuse services or its designee  
23 shall prepare the outreach information and referral materials and  
24 shall disseminate the information and materials to all courts  
25 having jurisdiction to issue orders under this act.

26       (4) Licensed treatment programs may apply to the office of  
27 substance abuse services or its designee for compensation for

1 treatment services provided to individuals removed under this  
2 act. The office of substance abuse services shall adopt appro-  
3 priate rules pursuant to the administrative procedures act of  
4 1969, 1969 PA 306, MCL 24.201 to 24.328, to govern the treatment  
5 programs and the manner of dispensation of compensation to the  
6 licensed treatment programs.

7 (5) Compensation for the licensed treatment programs shall  
8 be drawn from the treatment for displaced residents fund created  
9 in section 16 of the drug nuisance abatement act.

10 Sec. 23. Notwithstanding any other provision of law, a  
11 landlord or owner is neither responsible nor liable for relocat-  
12 ing a person who has been evicted, removed, or barred under this  
13 act.

14 Sec. 24. A person who knowingly violates an order issued  
15 under this act, or who knowingly interferes with, obstructs,  
16 impairs, or prevents a law enforcement officer from enforcing or  
17 executing an order issued under this act, is subject to criminal  
18 contempt power of the court under section 1701 of the revised  
19 judicature act of 1961, 1961 PA 236, MCL 600.1701. This section  
20 does not preclude or preempt a criminal prosecution for any other  
21 criminal offense.

22 Enacting section 1. This act does not take effect unless  
23 all of the following bills of the 90th Legislature are enacted  
24 into law:

25 (a) Senate Bill No. \_\_\_\_\_ or House Bill No. 5347  
26 (request no. 00578'99 \*).

1 (b) Senate Bill No. \_\_\_\_\_ or House Bill No. 5348

2 (request no. 00579'99 \*).

3 (c) Senate Bill No. \_\_\_\_\_ or House Bill No. 5346

4 (request no. 00580'99 \*).