

Act No. 387
Public Acts of 2014
Approved by the Governor
December 18, 2014
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STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2014

Introduced by Reps. Cavanagh, Heise, Lamonte, Hovey-Wright, LaVoy, Lauwers, Price, Rogers, Slavens, Darany, Singh, Brinks, Haveman, Kowall, Zorn, O'Brien, Barnett, Driskell, Roberts, Haugh, Brown, Banks, McCready, Lyons, Lane, Tlaib, Irwin and Kivela

ENROLLED HOUSE BILL No. 5230

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of the courts, and of the judges and other officers of the courts; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in the courts; pleading, evidence, practice, and procedure in civil and criminal actions and proceedings in the courts; to provide for the powers and duties of certain state governmental officers and entities; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending sections 3801, 3805, 3810, 3815, 3820, 3825, and 3835 (MCL 600.3801, 600.3805, 600.3810, 600.3815, 600.3820, 600.3825, and 600.3835), section 3801 as amended by 2012 PA 352.

The People of the State of Michigan enact:

Sec. 3801. (1) A building, vehicle, boat, aircraft, or place is a nuisance if 1 or more of the following apply:

- (a) It is used for the purpose of lewdness, assignation, prostitution, or gambling.
 - (b) It is used by, or kept for the use of, prostitutes or other disorderly persons.
 - (c) It is used for the unlawful manufacture, transporting, sale, keeping for sale, bartering, or furnishing of a controlled substance.
 - (d) It is used for the unlawful manufacture, transporting, sale, keeping for sale, bartering, or furnishing of vinous, malt, brewed, fermented, spirituous, or intoxicating liquors or mixed liquors or beverages, any part of which is intoxicating.
 - (e) It is used for conduct prohibited by section 49 of the Michigan penal code, 1931 PA 328, MCL 750.49.
 - (f) It is used for conduct prohibited by chapter LXVIIA of the Michigan penal code, 1931 PA 328, MCL 750.462a to 750.462h.
 - (g) It is used to facilitate armed violence in connection with the unlawful use of a firearm or other dangerous weapon.
- (2) All furniture, fixtures, and contents of a building, vehicle, boat, aircraft, or place described in subsection (1) and all intoxicating liquors in the building, vehicle, boat, aircraft, or place are also declared a nuisance.
- (3) All controlled substances and nuisances shall be enjoined and abated as provided in this act and the court rules.
- (4) A person, or a servant, agent, or employee of the person, who owns, leases, conducts, or maintains a building, vehicle, or place described in subsection (1) is guilty of a nuisance.
- (5) As used in this section, "controlled substance" means that term as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

Sec. 3805. The attorney general, the prosecuting attorney or any resident of the county in which a nuisance described in section 3801 is located, or a city, village, or township attorney for the city, village, or township in which the nuisance is located may maintain an action for equitable relief in the name of the state of Michigan, on the relation of the attorney general, prosecuting attorney, resident, or city, village, or township attorney to abate the nuisance and to perpetually enjoin any person, or a servant, agent, or employee of the person, who owns, leases, conducts, or maintains the building, vehicle, boat, aircraft, or place from permitting or suffering the building, vehicle, boat, aircraft, or place owned, leased, conducted, or maintained by the person, or any other building, vehicle, boat, aircraft, or place conducted or maintained by the person to be used for any of the purposes or acts or by any of the persons described in section 3801. After an injunction is granted under this section it is binding on the defendant throughout this state.

Sec. 3810. (1) For purposes of this chapter, the grantee or vendee of the last recorded deed or contract that describes the premises, or any part of the premises, on which a nuisance exists as described in section 3801 is considered to be the owner of the premises. The naming of a grantee or vendee as a party defendant in an action under this chapter gives the court authority to abate the nuisance by closing the premises and the defendant is subject to the order and judgment of the court.

(2) For purposes of this chapter, any person in whose name a vehicle, boat, or aircraft is titled, and any secured party or other lien holder whose secured interest in or lien against the vehicle, boat, or aircraft has been filed with the secretary of state or in the office of the register of deeds before the commencement of an action under this chapter, is considered to be the owner of the vehicle, boat, or aircraft. The plaintiff shall join any such secured party or lien holder as a party defendant to an action under this chapter.

(3) A court shall not enter an order or judgment against a defendant under this chapter unless a copy of the summons and complaint has been served on the defendant as provided by Michigan court rules and the defendant given an opportunity to be heard.

Sec. 3815. (1) In an action under this chapter, evidence of the general reputation of the building, vehicle, boat, aircraft, or place is admissible for the purpose of proving the existence of the nuisance.

(2) In an action under this chapter, proof of knowledge of the existence of the nuisance on the part of 1 or more of the defendants is not required.

(3) In an action under this chapter, it is not necessary for the court to find the property involved was being used as and for a nuisance at the time of the hearing, or for the plaintiff to prove that the nuisance was continuing at the time the complaint was filed, if the complaint is filed within 90 days after any act, any violation, or the existence of a condition described in section 3801 as a nuisance, but on finding that the material allegations of the complaint are true, the court shall enter a judgment and order of abatement as provided in this chapter.

Sec. 3820. (1) If an order or injunction granted under this chapter is violated, the court may summarily try and punish the offender as for contempt, and the person so offending is subject to punishment of a fine of not more than \$5,000.00, or imprisonment in the county jail for not more than 6 months, or both, in the discretion of the court.

(2) A violation of an order or injunction granted under this chapter shall be charged by a motion supported by affidavit, and the court, if satisfied that the motion and affidavit are sufficient, shall immediately issue a bench warrant for the arrest of the offender and to bring him or her before the court to answer for the misconduct. The court may, in its discretion, permit the person arrested to give bail and fix the amount of bail pending hearing of the motion.

Sec. 3825. (1) If the existence of the nuisance is established in an action under this chapter, the court shall enter an order of abatement as a part of the judgment in the action. The order of abatement may order all of the following:

(a) The removal from the building or place of all furniture, fixtures, and contents.

(b) The sale of the furniture, fixtures, and contents in the manner provided for the sale of goods under execution.

(c) The effectual closing of the building or place against its use for any purpose, and so keeping it closed for a period of 1 year, unless sooner released as provided in this chapter.

(d) Any other equitable relief the court considers necessary.

(2) Any vehicle, boat, or aircraft found by the court to be a nuisance under this chapter is subject to the same order and judgment as any furniture, fixtures, and contents under subsection (1).

(3) On the sale of any furniture, fixtures, contents, vehicle, boat, or aircraft as provided in this section, the officer executing the order of the court shall do the following in the following order:

(a) Deduct the expenses of keeping the property and the costs of the sale.

(b) Pay all secured interests and liens according to their priorities as established by intervention or otherwise at the hearing or in other proceedings brought for that purpose as being bona fide and as having been created without the secured party or lien holder having any notice that the property was being used or was to be used for the maintenance of a nuisance as described in section 3801.

(c) Subject to subsection (5), pay the costs incurred in the prosecution of the action, including reasonable attorney fees for services necessitated as determined by the court.

(d) Subject to subsection (5), pay the balance to the state treasurer to be credited to the general fund of this state.

(4) If any person uses a building or place ordered to be closed under this section with knowledge that the building or place is closed by order of the court, the person is subject to punishment for contempt as provided in section 3820.

(5) If the court in an action under this chapter declares property to be a nuisance under section 3801(1)(f), the officer executing the order of the court shall first pay from the proceeds any amount determined by the court to be due to the victim. If there is any balance remaining, the officer shall pay the costs of prosecution as provided in subsection (3). For purposes of determining the amount due to a victim under this subsection, the court shall consider the loss suffered by the victim as a proximate result of the conduct and may use as guidance the items of loss enumerated in section 16b of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.766b.

Sec. 3835. The proceeds of the sale of the personal property, as provided in section 3830, shall be applied in payment of the costs of the action and abatement, and the balance, if any, shall be paid to qualified secured parties and lien holders and then toward the costs incurred in the prosecution of the action, including reasonable attorney fees for services necessitated as determined by the court, and any remaining balance shall be paid to the persons entitled to them as ordered by the court or, if applicable, as ordered under section 3825(5).

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor