

SENATE BILL No. 91

January 28, 2003, Introduced by Senator THOMAS and referred to the Committee on Judiciary.

A bill to allow civil actions and provide civil remedies for drug related nuisances; to provide for procedures to be followed in those civil actions; to prescribe penalties; to grant immunity to certain persons; to prescribe the powers and duties of certain state and local governmental officers and agencies; and to create funds.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "drug nuisance abatement act".

3 Sec. 2. As used in this act:

4 (a) "Community organization" means a partnership,
5 corporation, association, or other legal entity that has members
6 or shareholders that are individuals who reside or work in a
7 building, complex of buildings, street, block, or neighborhood,
8 any part of which is located on or within 1,000 feet of premises

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1 alleged to be a drug nuisance and whose purpose is to benefit the
2 quality of life in its neighborhood or community, including a
3 group that provides treatment programs.

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

7 (c) "Deliver" and "distribute" mean those terms as defined in
8 section 7105 of the public health code, 1978 PA 368,
9 MCL 333.7105.

10 (d) "Drug distribution event" means 1 or more of the
11 following:

12 (i) The unlawful manufacture or delivery of a controlled
13 substance.

14 (ii) Possession with intent to unlawfully manufacture or
15 deliver a controlled substance.

16 (iii) An attempt or conspiracy to do an act described in
17 subparagraph (i) or (ii).

18 (e) "Drug nuisance" means premises where any of the following
19 occurred:

20 (i) Three or more separate drug distribution events within 1
21 year before the commencement of the civil action under this act.

22 (ii) On 3 or more separate occasions within 1 year
23 immediately preceding the commencement of the civil action under
24 this act, 2 or more persons who did not reside on the premises
25 gathered for the principal purpose of unlawfully ingesting,
26 injecting, inhaling, or otherwise using a controlled substance,
27 whether or not the controlled substance was unlawfully

1 distributed or purchased at the location.

2 (iii) Any amount of controlled substance was manufactured,
3 more than 50 marihuana plants were at any 1 time grown or
4 cultivated, or any controlled substance in an amount of 1
5 kilogram or more was at 1 time unlawfully stored, warehoused,
6 concealed, or otherwise kept.

7 (iv) The premises were used or are being used in any way in
8 furtherance of or to promote or facilitate the commission of a
9 drug distribution event.

10 (f) "Manufacture" and "marihuana" mean those terms as defined
11 in section 7106 of the public health code, 1978 PA 368,
12 MCL 333.7106.

13 (g) "Owner" means a person vested with the ownership of and
14 title to property, and who is the owner of record.

15 (h) "Person" means an individual, corporation, association,
16 partnership, trustee, lessee, agent, assignee, enterprise,
17 governmental entity, or any other legal entity or group of
18 individuals associated in fact that is capable of holding a legal
19 or beneficial interest in property.

20 (i) "Rehabilitation fund" means the nuisance abatement and
21 neighborhood rehabilitation fund created in section 16.

22 (j) "Residents fund" means the treatment for displaced
23 residents fund created in section 16.

24 Sec. 3. (1) A civil action may be brought in the circuit
25 court to enjoin drug distribution events, to close and physically
26 secure premises or portions of premises that are drug nuisances,
27 to abate drug nuisances, and to impose civil penalties.

1 (2) Except as otherwise provided in this act, the plaintiff
2 in an action brought under subsection (1) has the burden of
3 proving its case by a preponderance of the evidence.

4 Sec. 4. (1) A civil action under section 3 may be brought
5 by any of the following:

6 (a) The municipal or corporation counsel for a municipality
7 or county in which the alleged drug nuisance is located.

8 (b) The attorney general or the prosecutor for the county in
9 which the alleged drug nuisance is located.

10 (c) A community organization.

11 (d) An individual who resides on or within 1,000 feet of an
12 alleged drug nuisance.

13 (e) An individual who owns, operates, or is employed
14 full-time or part-time at a business located on or within 1,000
15 feet of an alleged drug nuisance.

16 (2) An action under this act shall be brought against the
17 owner and may also be brought against an individual who is a
18 landlord, tenant, manager, operator, or supervisor of the alleged
19 drug nuisance. In addition, the court has in rem jurisdiction
20 over the alleged drug nuisance, and the alleged drug nuisance
21 shall be named as a defendant in the action, named by block, lot
22 number, and street address, or by other appropriate means.

23 (3) A person is not required to post a bond or security as a
24 condition of initiating or prosecuting an action under this act.

25 (4) A register of deeds shall promptly provide without charge
26 to an individual who completes an affidavit stating that the
27 affiant is preparing to initiate an action under this act the

1 name and address of each owner of the alleged drug nuisance as
2 contained in the current county records. The office of the
3 register of deeds shall be reimbursed for the cost of providing
4 this information from the rehabilitation fund.

5 (5) A person who the records of the register of deeds show
6 owns a drug nuisance is presumed to be an owner of the premises.

7 (6) Evidence that an individual was the manager, operator,
8 supervisor, or in any other way in charge of the premises
9 involved at the time of the conduct alleged to have made the
10 premises a drug nuisance raises a rebuttable presumption that he
11 or she was an agent or employee of the owner, landlord, or lessee
12 of the premises.

13 Sec. 5. (1) A complaint initiating an action under this act
14 shall be personally served and notice to all defendants shall be
15 provided. After filing an affidavit that, despite the exercise
16 of due diligence, personal service cannot be completed on a
17 defendant within 20 days after filing the complaint, the
18 plaintiff may serve the defendant by sending a copy of the
19 complaint to the defendant by certified mail, restricted
20 delivery, return receipt requested, and by attaching a copy of
21 the complaint in a conspicuous place at the alleged drug
22 nuisance. Service is complete 5 days after filing with the court
23 proof that the complaint was mailed and an affidavit stating that
24 a copy of the complaint was attached to the premises.

25 (2) A tenant or resident of premises that are used in whole
26 or in part as a business, home, residence, or dwelling, other
27 than a transient guest of a guest house, hotel, or motel, who may

1 be affected by an order issued under this act shall be provided
2 reasonable notice as ordered by the court and shall be afforded
3 an opportunity to be heard at all hearings.

4 (3) A notice lis pendens shall be filed concurrently with the
5 commencement of the action in the office of the register of
6 deeds.

7 Sec. 6. If a court determines in its discretion that the
8 plaintiff bringing an action under this act has failed to
9 prosecute the matter with reasonable diligence, the court may
10 substitute as plaintiff a consenting person if that person would
11 have been authorized under this act to initiate the action.

12 Sec. 7. (1) A court shall hear an action for injunctive
13 relief or a civil penalty under this act on an expedited basis.

14 (2) A court shall not grant a continuance in an action
15 described in subsection (1) except for compelling and
16 extraordinary reasons, or on the application of a prosecuting
17 agency for good cause shown.

18 (3) The court shall not stay an action described in
19 subsection (1) pending the disposition of a related criminal
20 proceeding except for compelling and extraordinary reasons or on
21 application of a prosecuting attorney for good cause shown.

22 (4) A court shall not dismiss an action under this act for
23 want of prosecution unless the court is clearly convinced that
24 the interests of justice require a dismissal. If the court
25 determines that a dismissal is necessary, the dismissal shall be
26 without prejudice to the right of the plaintiff or any other
27 person authorized to bring an action under this act to

1 reinstitute the action.

2 Sec. 8. (1) A person authorized to bring a civil action for
3 injunctive relief under this act may request preliminary
4 injunctive relief. Upon receipt of a complaint requesting
5 preliminary injunctive relief, the court shall order that a
6 preliminary hearing be held not later than 30 days after the date
7 of the order. Plaintiff shall serve the owners of the premises
8 as provided in section 5 not less than 5 days before the
9 hearing. If service cannot be completed in time to give the
10 owners the minimum notice required by this subsection, the court
11 may set a new hearing date.

12 (2) The court shall issue a preliminary order to close the
13 premises involved or the appropriate portion of the premises if
14 all of the following circumstances exist:

15 (a) The premises are a drug nuisance.

16 (b) Not less than 30 days before the filing of the complaint
17 seeking preliminary injunctive relief, the owner or the owner's
18 agent was notified by certified letter of the drug nuisance.

19 (c) The public health, safety, or welfare immediately
20 requires a preliminary closing order.

21 (3) The preliminary closing order shall direct actions
22 necessary to physically secure the premises, or an appropriate
23 portion of the premises, against use for any purpose. The
24 preliminary closing order shall also restrain the defendant and
25 all persons from removing or interfering with fixtures and
26 movable property located on the premises.

27 (4) If the court finds that the premises are a drug nuisance

1 but that immediate closing of the premises is not required under
2 subsection (2), the court may enjoin the drug nuisance and issue
3 an order restraining the defendants and all other persons from
4 conducting, maintaining, aiding, abetting, or permitting drug
5 distribution events at the drug nuisance. The court may issue an
6 order appointing a temporary receiver to manage or operate the
7 premises. A temporary receiver has the powers and duties
8 specifically authorized in section 14.

9 (5) In determining whether the public health, safety, or
10 welfare immediately requires a preliminary closing order, the
11 court shall consider any relevant evidence presented concerning
12 any attendant circumstances, including, but not limited to,
13 whether the drug distribution events or related activities
14 involved the use or threat of violence at or near the drug
15 nuisance, and whether the drug distribution events involved
16 distribution or sale of a controlled substance by or to a
17 juvenile.

18 Sec. 9. (1) Upon order of the court, a preliminary
19 restraining order or a preliminary closing order issued under
20 section 8 shall be enforced by the sheriff of the county or by
21 the police department of the municipality where the drug nuisance
22 is located.

23 (2) An officer who serves a preliminary closing order or a
24 preliminary restraining order issued under section 8 shall file
25 with the court an inventory of the personal property on the
26 closed premises and may enter the premises to make the
27 inventory. The inventory shall provide an accurate

1 representation of the personal property including, but not
2 limited to, photographs of furniture, fixtures, and other
3 personal or movable property.

4 (3) An officer serving a preliminary closing order issued
5 under section 8 shall demand that all people present on the
6 closed premises vacate the premises or a portion of the premises
7 immediately unless the court orders otherwise. The premises or
8 portion of the premises shall be securely locked and all keys
9 shall be held by the law enforcement agency closing the
10 premises.

11 (4) When a preliminary closing order or a preliminary
12 restraining order issued under section 8 is served, an officer
13 shall post a copy of the closing or restraining order in a
14 conspicuous place or upon 1 or more of the principal doors at
15 entrances of the premises. In addition, if a preliminary closing
16 order has been granted, an officer shall attach, in a conspicuous
17 place or upon 1 or more of the principal entrances of the
18 premises, a printed notice that contains all of the following:

19 (a) A statement that the entire premises or portion of the
20 premises, as appropriate, is closed by court order.

21 (b) The legend "closed by court order" in block lettering of
22 sufficient size to be observed by an individual attempting to
23 enter the premises.

24 (c) The date of the order, the court that issued the order,
25 and the name of the law enforcement agency posting the notice.

26 (d) A statement that certain activity is prohibited by court
27 order, if applicable, and that removal of fixtures or movable

1 property is prohibited by court order.

2 (5) An individual who without lawful authority mutilates or
3 removes an order or notice posted in accordance with subsection
4 (4) is guilty of a misdemeanor.

5 Sec. 10. (1) An officer serving a preliminary closing order
6 under section 9 shall provide outreach information and referral
7 materials to all residents of the premises who are present on how
8 to obtain alcohol and other drug rehabilitation treatment.

9 (2) Not less than 10 days before the removal of an individual
10 from premises under this act, the court shall provide notice of
11 the removal to local alcohol and other drug counseling or
12 treatment agencies, the local child welfare agency, and other
13 appropriate social service agencies.

14 (3) A 1-page summary of the information and materials
15 specified in subsection (1) shall be posted next to a preliminary
16 closing order or preliminary restraining order posted in
17 accordance with section 9.

18 (4) The department of community health or its designee shall
19 prepare the materials described in subsection (1) and shall
20 disseminate them to all sheriffs' departments and local police
21 departments that may enforce closing orders under this act.

22 Sec. 11. If the premises that are a drug nuisance include
23 multiple residences, dwellings, or business establishments, a
24 preliminary or permanent closing order issued under this act
25 shall, so far as is practicable, be limited to that portion of
26 the entire premises necessary to abate the nuisance and prevent
27 the recurrence of drug distribution events.

1 Sec. 12. In addition to other relief expressly authorized
2 by this act, the court may order a defendant who knew or had
3 reason to know of the drug nuisance to provide relocation
4 assistance to a tenant ordered to vacate premises under this act,
5 if the court determines that the tenant was not involved in a
6 drug distribution event that made the premises a drug nuisance
7 and did not knowingly aid the commission of the drug distribution
8 event. Relocation assistance shall be in the amount necessary to
9 cover moving costs, security deposits for utilities and
10 comparable housing, lost rent, and other expenses that the court
11 determines are fair and reasonable to provide to the tenant as a
12 result of the order.

13 Sec. 13. (1) At any time before trial, a court may vacate
14 or modify a closing order issued under this act upon application
15 by a defendant, after notice to the person bringing the action,
16 if the defendant does all of the following:

17 (a) Shows by clear and convincing evidence that he or she
18 was not involved in the commission of a drug distribution event
19 that made the premises a drug nuisance.

20 (b) Provides a bond in an amount equal to the assessed
21 value, for property tax purposes, of the premises or portion of
22 the premises subject to the closing order, or an amount fixed by
23 the court, as the court determines will adequately protect the
24 public safety or welfare.

25 (c) Submits clear and convincing proof to the court that the
26 drug nuisance has been satisfactorily abated and will not recur.
27 In determining whether the drug nuisance has been satisfactorily

1 abated and will not recur, the court shall consider the nature,
2 severity, and duration of the drug nuisance and other relevant
3 factors including, but not limited to, all of the following:

4 (i) Whether the defendant through the exercise of reasonable
5 diligence should have known that drug distribution events were
6 occurring on the premises, and whether the defendant took
7 necessary and appropriate steps to prevent the commission of the
8 drug distribution events.

9 (ii) Whether the defendant has in good faith initiated an
10 eviction or removal action against tenants or other persons who
11 committed drug distribution events on the premises, immediately
12 upon learning of a factual basis for initiating an eviction or
13 removal action.

14 (iii) Whether the defendant has developed an abatement plan
15 that has been agreed to by the person bringing the action under
16 this act and that has been approved by the court. An abatement
17 plan may provide for 1 or more of the following:

18 (A) Hiring an on-site manager to prevent the recurrence of
19 drug distribution events.

20 (B) Making capital improvements to the property, such as
21 installing security gates.

22 (C) Installing improved interior or exterior lighting.

23 (D) Employing security guards.

24 (E) Installing electronic security or visual monitoring
25 systems.

26 (F) Establishing tenant-approved security procedures.

27 (G) Attending property management training programs.

1 (H) Making cosmetic improvements to the property.

2 (I) Providing, at no cost, suitable space and facilities for
3 a local law enforcement agency to establish a police substation
4 or mini-station on or near the drug nuisance.

5 (J) Establishing a program designed to enhance security and
6 prevent the recurrence of drug distribution events on or near the
7 drug nuisance.

8 (2) If the court accepts a bond under subsection (1)(b) and
9 conduct that makes the premises a drug nuisance recurs, the bond
10 is forfeited unless the court finds compelling and extraordinary
11 reasons why forfeiture is not in the interests of justice. Money
12 forfeited under this section shall be paid into the
13 rehabilitation fund.

14 Sec. 14. (1) If the court finds after trial that premises
15 are a drug nuisance, the court shall grant permanent injunctive
16 relief and shall issue the necessary order to abate the drug
17 nuisance and prevent to the extent reasonably possible the
18 recurrence of the drug nuisance. The court's order may include,
19 but need not be limited to, provisions doing all of the
20 following:

21 (a) Directing the sheriff or other appropriate agency to
22 seize from the premises all material, equipment, and
23 instrumentalities used in the creation and maintenance of the
24 drug nuisance and to sell the property seized. The net proceeds
25 of the sale, after the deduction of all lawful expenses, shall be
26 paid into the rehabilitation fund and the residents fund.

27 (b) Authorizing the plaintiff to make repairs, renovations,

1 or structural alterations or to take other actions necessary to
2 bring the premises into compliance with all applicable housing,
3 building, fire, zoning, health, and safety codes, ordinances,
4 rules, regulations, or statutes. Expenditures may be filed as a
5 lien against the property.

6 (c) Directing the closing of the premises, or an appropriate
7 portion of the premises, to the extent necessary to abate the
8 nuisance, and directing the officer or agency enforcing the
9 closure order to post a copy of the order and a printed notice
10 conforming to the requirements of section 9(4). The closing
11 shall be for the period of time determined by the court, but not
12 more than 1 year from the posting of the order.

13 (d) Suspending or revoking a business, professional,
14 operational, or liquor license.

15 (e) Ordering the suspension of a state, city, or local
16 governmental subsidy payable to the owners of the property, such
17 as tenant assistance payments to landlords, until the nuisance is
18 satisfactorily abated.

19 (f) Appointing a temporary receiver to manage or operate the
20 premises for as long as the court determines is necessary to
21 abate the nuisance. A receiver appointed under this section has
22 the powers and duties ordered by the court, which may include,
23 but are not limited to, all of the following:

24 (i) Collecting, holding, and dispersing the proceeds of rents
25 due from tenants.

26 (ii) Leasing or renting portions of the premises involved.

27 (iii) Making or authorizing other persons to make necessary

1 repairs to or to maintain the premises.

2 (iv) Hiring security or other personnel necessary for the
3 safe and proper operation of the premises.

4 (v) Retaining counsel to prosecute or defend suits arising
5 from his or her management of the premises.

6 (vi) Expending money from the collected rents in furtherance
7 of his or her powers.

8 (2) A receiver appointed by the court under this section or
9 section 8 shall be sworn to and shall affirm that he or she will
10 faithfully and fairly discharge the trust committed to him or
11 her. To ensure that the receiver faithfully discharges his or
12 her duties, the court making the appointment may require the
13 receiver to post a bond in an amount fixed by the court.

14 Sec. 15. (1) If the court finds after trial that premises
15 are a drug nuisance, the court shall order the closure of the
16 premises or an appropriate portion of the premises as provided in
17 section 14, unless the court is clearly convinced that the
18 vacancy resulting from the closure would exacerbate rather than
19 abate the drug nuisance or would be extraordinarily harmful to
20 the community or the public interest.

21 (2) The court at any time after trial may vacate the
22 provision of the judgment that directed the closing of the
23 premises or any portion of the premises if the defendant submits
24 clear and convincing proof to the court that the drug nuisance
25 has been satisfactorily abated and is not likely to recur. In
26 determining whether the drug nuisance has been satisfactorily
27 abated and is not likely to recur, the court shall consider the

1 nature, severity, and duration of the drug nuisance and all other
2 relevant factors, including, but not limited to, the factors
3 contained in section 13(1)(c).

4 Sec. 16. (1) The nuisance abatement and neighborhood
5 rehabilitation fund is created within the state treasury. The
6 state treasurer shall pay into the rehabilitation fund money
7 appropriated and made available by the state on an annual basis
8 for the purpose of funding local drug nuisance abatement, drug
9 prevention, education, and housing and neighborhood
10 rehabilitation programs.

11 (2) The treatment for displaced residents fund is created
12 within the state treasury. The state treasurer shall pay into
13 the residents fund money appropriated and made available by the
14 state for the purpose of providing drug and alcohol
15 rehabilitation treatment to residents who have been displaced by
16 action under this act. The residents fund shall be administered
17 by the department of community health or its designee.

18 (3) The funds created in this section shall not be used to
19 supplant existing municipal, county, state, or federal resources
20 for the courts, nuisance abatement, drug prevention, education,
21 housing and neighborhood rehabilitation, or treatment programs.

22 (4) The state treasurer may receive money or other assets for
23 deposit into the rehabilitation fund or residents fund. The
24 state treasurer shall direct the investment of the funds. The
25 state treasurer shall credit to the funds interest and earnings
26 from fund investments.

27 (5) At the close of the fiscal year, money in the

1 rehabilitation fund or the residents fund shall remain in the
2 fund and shall not lapse to the general fund.

3 Sec. 17. (1) If the court finds after trial that premises
4 are a drug nuisance, the court shall impose a civil penalty
5 against a defendant who knowingly conducted, maintained, aided,
6 abetted, or permitted the drug nuisance. The penalty is
7 \$25,000.00 or the market value of the entire premises involved,
8 whichever amount is greater. If the court finds, based on the
9 evidence, that imposing the penalty would constitute a
10 miscarriage of justice under the totality of the circumstances,
11 the court may lower the penalty amount to the extent necessary to
12 avoid a miscarriage of justice.

13 (2) Either of the following is prima facie evidence that a
14 defendant knowingly permitted the drug nuisance to support the
15 imposition of a civil penalty under subsection (1):

16 (a) The defendant failed to initiate an eviction action
17 against a tenant after being notified by certified or registered
18 mail of the tenant's drug distribution events committed on the
19 leased premises.

20 (b) Within 2 years before the occurrence of the instant drug
21 nuisance, a closure order was vacated under section 15.

22 (3) The court at any time shall waive, suspend, or revoke an
23 unpaid civil penalty imposed under this section if the court is
24 satisfied that both of the following are true:

25 (a) The defendant against whom the penalty was imposed has
26 not violated an order issued under this act.

27 (b) The defendant has transferred title to the premises to

1 the plaintiff or a community organization approved by the court
2 that is a nonprofit incorporated organization or association
3 exempt from taxation under section 501(c)(3) of the internal
4 revenue code of 1986, and that is authorized by its corporate
5 charter or bylaws to rehabilitate, restore, maintain, manage, or
6 operate commercial or residential premises. Unless otherwise
7 agreed to by the recipient organization, the defendant shall
8 personally retain all state and local tax liability of the
9 premises, and this obligation attaches to any other real property
10 owned by the defendant that is located in the same county as the
11 premises.

12 (4) A civil penalty imposed under this section shall be
13 collected and distributed as follows:

14 (a) Ten percent of the penalty collected shall be retained by
15 the court to offset the costs of collection.

16 (b) Forty-five percent of the penalty collected under this
17 section shall be deposited in the rehabilitation fund.

18 (c) Forty-five percent of the penalty collected shall be
19 deposited in the residents fund.

20 Sec. 18. (1) At any time before or after trial, the parties
21 to an action under this act may negotiate and agree to a fair
22 settlement of the dispute, subject to the approval of the court.

23 (2) On application of a plaintiff, the court may vacate a
24 closing order if the defendant has transferred title to the
25 premises to the plaintiff or a community organization approved by
26 the court that is a nonprofit incorporated organization or
27 association exempt from taxation under section 501(c)(3) of the

1 internal revenue code of 1986, and that is authorized by its
2 corporate charter or bylaws to rehabilitate, restore, maintain,
3 manage, or operate commercial or residential premises. If the
4 title is transferred in accordance with this subsection, the
5 requirements for prerelease inspection contained in section 21 do
6 not apply.

7 Sec. 19. Whenever an action for injunctive relief or
8 penalties brought under this act terminates in a settlement or
9 judgment favorable to the plaintiff, the plaintiff is entitled to
10 recover the actual cost of the suit, including, but not limited
11 to, reasonable attorney fees and all expenses and disbursements
12 incurred by the plaintiff and any governmental entity in
13 investigating, bringing, maintaining, and enforcing the action
14 and related court orders. All defendants are jointly and
15 severally liable for the payment of taxed costs imposed under
16 this section.

17 Sec. 20. A judgment awarding a permanent injunction under
18 this act is a lien upon the premises declared to be a drug
19 nuisance. A judgment against a defendant imposing a civil
20 penalty or bill of taxed costs under this act is a lien upon the
21 real estate owned by the defendant at the time the penalty was
22 imposed and upon real estate the defendant subsequently acquires
23 for a period of 10 years after the date of the judgment.

24 Sec. 21. (1) Subject to section 18 and unless the court
25 expressly orders otherwise, premises or a portion of premises
26 closed under this act shall not be released or opened unless
27 inspected and found to be in compliance with applicable local or

1 state housing, building, fire, zoning, health, and safety codes,
2 ordinances, rules, regulations, or statutes. If the inspection
3 reveals a violation of a code, ordinance, rule, regulation, or
4 statute, the court shall issue an order or grant relief that is
5 necessary to bring the premises or a portion of the premises into
6 compliance. The court may order that the premises or a portion
7 of the premises remain closed pending the completion of the
8 necessary repair or modification, even if the order of closure
9 would then exceed the 1-year time limit prescribed in
10 section 14.

11 (2) The court may authorize a person or government official
12 to enter premises or a portion of premises closed under this act
13 to inspect or make a repair or modification necessary to abate
14 the nuisance or to bring the premises or a portion of the
15 premises into compliance with an applicable housing, building,
16 fire, zoning, health, or safety code, ordinance, rule,
17 regulation, or statute.

18 Sec. 22. A cause of action or remedy authorized by this act
19 is in addition to any other cause of action or remedy.

20 Sec. 23. (1) In an action brought under this act, all
21 relevant evidence, including evidence of the use or threat of
22 violence, evidence of reputation in a community, and prior
23 efforts or lack of efforts by the defendant to abate the drug
24 nuisance, is admissible to prove the existence of a drug
25 nuisance.

26 (2) If a criminal prosecution or adjudication proceeding
27 involving a drug distribution event that is alleged to have made

1 a premises a drug nuisance results in a criminal conviction or
2 adjudication of delinquency, the conviction or adjudication
3 creates a rebuttable presumption in a civil action brought under
4 this act that the drug distribution event occurred. Evidence or
5 testimony admitted in the criminal or juvenile proceedings,
6 including transcripts or a court reporter's notes of the
7 transcripts of the adult or juvenile criminal proceedings,
8 whether or not they have been transcribed, may be admitted in the
9 civil action brought under this act.

10 (3) Notwithstanding any other provision of this act, if the
11 hearing of a criminal proceeding that did not result in an
12 adjudication of delinquency was closed in accordance with
13 section 17 of chapter XIIIA of the probate code of 1939, 1939
14 PA 288, MCL 712A.17, the court in a civil action brought under
15 this act may order the evidence or records to be opened if the
16 court finds that the evidence or records are relevant to the fair
17 disposition of the civil action.

18 (4) If proof of the existence of a drug nuisance depends, in
19 whole or in part, upon an affidavit or testimony of a witness who
20 is not a peace officer, the court may, upon a showing of a prior
21 threat of violence or act of violence by a defendant or another
22 person, issue an order to protect that witness, including, but
23 not limited to, the nondisclosure of the name, address, or other
24 information that may identify the witness.

25 (5) A law enforcement agency may make a police report, edited
26 portion of a police report, forensic laboratory report, or edited
27 portion of a forensic laboratory report concerning drug

1 distribution events committed on or within the premises involved
2 available to a plaintiff in an action under this act. A law
3 enforcement agency may also make an officer available to testify
4 as a fact or expert witness in a civil action under this act.
5 The agency shall not disclose this information if, in the
6 agency's opinion, disclosure would jeopardize an investigation,
7 prosecution, or other proceeding or if disclosure would violate a
8 federal or state statute.

9 Sec. 24. A civil action may be brought under this act, and
10 the court may find that a drug nuisance exists, even if a drug
11 distribution event used to establish the existence of the drug
12 nuisance has not resulted in an arrest, prosecution, conviction,
13 or adjudication of delinquency.

14 Sec. 25. (1) A court-ordered closing of premises or a
15 portion of premises under this act does not constitute an act of
16 possession, ownership, or control by the court, the plaintiff, or
17 a government official or entity responsible for enforcing the
18 court order.

19 (2) A person bringing, maintaining, or enforcing a civil
20 action or order issued in accordance with this act is immune from
21 civil liability that might be incurred for theft of, loss of,
22 damage to, or injury to premises determined to be a drug nuisance
23 or a fixture or movable property located at the premises.

24 Sec. 26. A person who, in good faith, institutes,
25 participates in, or testifies in, encourages another to
26 institute, participate in, or testify in, or provides information
27 relied upon by a person in instituting or participating in a

1 civil action under this act is immune from civil liability
2 arising from those acts.

3 Sec. 27. (1) A person whose business or property has been
4 damaged by a drug nuisance may bring a separate civil action for
5 actual damages in the circuit court against a person who
6 knowingly conducted, maintained, aided, abetted, or permitted a
7 drug distribution event that made a premises a drug nuisance.

8 (2) In an action for damages under this section, the failure
9 of an owner or landlord to initiate an eviction action against a
10 tenant if the owner or landlord was notified by a person who is
11 authorized to bring an action under this act by certified or
12 registered mail of the tenant's drug distribution events
13 committed on the leased premises, is prima facie evidence that
14 the owner knowingly gave permission to engage in conduct
15 constituting the drug nuisance.

16 (3) In an action for damages under this section, expert
17 testimony may be used to determine the amount of actual damage or
18 loss incurred because of the drug nuisance.

19 (4) If an action for damages under this section terminates in
20 a settlement or judgment favorable to the plaintiff, the
21 plaintiff is entitled to recover the actual cost of the suit,
22 including, but not limited to, reasonable attorney fees and all
23 expenses and disbursements incurred by the plaintiff in
24 investigating, bringing, and maintaining the action. All
25 defendants are jointly and severally liable for payment of taxed
26 costs imposed under this section.

27 (5) In an action for damages under this section, evidence

1 admitted or admissible in a civil action for injunctive relief or
2 to impose a civil penalty under this act is admissible.

3 Sec. 28. If title to property is transferred to a
4 neighborhood or community organization as provided in section 17
5 or in a negotiated settlement of an action under this act, and
6 subject to the approval of the court in which the civil action
7 was initiated, the property may be used to house an alcohol or
8 other drug prevention, education, or intervention program, or
9 licensed alcohol or other drug counseling, treatment, or
10 rehabilitation program. The property is not exempt from the
11 requirements of an applicable zoning, fire, safety, or health
12 code, ordinance, rule, regulation, or statute.