

SENATE BILL No. 1277

May 23, 2006, 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 "drug
2 nuisance abatement act".

3 Sec. 2. As used in this act:

4 (a) "Community organization" means a partnership, corporation,
5 association, or other legal entity that has members or shareholders
6 that are individuals who reside or work in a building, complex of

1 buildings, street, block, or neighborhood, any part of which is
2 located on or within 1,000 feet of premises alleged to be a drug
3 nuisance and whose purpose is to benefit the quality of life in its
4 neighborhood or community, including a group that provides
5 treatment programs.

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

8 (c) "Deliver" and "distribute" mean those terms as defined in
9 section 7105 of the public health code, 1978 PA 368, 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 1 or more of the
19 following occurred:

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

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

1 location.

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

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

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

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

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

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

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

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

27 (2) Except as otherwise provided in this act, the plaintiff in

1 an action brought under this section has the burden of proving its
2 case by a preponderance of the evidence.

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

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

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

9 (c) A community organization.

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

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

15 (2) An action under section 3 shall be brought against the
16 owner and may also be brought against an individual who is a
17 landlord, tenant, manager, operator, or supervisor of the alleged
18 drug nuisance. In addition, the court has in rem jurisdiction over
19 the alleged drug nuisance, and the alleged drug nuisance shall be
20 named as a defendant in the action, named by block, lot number, and
21 street address, or by other appropriate means.

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

24 (4) A register of deeds shall promptly provide without charge
25 to an individual who completes an affidavit stating that the
26 affiant is preparing to initiate an action under section 3 the name
27 and address of each current owner of the alleged drug nuisance as

1 contained in the records of the register of deeds. The office of
2 the register of deeds shall be reimbursed for the cost of providing
3 this information from the rehabilitation fund.

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

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

12 Sec. 5. (1) A complaint initiating an action under section 3
13 shall be personally served on each defendant. After filing an
14 affidavit that, despite the exercise of due diligence, personal
15 service cannot be completed on a defendant within 20 days after
16 filing the complaint, the plaintiff may serve the defendant by
17 sending a copy of the complaint to the defendant by certified mail,
18 restricted delivery, return receipt requested, and by attaching a
19 copy of the complaint in a conspicuous place at the alleged drug
20 nuisance. Service is complete 5 days after filing with the court
21 proof that the complaint was mailed and an affidavit stating that a
22 copy of the complaint was attached to the premises.

23 (2) A tenant or resident of premises that are used in whole or
24 in part as a business, home, residence, or dwelling, other than a
25 transient guest of a guest house, hotel, or motel, who may be
26 affected by an order issued in an action under section 3 shall be
27 provided reasonable notice as ordered by the court and shall be

1 afforded an opportunity to be heard at all hearings.

2 (3) A notice lis pendens shall be filed concurrently with the
3 commencement of an action under section 3 in the office of the
4 register of deeds.

5 Sec. 6. If a court determines in its discretion that the
6 plaintiff bringing an action under section 3 has failed to
7 prosecute the matter with reasonable diligence, the court may
8 substitute as plaintiff a consenting person if that person would
9 have been authorized under section 4 to initiate the action.

10 Sec. 7. (1) A court shall hear an action for injunctive relief
11 or a civil fine under section 3 on an expedited basis.

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

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

20 (4) A court shall not dismiss an action under section 3 for
21 lack of progress unless the court is clearly convinced that the
22 interests of justice require a dismissal. If the court determines
23 that a dismissal is necessary, the dismissal shall be without
24 prejudice to the right of the plaintiff or any other person
25 authorized to bring an action under section 3 to reinstitute the
26 action.

27 Sec. 8. (1) The plaintiff in an action for injunctive relief

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

9 (2) The court shall issue a preliminary order to close the
10 premises involved or an appropriate portion of the premises if all
11 of the following circumstances exist:

12 (a) The premises are a drug nuisance.

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

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

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

24 (4) If the court finds that the premises are a drug nuisance
25 but that immediate closing of the premises is not required under
26 subsection (2), the court may enjoin the drug nuisance and issue an
27 order restraining the defendants and all other persons from

1 conducting, maintaining, aiding, abetting, or permitting drug
2 distribution events at the drug nuisance. The court may issue an
3 order appointing a temporary receiver to manage or operate the
4 premises. A temporary receiver has the powers and duties listed in
5 section 14(1)(f).

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

14 Sec. 9. (1) Upon order of the court, a preliminary restraining
15 order or a preliminary closing order issued under section 8 shall
16 be enforced by the sheriff of the county or by the police
17 department of the municipality where the drug nuisance is located.

18 (2) An officer who serves a preliminary closing order or a
19 preliminary restraining order issued under section 8 shall file
20 with the court an inventory of the personal property on the closed
21 premises and may enter the premises to make the inventory. The
22 inventory shall provide an accurate representation of the personal
23 property including, but not limited to, photographs of furniture,
24 fixtures, and other personal or movable property.

25 (3) An officer serving a preliminary closing order issued
26 under section 8 shall demand that all people present on the closed
27 premises vacate the premises or a portion of the premises

1 immediately unless the court orders otherwise. The premises or
2 portion of the premises shall be securely locked and all keys shall
3 be held by the law enforcement agency closing the premises.

4 (4) When a preliminary closing order or a preliminary
5 restraining order issued under section 8 is served, an officer
6 shall post a copy of the closing or restraining order in a
7 conspicuous place or on 1 or more of the principal doors at
8 entrances of the premises. In addition, if a preliminary closing
9 order has been granted, an officer shall attach, in a conspicuous
10 place or on 1 or more of the principal entrances of the premises, a
11 printed notice that contains all of the following:

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

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

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

19 (d) A statement that certain activity is prohibited by court
20 order, if applicable, and that removal of fixtures or movable
21 property is prohibited by court order.

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

25 Sec. 10. (1) An officer serving a preliminary closing order
26 under section 9 shall provide outreach information and referral
27 materials on how to obtain alcohol and other drug rehabilitation

1 treatment to all residents of the premises who are present.

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

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

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

15 Sec. 11. If the premises that are a drug nuisance include
16 multiple residences, dwellings, or business establishments, a
17 preliminary or permanent closing order issued under this act shall,
18 so far as is practicable, be limited to that portion of the entire
19 premises necessary to abate the nuisance and prevent the recurrence
20 of drug distribution events.

21 Sec. 12. In addition to other relief expressly authorized by
22 this act, the court may order a defendant who knew or had reason to
23 know of the drug nuisance to provide relocation assistance to a
24 tenant ordered to vacate premises under this act, if the court
25 determines that the tenant was not involved in a drug distribution
26 event that made the premises a drug nuisance and did not knowingly
27 aid the commission of the drug distribution event. Relocation

1 assistance shall be in the amount necessary to cover moving costs,
2 security deposits for utilities and comparable housing, rent that
3 was prepaid and has not been refunded, and other expenses that the
4 court determines are fair and reasonable to provide to the tenant
5 as a result of the order to vacate.

6 Sec. 13. (1) At any time before trial, on application by a
7 defendant and after notice to the plaintiff, a court may vacate or
8 modify a closing order issued under this act if the defendant does
9 all of the following:

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

13 (b) Provides a bond in an amount equal to the assessed value,
14 for property tax purposes, of the premises or portion of the
15 premises subject to the closing order, or an amount fixed by the
16 court that the court determines will adequately protect the public
17 safety or welfare.

18 (c) Submits clear and convincing proof to the court that the
19 drug nuisance has been satisfactorily abated and will not recur. In
20 determining whether the drug nuisance has been satisfactorily
21 abated and will not recur, the court shall consider the nature,
22 severity, and duration of the drug nuisance and other relevant
23 factors including, but not limited to, all of the following:

24 (i) Whether the defendant through the exercise of reasonable
25 diligence should have known that drug distribution events were
26 occurring on the premises, and whether the defendant took necessary
27 and appropriate steps to prevent the commission of the drug

1 distribution events.

2 (ii) Whether the defendant in good faith initiated an eviction
3 or removal action against tenants or other persons who committed
4 drug distribution events on the premises, immediately upon learning
5 of a factual basis for initiating an eviction or removal action.

6 (iii) Whether the defendant has developed an abatement plan that
7 has been agreed to by the plaintiff and that has been approved by
8 the court. An abatement plan may include 1 or more of the
9 following:

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

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

14 (C) Installing improved interior or exterior lighting.

15 (D) Employing security guards.

16 (E) Installing electronic security or visual monitoring
17 systems.

18 (F) Establishing tenant-approved security procedures.

19 (G) Attending property management training programs.

20 (H) Making cosmetic improvements to the property.

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

24 (J) Establishing a program designed to enhance security and
25 prevent the recurrence of drug distribution events on or near the
26 drug nuisance.

27 (2) If the court accepts a bond under subsection (1)(b) and

1 conduct that makes the premises a drug nuisance recurs, the bond is
2 forfeited unless the court finds compelling and extraordinary
3 reasons why forfeiture is not in the interests of justice. Money
4 forfeited under this section shall be paid into the rehabilitation
5 fund.

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

12 (a) Directing the sheriff or other appropriate agency to seize
13 from the premises all material, equipment, and instrumentalities
14 used in the creation and maintenance of the drug nuisance and to
15 sell the property seized. The net proceeds of the sale, after the
16 deduction of all lawful expenses, shall be paid into the
17 rehabilitation fund and the residents fund.

18 (b) Authorizing the plaintiff to make repairs, renovations, or
19 structural alterations or to take other actions necessary to bring
20 the premises into compliance with all applicable housing, building,
21 fire, zoning, health, and safety codes, ordinances, rules,
22 regulations, or statutes. Expenditures may be filed as a lien
23 against the property.

24 (c) Directing the closing of the premises, or an appropriate
25 portion of the premises, to the extent necessary to abate the
26 nuisance, and directing the officer or agency enforcing the closure
27 order to post a copy of the order and a printed notice that meets

1 the requirements of section 9(4). The closing shall be for the
2 period of time determined by the court, but not more than 1 year
3 from the posting of the order.

4 (d) Suspending or revoking a business, professional,
5 operational, or liquor license.

6 (e) Ordering the suspension of a state, city, or local
7 governmental subsidy payable to the owners of the property, such as
8 tenant assistance payments to landlords, until the nuisance is
9 satisfactorily abated.

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

15 (i) Collecting, holding, and disbursing rent due from tenants.

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

17 (iii) Making or authorizing other persons to make necessary
18 repairs to or to maintain the premises.

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

21 (v) Retaining counsel to prosecute or defend suits arising
22 from the receiver's management of the premises.

23 (vi) Expending money from the collected rent in furtherance of
24 the receiver's powers.

25 (2) A receiver appointed by the court under this section or
26 section 8 shall be sworn to and shall affirm that he or she will
27 faithfully and fairly discharge the trust committed to him or her.

1 To ensure that the receiver faithfully discharges his or her
2 duties, the court making the appointment may require the receiver
3 to post a bond in an amount fixed by the court.

4 Sec. 15. (1) If the court determines after trial that premises
5 are a drug nuisance, the court shall order the closure of the
6 premises or an appropriate portion of the premises as provided in
7 section 14, unless the court is clearly convinced that the vacancy
8 resulting from the closure would exacerbate rather than abate the
9 drug nuisance or would be extraordinarily harmful to the community
10 or the public interest.

11 (2) The court may, at any time after trial, vacate the
12 provision of the judgment that directed the closing of the premises
13 or any portion of the premises if the defendant submits clear and
14 convincing proof to the court that the drug nuisance has been
15 satisfactorily abated and is not likely to recur. In determining
16 whether the drug nuisance has been satisfactorily abated and is not
17 likely to recur, the court shall consider the nature, severity, and
18 duration of the drug nuisance and all other relevant factors,
19 including, but not limited to, the factors contained in section
20 13(1)(c).

21 Sec. 16. (1) The nuisance abatement and neighborhood
22 rehabilitation fund is created within the state treasury. The state
23 treasurer shall pay into the rehabilitation fund money appropriated
24 and made available by the state on an annual basis for the purpose
25 of funding local drug nuisance abatement, drug prevention,
26 education, and housing and neighborhood rehabilitation programs.

27 (2) The treatment for displaced residents fund is created

1 within the state treasury. The state treasurer shall pay into the
2 residents fund money appropriated and made available by the state
3 for the purpose of providing drug and alcohol rehabilitation
4 treatment to residents who have been displaced by action under this
5 act. The residents fund shall be administered by the department of
6 community health or its designee.

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

11 (4) The state treasurer may receive money or other assets for
12 deposit into the rehabilitation fund or residents fund. The state
13 treasurer shall direct the investment of the funds. The state
14 treasurer shall credit to the funds interest and earnings from fund
15 investments.

16 (5) At the close of the fiscal year, money in the
17 rehabilitation fund or the residents fund shall remain in the fund
18 and shall not lapse to the general fund.

19 Sec. 17. (1) If the court determines after trial that premises
20 are a drug nuisance, the court shall impose a civil fine against a
21 defendant who knowingly conducted, maintained, aided, abetted, or
22 permitted the drug nuisance. The court shall impose a fine of
23 \$25,000.00 or the market value of the entire premises involved,
24 whichever amount is greater. If the court finds, based on the
25 evidence, that imposing the fine would constitute a miscarriage of
26 justice under the totality of the circumstances, the court may
27 lower the fine amount to the extent necessary to avoid a

1 miscarriage of justice.

2 (2) Either of the following is prima facie evidence that a
3 defendant knowingly permitted the drug nuisance as required to
4 impose a civil fine under subsection (1):

5 (a) The defendant failed to initiate an eviction action
6 against a tenant after being notified by certified or registered
7 mail that the tenant committed drug distribution events on the
8 premises.

9 (b) Within 2 years before the occurrence of the drug nuisance
10 that is the subject of the action, a closure order was vacated
11 under section 15.

12 (3) The court shall waive, suspend, or revoke an unpaid civil
13 fine imposed under this section if the court is satisfied that both
14 of the following are true:

15 (a) The defendant against whom the fine was imposed has not
16 violated an order issued under this act.

17 (b) The defendant has transferred title to the premises to the
18 plaintiff or a community organization approved by the court that is
19 a nonprofit incorporated organization or association exempt from
20 taxation under 26 USC 501(c)(3), and that is authorized by its
21 corporate charter or bylaws to rehabilitate, restore, maintain,
22 manage, or operate commercial or residential premises. Unless
23 otherwise agreed to by the recipient organization, the defendant
24 shall personally retain all state and local tax liability
25 associated with the premises, and this obligation attaches to any
26 other real property owned by the defendant that is located in the
27 same county as the premises.

1 (4) A civil fine imposed under this section shall be collected
2 by the court and distributed as follows:

3 (a) Ten percent of the fine collected shall be retained by the
4 court to offset the costs of collection.

5 (b) Forty-five percent of the fine collected shall be
6 deposited in the rehabilitation fund.

7 (c) Forty-five percent of the fine collected shall be
8 deposited in the residents fund.

9 Sec. 18. (1) At any time before or after trial, the parties to
10 an action under section 3 may negotiate and agree to a fair
11 settlement of the dispute, subject to the approval of the court.

12 (2) On application of a plaintiff, the court may vacate a
13 closing order if the defendant has transferred title to the
14 premises to the plaintiff or a community organization approved by
15 the court that is a nonprofit incorporated organization or
16 association exempt from taxation under 26 USC 501(c)(3), and that
17 is authorized by its corporate charter or bylaws to rehabilitate,
18 restore, maintain, manage, or operate commercial or residential
19 premises. If the title is transferred in accordance with this
20 subsection, the requirements for prerelease inspection contained in
21 section 21 do not apply.

22 Sec. 19. Whenever an action for injunctive relief or penalties
23 brought under section 3 terminates in a settlement or judgment
24 favorable to the plaintiff, the plaintiff is entitled to recover
25 the actual cost of the suit, including, but not limited to,
26 reasonable attorney fees and all expenses and disbursements
27 incurred by the plaintiff and any governmental entity in

1 investigating, bringing, maintaining, and enforcing the action and
2 related court orders. All defendants are jointly and severally
3 liable for the payment of costs imposed under this section.

4 Sec. 20. A judgment awarding money in connection with a
5 permanent injunction under section 14 is a lien on the premises
6 declared to be a drug nuisance. A judgment against a defendant
7 imposing a civil fine under section 17 or costs under section 19 is
8 a lien on the real estate owned by the defendant at the time the
9 fine was imposed and on real estate the defendant subsequently
10 acquires. A lien under this section is valid for a period of 10
11 years after the date of the judgment.

12 Sec. 21. (1) Subject to section 18 and unless the court
13 expressly orders otherwise, premises or a portion of premises
14 closed under this act shall not be released or opened unless
15 inspected and found to be in compliance with applicable local or
16 state housing, building, fire, zoning, health, and safety codes,
17 ordinances, rules, regulations, or statutes. If the inspection
18 reveals a violation of a code, ordinance, rule, regulation, or
19 statute, the court shall issue an order or grant relief that is
20 necessary to bring the premises or a portion of the premises into
21 compliance. The court may order that the premises or a portion of
22 the premises remain closed pending the completion of the necessary
23 repair or modification, even if the order of closure would then
24 exceed the 1-year time limit under section 14.

25 (2) The court may authorize a person or government official to
26 enter premises or a portion of premises closed under this act to
27 inspect or make a repair or modification necessary to abate the

1 nuisance or to bring the premises or a portion of the premises into
2 compliance with an applicable housing, building, fire, zoning,
3 health, or safety code, ordinance, rule, regulation, or statute.

4 Sec. 22. A cause of action or remedy authorized by this act is
5 in addition to any other cause of action or remedy available under
6 law.

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

12 (2) If a criminal prosecution or adjudication proceeding
13 involving a drug distribution event that is alleged to have made a
14 premises a drug nuisance results in a criminal conviction or
15 adjudication of delinquency, the conviction or adjudication creates
16 a rebuttable presumption in an action brought under this act that
17 the drug distribution event occurred. Evidence or testimony
18 admitted in the criminal or juvenile proceedings, including
19 transcripts or a court reporter's notes of the transcripts of the
20 adult or juvenile criminal proceedings, whether or not they have
21 been transcribed, may be admitted in the civil action brought under
22 this act.

23 (3) Notwithstanding any other provision of this act, if the
24 hearing of a criminal proceeding that did not result in an
25 adjudication of delinquency was closed in accordance with section
26 17 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL
27 712A.17, the court in a civil action brought under this act may

1 order the evidence or records to be opened if the court finds that
2 the evidence or records are relevant to the fair disposition of the
3 civil action.

4 (4) If proof of the existence of a drug nuisance depends, in
5 whole or in part, on an affidavit or testimony of a witness who is
6 not a peace officer, the court may, on a showing of a prior threat
7 of violence or act of violence by a defendant or another person,
8 issue an order to protect that witness, including, but not limited
9 to, the nondisclosure of the name, address, or other information
10 that may identify the witness.

11 (5) A law enforcement agency may make a police report, edited
12 portion of a police report, forensic laboratory report, or edited
13 portion of a forensic laboratory report concerning drug
14 distribution events committed on the premises available to a
15 plaintiff in an action under this act. A law enforcement agency may
16 also make an officer available to testify as a fact or expert
17 witness in an action under this act. The agency shall not disclose
18 this information if, in the agency's opinion, disclosure would
19 jeopardize an investigation, prosecution, or other proceeding or if
20 disclosure would violate a federal or state statute.

21 Sec. 24. An action may be brought under this act, and the
22 court may find that a drug nuisance exists, even if a drug
23 distribution event used to establish the existence of the drug
24 nuisance has not resulted in an arrest, prosecution, conviction, or
25 adjudication of delinquency.

26 Sec. 25. (1) A court-ordered closing of premises or a portion
27 of premises under this act does not constitute an act of

1 possession, ownership, or control by the court, the plaintiff, or a
2 government official or entity responsible for enforcing the court
3 order.

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

9 Sec. 26. A person who, in good faith, institutes, participates
10 in, or testifies in, encourages another to institute, participate
11 in, or testify in, or provides information relied upon by a person
12 in instituting or participating in an action under this act is
13 immune from civil liability arising from those acts.

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

19 (2) In an action for damages under this section, the failure
20 of an owner or landlord to initiate an eviction action against a
21 tenant if the owner or landlord was notified by a person who is
22 authorized to bring an action under this act by certified or
23 registered mail of the tenant's drug distribution events committed
24 on the leased premises, is prima facie evidence that the owner
25 knowingly gave permission to engage in conduct constituting the
26 drug nuisance.

27 (3) In an action for damages under this section, expert

1 testimony may be used to determine the amount of actual damage or
2 loss incurred because of the drug nuisance.

3 (4) If an action for damages under this section terminates in
4 a settlement or judgment favorable to the plaintiff, the plaintiff
5 is entitled to recover the actual cost of the suit, including, but
6 not limited to, reasonable attorney fees and all expenses and
7 disbursements incurred by the plaintiff in investigating, bringing,
8 and maintaining the action. All defendants are jointly and
9 severally liable for payment of costs imposed under this section.

10 (5) In an action for damages under this section, evidence
11 admitted or admissible in a civil action for injunctive relief or
12 to impose a civil fine under this act is admissible.

13 Sec. 28. If title to property is transferred to a neighborhood
14 or community organization as provided in section 17 or in a
15 negotiated settlement of an action under this act, and subject to
16 the approval of the court in which the action was initiated, the
17 property may be used to house an alcohol or other drug prevention,
18 education, or intervention program, or licensed alcohol or other
19 drug counseling, treatment, or rehabilitation program. The property
20 is not exempt from the requirements of an applicable zoning, fire,
21 safety, or health code, ordinance, rule, regulation, or statute.