

# Legislative Analysis



## EXPAND WHO CAN INITIATE NUISANCE ABATEMENT ACTIONS

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**Senate Bill 969 (reported as Substitute S-1 without amendment)**

**Sponsor: Sen. Rick Jones**

**House Committee: Criminal Justice**

**Senate Committee: Judiciary**

**Complete to 9-22-14**

### A SUMMARY OF SENATE BILL 969 AS REPORTED BY HOUSE COMMITTEE

Senate Bill 969 would amend Chapter 38 of the Revised Judicature Act, entitled "Public Nuisances," to allow a city, village, or township attorney to maintain an action for equitable relief in a nuisance complaint. Currently, only the state attorney general, a prosecuting attorney, or citizen of the county in which the nuisance is located may bring an action to abate a nuisance.

The bill would also refer to a "resident" of a county rather than a "citizen" and would make an injunction in a nuisance suit binding statewide rather than restrict it, as in current law, to the judicial circuit in which the injunction was issued.

Under nuisance abatement laws, local governments can compel property owners to clear debris, repair buildings, and stop illegal activities involving gambling, drugs, and prostitution. If the property owner fails to comply, a court can issue an order allowing property used in the nuisance to be seized and forfeited. A building, such as a home or business, can be padlocked for up to a year and the contents removed and sold. Distribution of the proceeds of a sale are established in statute, but generally speaking, go to the seizing entity to cover the costs of removing and selling the forfeited items and maintaining the padlocked building, with the balance going to any party having a lien on the property and anything remaining to the state General Fund.

Currently, Section 3801 of the act specifies that a building, vehicle, boat, aircraft, or place is a nuisance if it is used for the purpose of gambling or prostitution-related activities; unlawful manufacture, sale, or transport of a controlled substance; unlawful manufacture, transporting, sale, or furnishing of alcoholic liquors or beverages; or animal fighting.

### BRIEF DISCUSSION OF THE ISSUES:

The bill simply expands who may file an action under the nuisance abatement laws to include a city, village, or township attorney. Nuisance laws are often used to padlock drug houses or houses in which dog fighting, prostitution, or certain other illegal activities take place, or to clean up blighted properties. The ability to padlock, for up to a year, a troublesome property decreases crime and makes neighborhoods safer for

residents. According to committee testimony, however, county prosecutors and the state attorney general office, all who have seen staff reductions due to reduced funding over the past few years, do not have the staffing levels sufficient to respond to all the requests by local government officials. Though any resident can file an action to abate a nuisance like a drug house, many may be reluctant to do so out of fear of reprisal. Since it is the duty of local government officials to respond to the needs of their communities, some feel it make sense and be more efficient to allow the city, village, or township attorney to also file an action for nuisance abatement. However, there may be situations where it would be more appropriate for the attorney general or a county prosecutor to initiate the nuisance abatement; therefore, the bill continues to grant those governmental officials the authority to do so.

## **BACKGROUND INFORMATION**

The proposed revisions by Senate Bill 969 to Section 3805 of the RJA concerning who may bring an action for equitable relief are identical to those proposed by House Bill 5230, though that bill would do other things as well, such as expand the definition of "nuisance" to include a building, vehicle, place, etc. that is used for conduct related to human trafficking, to facilitate armed violence in connection with the unlawful use of a firearm or other dangerous weapon, and a dangerous building. House Bill 5230, which is part of the larger bill package addressing the issue of human trafficking, was reported by the Criminal Justice Committee and is pending floor action.

## **FISCAL IMPACT:**

A fiscal analysis is in process.

## **POSITIONS:**

A representative of Ypsilanti Township testified in support of the bill. (9-17-14)

Legislative Analyst: Susan Stutzky  
Fiscal Analyst: Robin Risko

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.