

1 A bill to be entitled

2 An act relating to public nuisances; amending s.  
3 60.05, F.S.; revising notice requirements for the  
4 filing of temporary injunctions relating to the  
5 enjoinder of certain nuisances; extending the period  
6 of notice before a lien may attach to certain real  
7 estate; amending s. 823.05, F.S.; making technical  
8 changes; declaring that the use of a location by a  
9 criminal gang, criminal gang members, or criminal gang  
10 associates for criminal gang-related activity is a  
11 public nuisance; declaring that any place or premises  
12 that has been used on more than two occasions during a  
13 certain period as the site of specified violations is  
14 a nuisance and may be abated or enjoined pursuant to  
15 specified provisions; providing a property owner an  
16 opportunity to remedy a nuisance before specified  
17 legal actions may be taken against the property under  
18 certain circumstances; amending s. 893.138, F.S.;  
19 declaring that any place or premises that has been  
20 used on more than two occasions during a certain  
21 period as the site of any combination of specified  
22 violations is a nuisance and may be abated pursuant to  
23 specified procedures; providing an effective date.

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25 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Section 60.05, Florida Statutes, is amended to read:

60.05 Abatement of nuisances.—

(1) When any nuisance as defined in s. 823.05 exists, the Attorney General, state attorney, city attorney, county attorney, or any citizen of the county may sue in the name of the state on his or her relation to enjoin the nuisance, the person or persons maintaining it, and the owner or agent of the building or ground on which the nuisance exists.

(2) The court may allow a temporary injunction without bond on proper proof being made. If it appears by evidence or affidavit that a temporary injunction should be issued ~~issue~~, the court, pending the determination on final hearing, may enjoin any of the following:

- (a) The maintaining of a nuisance.~~†~~
- (b) The operating and maintaining of the place or premises where the nuisance is maintained.~~†~~
- (c) The owner or agent of the building or ground upon which the nuisance exists.~~†~~
- (d) The conduct, operation, or maintenance of any business or activity operated or maintained in the building or on the premises in connection with or incident to the maintenance of the nuisance.

51 The injunction shall specify the activities enjoined and may  
52 ~~shall~~ not preclude the operation of any lawful business not  
53 conducive to the maintenance of the nuisance complained of. ~~At~~  
54 ~~least 3 days' notice in writing shall be given defendant of the~~  
55 ~~time and place of application for the temporary injunction.~~

56 (3) (a) The defendant shall be given written notice to  
57 abate the nuisance within 10 days after the issuance of the  
58 notice. The notice must inform the defendant that an application  
59 for temporary injunction may be filed if the nuisance is not  
60 timely abated. If the nuisance is not timely abated, the  
61 defendant must be given a second written notice that informs the  
62 defendant that an application for a temporary injunction will be  
63 filed if the nuisance is not abated within 15 days after the end  
64 of the initial 10-day period. This notice also must provide the  
65 location where the application will be filed and the time when  
66 it will be filed. If the nuisance is not timely abated as  
67 provided in the second notice, the application for the temporary  
68 injunction must be filed as indicated in the notice.

69 (b) In addition to the information required under  
70 paragraph (a), each notice must:

71 1. If applicable, describe the building, booth, tent, or  
72 place that is declared a nuisance;

73 2. State the activities that led to the nuisance being  
74 declared;

75 3. State the actions necessary to abate the nuisance; and

76        4. State that costs will be assessed if abatement of the  
77 nuisance is not completed and if the court determines that the  
78 nuisance exists.

79        (c) The notices provided in this subsection must be sent  
80 by personal service to the owner at his or her address as it  
81 appears on the latest tax assessment roll or to the tenant of  
82 such address. If an address is not found for the owner, the  
83 notices must be sent to the location of the declared nuisance  
84 and displayed prominently and conspicuously at that location.

85        (d) If a nuisance presents a danger of immediate and  
86 irreparable injury to a person or to the safety of a community,  
87 the notice requirements under paragraph (a) are waived, and only  
88 one notice is required, which must inform the defendant that the  
89 application for a temporary injunction will be filed if the  
90 nuisance is not abated within a designated timeframe of between  
91 24 and 72 hours. The notice also must identify the location  
92 where the application will be filed and the time when it will be  
93 filed.

94        (4)~~(3)~~ Evidence of the general reputation of the alleged  
95 nuisance and place is admissible to prove the existence of the  
96 nuisance. An ~~No~~ action filed by a citizen may not ~~shall~~ be  
97 dismissed unless the court is satisfied that it should be  
98 dismissed. Otherwise the action shall continue and the state  
99 attorney notified to proceed with it. If the action is brought  
100 by a citizen and the court finds that there was no reasonable

101 ground for the action, the costs shall be taxed against the  
102 citizen.

103 ~~(5)-(4)~~ On trial if the existence of a nuisance is shown,  
104 the court shall issue a permanent injunction and order the costs  
105 to be paid by the persons establishing or maintaining the  
106 nuisance and shall adjudge that the costs are a lien on all  
107 personal property found in the place of the nuisance and on the  
108 failure of the property to bring enough to pay the costs, then  
109 on the real estate occupied by the nuisance. A No lien may not  
110 ~~shall~~ attach to the real estate of any other than such said  
111 persons unless 15 ~~5~~ days' written notice has been given to the  
112 owner or his or her agent who fails to begin to abate the  
113 nuisance within the 15-day period ~~said 5 days~~. In a proceeding  
114 abating a nuisance pursuant to s. 823.10 or s. 823.05, if a  
115 tenant has been convicted of an offense under chapter 893 or s.  
116 796.07, the court may order the tenant to vacate the property  
117 within 72 hours if the tenant and owner of the premises are  
118 parties to the nuisance abatement action and the order will lead  
119 to the abatement of the nuisance.

120 ~~(6)-(5)~~ If the action was brought by the Attorney General,  
121 a state attorney, or any other officer or agency of state  
122 government; if the court finds either before or after trial that  
123 there was no reasonable ground for the action; and if judgment  
124 is rendered for the defendant, the costs and reasonable attorney  
125 ~~attorney's~~ fees shall be taxed against the state.

126 Section 2. Section 823.05, Florida Statutes, is amended to  
 127 read:

128 823.05 Places and groups engaged in certain activities  
 129 ~~criminal gang-related activity~~ declared a nuisance; abatement  
 130 and enjoinder ~~massage establishments engaged in prohibited~~  
 131 ~~activity; may be abated and enjoined.-~~

132 (1) A person who erects, establishes, continues,  
 133 maintains, owns, or leases any of the following is deemed to be  
 134 maintaining a nuisance, and the building, erection, place, tent,  
 135 or booth, and the furniture, fixtures, and contents of such  
 136 structure, are declared a nuisance, and all such places or  
 137 persons shall be abated or enjoined as provided in ss. 60.05 and  
 138 60.06:

139 (a) A ~~Whoever shall erect, establish, continue, or~~  
 140 ~~maintain, own or lease any~~ building, booth, tent, or place that  
 141 ~~which~~ tends to annoy the community or injure the health of the  
 142 community, ~~or becomes~~ become manifestly injurious to the morals  
 143 or manners of the people as provided ~~described~~ in s. 823.01, ~~or~~

144 (b) A ~~any~~ house or place of prostitution, assignation, or  
 145 lewdness. ~~or~~

146 (c) A place or building in which persons engage in ~~where~~  
 147 games of chance ~~are engaged in violation of law.~~ ~~or~~

148 (d) A ~~any~~ place where any law of the state is violated,  
 149 ~~shall be deemed guilty of maintaining a nuisance, and the~~  
 150 ~~building, erection, place, tent or booth and the furniture,~~

151 ~~fixtures, and contents are declared a nuisance. All such places~~  
152 ~~or persons shall be abated or enjoined as provided in ss. 60.05~~  
153 ~~and 60.06.~~

154 (2) (a) As used in this subsection, the terms "criminal  
155 gang," "criminal gang member," "criminal gang associate," and  
156 "criminal gang-related activity" have the same meanings as  
157 provided in s. 874.03.

158 (b) A criminal gang, criminal gang member, or criminal  
159 gang associate who engages in the commission of criminal gang-  
160 related activity is a public nuisance. ~~Any and~~ All such persons  
161 shall be abated or enjoined as provided in ss. 60.05 and 60.06.

162 (c) The use of a location ~~on two or more occasions~~ by a  
163 criminal gang, criminal gang members, or criminal gang  
164 associates for the purpose of engaging in criminal gang-related  
165 activity is a public nuisance. Such use of a location as a  
166 public nuisance shall be abated or enjoined as provided in ss.  
167 60.05 and 60.06.

168 (d) ~~Nothing in~~ This subsection does not shall prevent a  
169 local governing body from adopting and enforcing laws consistent  
170 with this chapter relating to criminal gangs and gang violence.  
171 Where local laws duplicate or supplement this chapter, this  
172 chapter shall be construed as providing alternative remedies and  
173 not as preempting the field.

174 (e) The state, through the Department of Legal Affairs or  
175 any state attorney, or any of the state's agencies,

176 instrumentalities, subdivisions, or municipalities having  
177 jurisdiction over conduct in violation of a provision of this  
178 chapter may institute civil proceedings under this subsection.  
179 In any action brought under this subsection, the circuit court  
180 shall proceed as soon as practicable to the hearing and  
181 determination. Pending final determination, the circuit court  
182 may at any time enter such injunctions, prohibitions, or  
183 restraining orders, or take such actions, including the  
184 acceptance of satisfactory performance bonds, as the court may  
185 deem proper.

186 (3) A massage establishment as defined in s. 480.033(7)  
187 which ~~that~~ operates in violation of s. 480.0475 or s.  
188 480.0535(2) is declared a nuisance and may be abated or enjoined  
189 as provided in ss. 60.05 and 60.06.

190 (4) (a) Any place or premises that has been used on more  
191 than two occasions within a 6-month period as the site of any of  
192 the following violations is declared a nuisance and may be  
193 abated or enjoined as provided in ss. 60.05 and 60.06:

194 1. Section 812.019, relating to dealing in stolen  
195 property.

196 2. Section 784.011, s. 784.021, s. 784.03, or s. 784.045,  
197 relating to assault and battery.

198 3. Section 810.02, relating to burglary.

199 4. Section 812.014, relating to theft.

200 5. Section 812.131, relating to robbery by sudden



201 snatching.

202 (b) Notwithstanding any other law, a rental property that  
 203 is declared a nuisance under this subsection may not be abated  
 204 or subject to forfeiture under the Florida Contraband Forfeiture  
 205 Act if the nuisance was committed by someone other than the  
 206 owner of the property and the property owner commences  
 207 rehabilitation of the property within 30 days after the property  
 208 is declared a nuisance and completes the rehabilitation within a  
 209 reasonable time thereafter.

210 Section 3. Section 893.138, Florida Statutes, is amended  
 211 to read:

212 893.138 Local administrative action to abate certain  
 213 activities declared ~~drug-related, prostitution-related, or~~  
 214 ~~stolen-property-related~~ public nuisances ~~and criminal gang~~  
 215 ~~activity.~~-

216 (1) It is the intent of this section to promote, protect,  
 217 and improve the health, safety, and welfare of the citizens of  
 218 the counties and municipalities of this state by authorizing the  
 219 creation of administrative boards with authority to impose  
 220 administrative fines and other noncriminal penalties in order to  
 221 provide an equitable, expeditious, effective, and inexpensive  
 222 method of enforcing ordinances in counties and municipalities  
 223 under circumstances when a pending or repeated violation  
 224 continues to exist.

225 (2) Any place or premises that has been used:

226 (a) On more than two occasions within a 6-month period, as  
 227 the site of a violation of s. 796.07;

228 (b) On more than two occasions within a 6-month period, as  
 229 the site of the unlawful sale, delivery, manufacture, or  
 230 cultivation of any controlled substance;

231 (c) On one occasion as the site of the unlawful possession  
 232 of a controlled substance, where such possession constitutes a  
 233 felony and that has been previously used on more than one  
 234 occasion as the site of the unlawful sale, delivery,  
 235 manufacture, or cultivation of any controlled substance;

236 (d) By a criminal gang for the purpose of conducting  
 237 criminal gang activity as defined by s. 874.03;

238 (e) On more than two occasions within a 6-month period, as  
 239 the site of a violation of s. 812.019 relating to dealing in  
 240 stolen property; ~~or~~

241 (f) On two or more occasions within a 6-month period, as  
 242 the site of a violation of chapter 499; or

243 (g) On more than two occasions within a 6-month period, as  
 244 the site of a violation of any combination of the following:

- 245 1. Section 782.04, relating to murder;
- 246 2. Section 782.051, relating to attempted felony murder;
- 247 3. Section 784.045(1)(a)2., relating to aggravated battery  
 248 with a deadly weapon; or
- 249 4. Section 784.021(1)(a), relating to aggravated assault  
 250 with a deadly weapon without intent to kill,

251  
 252 may be declared to be a public nuisance, and such nuisance may  
 253 be abated pursuant to the procedures provided in this section.

254 (3) Any pain-management clinic, as described in s.  
 255 458.3265 or s. 459.0137, which has been used on more than two  
 256 occasions within a 6-month period as the site of a violation of:

257 (a) Section 784.011, s. 784.021, s. 784.03, or s. 784.045,  
 258 relating to assault and battery;

259 (b) Section 810.02, relating to burglary;

260 (c) Section 812.014, relating to theft;

261 (d) Section 812.131, relating to robbery by sudden  
 262 snatching; or

263 (e) Section 893.13, relating to the unlawful distribution  
 264 of controlled substances,

265  
 266 may be declared to be a public nuisance, and such nuisance may  
 267 be abated pursuant to the procedures provided in this section.

268 (4) Any county or municipality may, by ordinance, create  
 269 an administrative board to hear complaints regarding the  
 270 nuisances described in subsection (2). Any employee, officer, or  
 271 resident of the county or municipality may bring a complaint  
 272 before the board after giving not less than 3 days' written  
 273 notice of such complaint to the owner of the place or premises  
 274 at his or her last known address. After a hearing in which the  
 275 board may consider any evidence, including evidence of the

276 | general reputation of the place or premises, and at which the  
277 | owner of the premises shall have an opportunity to present  
278 | evidence in his or her defense, the board may declare the place  
279 | or premises to be a public nuisance as described in subsection  
280 | (2).

281 |       (5) If the board declares a place or premises to be a  
282 | public nuisance, it may enter an order requiring the owner of  
283 | such place or premises to adopt such procedure as may be  
284 | appropriate under the circumstances to abate any such nuisance  
285 | or it may enter an order immediately prohibiting:

286 |       (a) The maintaining of the nuisance;

287 |       (b) The operating or maintaining of the place or premises,  
288 | including the closure of the place or premises or any part  
289 | thereof; or

290 |       (c) The conduct, operation, or maintenance of any business  
291 | or activity on the premises which is conducive to such nuisance.

292 |       (6) An order entered under subsection (5) shall expire  
293 | after 1 year or at such earlier time as is stated in the order.

294 |       (7) An order entered under subsection (5) may be enforced  
295 | pursuant to the procedures contained in s. 120.69. This  
296 | subsection does not subject a municipality that creates a board  
297 | under this section, or the board so created, to any other  
298 | provision of chapter 120.

299 |       (8) The board may bring a complaint under s. 60.05 seeking  
300 | temporary and permanent injunctive relief against any nuisance

301 described in subsection (2).

302 (9) This section does not restrict the right of any person  
303 to proceed under s. 60.05 against any public nuisance.

304 (10) As used in this section, the term "controlled  
305 substance" includes any substance sold in lieu of a controlled  
306 substance in violation of s. 817.563 or any imitation controlled  
307 substance defined in s. 817.564.

308 (11) The provisions of this section may be supplemented by  
309 a county or municipal ordinance. The ordinance may include, but  
310 is not limited to, provisions that establish additional  
311 penalties for public nuisances, including fines not to exceed  
312 \$250 per day; provide for the payment of reasonable costs,  
313 including reasonable attorney fees associated with  
314 investigations of and hearings on public nuisances; provide for  
315 continuing jurisdiction for a period of 1 year over any place or  
316 premises that has been or is declared to be a public nuisance;  
317 establish penalties, including fines not to exceed \$500 per day  
318 for recurring public nuisances; provide for the recording of  
319 orders on public nuisances so that notice must be given to  
320 subsequent purchasers, successors in interest, or assigns of the  
321 real property that is the subject of the order; provide that  
322 recorded orders on public nuisances may become liens against the  
323 real property that is the subject of the order; and provide for  
324 the foreclosure of property subject to a lien and the recovery  
325 of all costs, including reasonable attorney fees, associated

326 with the recording of orders and foreclosure. No lien created  
327 pursuant to the provisions of this section may be foreclosed on  
328 real property which is a homestead under s. 4, Art. X of the  
329 State Constitution. Where a local government seeks to bring an  
330 administrative action, based on a stolen property nuisance,  
331 against a property owner operating an establishment where  
332 multiple tenants, on one site, conduct their own retail  
333 business, the property owner shall not be subject to a lien  
334 against his or her property or the prohibition of operation  
335 provision if the property owner evicts the business declared to  
336 be a nuisance within 90 days after notification by registered  
337 mail to the property owner of a second stolen property  
338 conviction of the tenant. The total fines imposed pursuant to  
339 the authority of this section shall not exceed \$15,000. Nothing  
340 contained within this section prohibits a county or municipality  
341 from proceeding against a public nuisance by any other means.

342 Section 4. This act shall take effect July 1, 2020.