

**SUBSTITUTE FOR
HOUSE BILL NO. 5230**

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending sections 3801, 3805, 3810, 3815, 3820, 3825, and 3835
(MCL 600.3801, 600.3805, 600.3810, 600.3815, 600.3820, 600.3825,
and 600.3835), section 3801 as amended by 2012 PA 352.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

3 (a) It is used for the purpose of lewdness, assignation,
4 prostitution, or gambling.

5 (b) It is used by, or kept for the use of, prostitutes or
6 other disorderly persons.

7 (c) It is used for the unlawful manufacture, transporting,
8 sale, keeping for sale, bartering, or furnishing of a controlled

House Bill No. 5230 (H-3) as amended November 12, 2014
1 substance.

2 (d) It is used for the unlawful manufacture, transporting,
3 sale, keeping for sale, bartering, or furnishing of vinous, malt,
4 brewed, fermented, spirituous, or intoxicating liquors or mixed
5 liquors or beverages, any part of which is intoxicating.

6 (e) It is used for conduct prohibited by section 49 of the
7 Michigan penal code, 1931 PA 328, MCL 750.49.

8 (F) IT IS USED FOR CONDUCT PROHIBITED BY CHAPTER LXVIIIA OF THE
9 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.462A TO 750.462H.

10 (G) IT IS USED TO FACILITATE ARMED VIOLENCE IN CONNECTION WITH
11 THE UNLAWFUL USE OF A FIREARM OR OTHER DANGEROUS WEAPON.

12 []

13 (2) All furniture, fixtures, and contents of a building,
14 vehicle, boat, aircraft, or place described in subsection (1) and
15 all intoxicating liquors in the building, vehicle, boat, aircraft,
16 or place are also declared a nuisance.

17 (3) All controlled substances and nuisances shall be enjoined
18 and abated as provided in this act and the court rules.

19 (4) A person, or a servant, agent, or employee of the person,
20 who owns, leases, conducts, or maintains a building, vehicle, or
21 place described in subsection (1) is guilty of a nuisance.

22 (5) As used in this section [~~+~~, "controlled
23] substance" means that term as defined in
24 section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

25 [

26

27]

1 Sec. 3805. The attorney general, ~~of the state of Michigan, the~~
 2 prosecuting attorney or any ~~citizen~~ **RESIDENT** of the county **IN WHICH**
 3 **A NUISANCE DESCRIBED IN SECTION 3801 IS LOCATED, OR A CITY,**
 4 **VILLAGE, OR TOWNSHIP ATTORNEY FOR THE CITY, VILLAGE, OR TOWNSHIP IN**
 5 **WHICH THE NUISANCE IS LOCATED** may maintain an action for equitable
 6 relief in the name of the state of Michigan, ~~upon~~ **ON** the relation
 7 of ~~such~~ **THE** attorney general, prosecuting attorney, ~~or citizen~~
 8 **RESIDENT, OR CITY, VILLAGE, OR TOWNSHIP ATTORNEY** to abate ~~said~~ **THE**
 9 nuisance and to perpetually enjoin any person, ~~his~~ **OR A** servant,
 10 agent, or employee **OF THE PERSON**, who ~~shall own, lease, conduct or~~
 11 ~~maintain such~~ **OWNS, LEASES, CONDUCTS, OR MAINTAINS THE** building,
 12 vehicle, boat, aircraft, or place ~~,~~ from permitting or suffering
 13 ~~such~~ **THE** building, vehicle, boat, ~~or~~ aircraft, or place owned,
 14 leased, conducted, or maintained by ~~him,~~ **THE PERSON**, or any other
 15 building, vehicle, boat, aircraft, or place conducted or maintained
 16 by ~~him~~ **THE PERSON** to be used for any of the purposes or **ACTS OR** by
 17 any of the persons ~~set forth~~ **DESCRIBED** in section 3801. ~~,~~ ~~or for~~
 18 ~~any of the acts enumerated in said section. When the~~ **AFTER AN**
 19 injunction ~~has been~~ **IS** granted ~~,~~ **UNDER THIS SECTION** it ~~shall be~~ **IS**
 20 binding on the defendant throughout ~~the judicial circuit in which~~
 21 ~~it was issued.~~ **THIS STATE.**

22 Sec. 3810. (1) ~~An owner of the premises within the meaning~~ **FOR**
 23 **PURPOSES** of this chapter, ~~is deemed to be~~ the grantee or vendee of
 24 the last recorded deed or contract ~~which~~ **THAT** describes the
 25 premises, or any part thereof ~~upon~~ **OF THE PREMISES, ON** which any **A**
 26 nuisance exists as ~~heretofore defined, and the~~ **DESCRIBED IN SECTION**
 27 **3801 IS CONSIDERED TO BE THE OWNER OF THE PREMISES. THE** naming of

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1 ~~such person~~ **A GRANTEE OR VENDEE AS** a party defendant **IN AN ACTION**
 2 **UNDER THIS CHAPTER** gives the court authority to abate the nuisance
 3 by closing the premises and ~~such~~ **THE** defendant is subject to the
 4 order and judgment of the court.

5 (2) ~~An owner of a vehicle within the meaning~~ **FOR PURPOSES** of
 6 this chapter, ~~is deemed to be the~~ **ANY** person in whose name ~~the~~ **A**
 7 vehicle, **BOAT, OR AIRCRAFT** is titled, and any ~~chattel mortgagee or~~
 8 ~~assignee thereof~~ **SECURED PARTY** or other lien holder whose **SECURED**
 9 **INTEREST IN OR lien AGAINST THE VEHICLE, BOAT, OR AIRCRAFT** has been
 10 filed **WITH THE SECRETARY OF STATE OR** in the office of the register
 11 of deeds ~~prior to~~ **BEFORE** the commencement of suit, ~~and the~~ **AN**
 12 **ACTION UNDER THIS CHAPTER, IS CONSIDERED TO BE THE OWNER OF THE**
 13 **VEHICLE, BOAT, OR AIRCRAFT. THE** plaintiff shall join **ANY** such
 14 ~~mortgagee, assignee~~ **SECURED PARTY** or lien holder as a party
 15 ~~defendant.~~ **DEFENDANT TO AN ACTION UNDER THIS CHAPTER.**

**<<(3) A COURT SHALL NOT ENTER AN ORDER OR JUDGMENT AGAINST A
 DEFENDANT UNDER THIS CHAPTER UNLESS A COPY OF THE SUMMONS AND
 COMPLAINT HAS BEEN SERVED ON THE DEFENDANT AS PROVIDED BY MICHIGAN
 COURT RULES AND THE DEFENDANT GIVEN AN OPPORTUNITY TO BE HEARD.>>**

16 Sec. 3815. (1) In ~~any~~ **AN** action ~~brought~~ under this chapter,
 17 evidence of the general reputation of the building, vehicle, boat,
 18 aircraft, or place is admissible for the purpose of proving the
 19 existence of the nuisance.

20 (2) ~~Proof~~ **IN AN ACTION UNDER THIS CHAPTER, PROOF** of knowledge
 21 of the existence of the nuisance on the part of **1 OR MORE OF** the
 22 defendants ~~or any of them,~~ is not required.

23 (3) ~~It~~ **IN AN ACTION UNDER THIS CHAPTER, IT** is not necessary
 24 for the court to find the property involved was being used as and
 25 for a nuisance at the time of the hearing, or for the plaintiff to
 26 prove that the nuisance was continuing at the time ~~of the filing of~~
 27 the complaint **WAS FILED**, if the complaint is filed within ~~30~~ **90**

1 days after any act, any violation, or the existence of a condition
 2 ~~herein defined~~ **DESCRIBED IN SECTION 3801** as a nuisance, but on
 3 finding that the material allegations of the complaint are true,
 4 the court shall ~~render~~ **ENTER A** judgment and order of abatement as
 5 ~~hereinafter provided~~ **IN THIS CHAPTER.**

6 Sec. 3820. (1) If ~~any~~ **AN** order or injunction granted under the
 7 ~~provisions of this chapter~~ is violated, the court may summarily try
 8 and punish the offender as for contempt, and the person so
 9 offending ~~shall be punished by~~ **IS SUBJECT TO PUNISHMENT OF** a fine
 10 of not more than ~~\$1,000.00,~~ **\$5,000.00**, or ~~by~~ imprisonment in the
 11 county jail **FOR** not more than 6 months, or ~~by both, fine and~~
 12 ~~imprisonment~~ in the discretion of the court. Such

13 (2) **A violation OF AN ORDER OR INJUNCTION GRANTED UNDER THIS**
 14 **CHAPTER** shall be charged by a motion supported by affidavit, and
 15 the court, if satisfied ~~of the sufficiency thereof,~~ **THAT THE MOTION**
 16 **AND AFFIDAVIT ARE SUFFICIENT,** shall immediately issue a bench
 17 warrant for the arrest of ~~such~~ **THE** offender and to bring him **OR HER**
 18 before ~~such~~ **THE** court to answer for ~~such~~ **THE** misconduct. The court
 19 may, in its discretion, permit ~~such~~ **THE** person arrested to give
 20 bail and fix the amount ~~thereof~~ **OF BAIL** pending hearing of the
 21 ~~matters charged in such motion.~~

22 Sec. 3825. (1) If the existence of the nuisance is established
 23 in an action ~~as provided in~~ **UNDER** this chapter, **THE COURT SHALL**
 24 **ENTER** an order of abatement ~~shall be entered as a part of the~~
 25 judgment in the case, ~~which~~ **ACTION. THE** order ~~shall direct the~~ **OF**
 26 **ABATEMENT MAY ORDER ALL OF THE FOLLOWING:**

27 (A) **THE** removal from the building or place of all furniture,

1 fixtures, and contents. ~~therein and shall direct the~~

2 (B) ~~THE~~ sale ~~thereof~~ **OF THE FURNITURE, FIXTURES, AND CONTENTS**
 3 in the manner provided for the sale of ~~chattels~~ **GOODS** under
 4 execution. ~~and the~~

5 (C) ~~THE~~ effectual closing of the building or place against its
 6 use for any purpose, and so keeping it closed for a period of 1
 7 year, unless sooner released as **PROVIDED** in this chapter. ~~provided.~~

8 (D) **ANY OTHER EQUITABLE RELIEF THE COURT CONSIDERS NECESSARY.**

9 (2) Any vehicle, boat, or aircraft found by the court to be a
 10 nuisance ~~within the meaning of~~ **UNDER** this chapter ~~is~~ subject to
 11 the same order and judgment as any furniture, fixtures, and
 12 contents ~~as herein provided.~~ **UNDER SUBSECTION (1).**

13 (3) ~~Upon~~ **ON** the sale of any furniture, fixtures, contents,
 14 vehicle, boat, or aircraft as provided in this section, the officer
 15 executing the order of the court shall ~~after deducting~~ **DO THE**
 16 **FOLLOWING IN THE FOLLOWING ORDER:**

17 (A) **DEDUCT** the expenses of keeping ~~such~~ **THE** property and **THE**
 18 costs of ~~such~~ **THE** sale. ~~pay.~~

19 (B) **PAY** all **SECURED INTERESTS AND** liens according to their
 20 priorities ~~which may be~~ **AS** established by intervention or otherwise
 21 at the hearing or in other proceedings brought for that purpose as
 22 being bona fide and as having been created without the ~~liener~~
 23 **SECURED PARTY OR LIEN HOLDER** having any notice that ~~such~~ **THE**
 24 property was being used or was to be used for the maintenance of a
 25 nuisance as ~~herein defined, and shall pay~~ **DESCRIBED IN SECTION**
 26 **3801.**

27 (C) **SUBJECT TO SUBSECTION (5), PAY THE COSTS INCURRED IN THE**

1 PROSECUTION OF THE ACTION, INCLUDING REASONABLE ATTORNEY FEES FOR
2 SERVICES NECESSITATED AS DETERMINED BY THE COURT.

3 (D) SUBJECT TO SUBSECTION (5), PAY the balance to the state
4 treasurer to be credited to the general fund of ~~the~~THIS state.

5 (4) If any person uses a building or place ~~so directed~~ORDERED
6 to be closed ~~,~~UNDER THIS SECTION with knowledge that ~~such~~THE
7 building or place is closed by order of the court, ~~he shall be~~
8 ~~punished as~~THE PERSON IS SUBJECT TO PUNISHMENT for contempt ~~,~~as
9 provided in section 3820.

10 (5) IF THE COURT IN AN ACTION UNDER THIS CHAPTER DECLARES
11 PROPERTY TO BE A NUISANCE UNDER SECTION 3801(1)(F), THE OFFICER
12 EXECUTING THE ORDER OF THE COURT SHALL FIRST PAY FROM THE PROCEEDS
13 ANY AMOUNT DETERMINED BY THE COURT TO BE DUE TO THE VICTIM. IF
14 THERE IS ANY BALANCE REMAINING, THE OFFICER SHALL PAY THE COSTS OF
15 PROSECUTION AS PROVIDED IN SUBSECTION (3). FOR PURPOSES OF
16 DETERMINING THE AMOUNT DUE TO A VICTIM UNDER THIS SUBSECTION, THE
17 COURT SHALL CONSIDER THE LOSS SUFFERED BY THE VICTIM AS A PROXIMATE
18 RESULT OF THE CONDUCT AND MAY USE AS GUIDANCE THE ITEMS OF LOSS
19 ENUMERATED IN SECTION 16B OF THE WILLIAM VAN REGENMORTER CRIME
20 VICTIM'S RIGHTS ACT, 1985 PA 87, MCL 780.766B.

21 Sec. 3835. The proceeds of the sale of the personal property,
22 as provided in section 3830, shall be applied in payment of the
23 costs of the action and abatement, and the balance, if any, shall
24 be paid TO QUALIFIED SECURED PARTIES AND LIEN HOLDERS AND THEN
25 TOWARD THE COSTS INCURRED IN THE PROSECUTION OF THE ACTION,
26 INCLUDING REASONABLE ATTORNEY FEES FOR SERVICES NECESSITATED AS
27 DETERMINED BY THE COURT, AND ANY REMAINING BALANCE SHALL BE PAID to

1 the persons entitled ~~thereto~~ **TO THEM** as **ORDERED BY** the court ~~may~~
2 ~~direct~~. **OR, IF APPLICABLE, AS ORDERED UNDER SECTION 3825(5).**

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