

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.; providing that the
8 use of a location by a criminal gang, criminal gang
9 members, or criminal gang associates for criminal or
10 gang-related activity is a public nuisance; declaring
11 that any place or premises that has been used on more
12 than two occasions within a certain period as the site
13 of specified violations is a nuisance and may be
14 abated or enjoined pursuant to specified provisions;
15 providing a property owner an opportunity to remedy a
16 nuisance before specified legal actions may be taken
17 against the property in certain circumstances;
18 providing an effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

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

24 60.05 Abatement of nuisances.—

25 (1) When any nuisance as defined in s. 823.05 exists, the

26 Attorney General, state attorney, city attorney, county
27 attorney, or any citizen of the county may sue in the name of
28 the state on his or her relation to enjoin the nuisance, the
29 person or persons maintaining it, and the owner or agent of the
30 building or ground on which the nuisance exists.

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

36 (a) The maintaining of a nuisance.~~†~~

37 (b) The operating and maintaining of the place or premises
38 where the nuisance is maintained.~~†~~

39 (c) The owner or agent of the building or ground upon
40 which the nuisance exists.~~†~~

41 (d) The conduct, operation, or maintenance of any business
42 or activity operated or maintained in the building or on the
43 premises in connection with or incident to the maintenance of
44 the nuisance.

45
46 The injunction shall specify the activities enjoined and shall
47 not preclude the operation of any lawful business not conducive
48 to the maintenance of the nuisance complained of.

49 (3) (a) The defendant shall be given written notice to
50 abate the nuisance within 10 days after the issuance of such

51 ~~notice at least 3 days' notice in writing shall be given~~
 52 ~~defendant of the time and place of application for the temporary~~
 53 ~~injunction. The notice must inform the defendant that an~~
 54 ~~application for temporary injunction may be filed if the~~
 55 ~~nuisance is not abated. If the nuisance is not timely abated,~~
 56 ~~the defendant must be given a second written notice that informs~~
 57 ~~the defendant that an application for a temporary injunction~~
 58 ~~will be filed if the nuisance is not abated within 15 days after~~
 59 ~~the end of the initial 10-day period. This notice also must~~
 60 ~~provide the location where the application will be filed and the~~
 61 ~~time that it will be filed. If the nuisance is not timely abated~~
 62 ~~as provided in the second notice, the application for the~~
 63 ~~temporary injunction must be filed as indicated in the notice.~~

64 (b) In addition to the information provided in paragraph
 65 (a), each notice must:

66 1. If applicable, describe the building, booth, tent, or
 67 place that is declared a nuisance.

68 2. State the activities that led to the nuisance being
 69 declared.

70 3. State the actions necessary to abate the nuisance.

71 4. State that costs will be assessed if abatement of the
 72 nuisance is not completed and if there is a determination by the
 73 court that such nuisance exists.

74 (c) The notices provided in this subsection must be sent
 75 by personal service to the owner at his or her address as it

76 appears on the latest tax assessment roll or to the tenant of
77 such address. If an address is not found for the owner, the
78 notices must be sent to the location of the declared nuisance
79 and displayed prominently and conspicuously at such location.

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

89 (4)-(3) Evidence of the general reputation of the alleged
90 nuisance and place is admissible to prove the existence of the
91 nuisance. An ~~No~~ action filed by a citizen may not ~~shall~~ be
92 dismissed unless the court is satisfied that it should be
93 dismissed. Otherwise the action shall continue and the state
94 attorney notified to proceed with it. If the action is brought
95 by a citizen and the court finds that there was no reasonable
96 ground for the action, the costs shall be taxed against the
97 citizen.

98 (5)-(4) ~~On trial~~ If the existence of a nuisance is shown at
99 trial, the court shall issue a permanent injunction and order
100 the costs to be paid by the persons establishing or maintaining

101 the nuisance and shall adjudge that the costs are a lien on all
 102 personal property found in the place of the nuisance and on the
 103 failure of the property to bring enough to pay the costs, then
 104 on the real estate occupied by the nuisance. A ~~Ne~~ lien may not
 105 ~~shall~~ attach to the real estate of any other than said persons
 106 unless 15 ~~5~~ days' written notice has been given to the owner or
 107 his or her agent who fails to begin to abate the nuisance within
 108 the 15-day period ~~said 5 days~~. In a proceeding abating a
 109 nuisance pursuant to s. 823.10 or s. 823.05, if a tenant has
 110 been convicted of an offense under chapter 893 or s. 796.07, the
 111 court may order the tenant to vacate the property within 72
 112 hours if the tenant and owner of the premises are parties to the
 113 nuisance abatement action and the order will lead to the
 114 abatement of the nuisance.

115 (6) ~~(5)~~ If the action was brought by the Attorney General,
 116 a state attorney, or any other officer or agency of state
 117 government; if the court finds either before or after trial that
 118 there was no reasonable ground for the action; and if judgment
 119 is rendered for the defendant, the costs and reasonable attorney
 120 ~~attorney's~~ fees shall be taxed against the state.

121 Section 2. Section 823.05, Florida Statutes, is amended to
 122 read:

123 823.05 Places and groups engaged in certain activities
 124 ~~criminal gang-related activity~~ declared a nuisance; abatement
 125 and enjoinder ~~massage establishments engaged in prohibited~~

126 ~~activity; may be abated and enjoined.-~~

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

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

139 (b) A ~~any~~ house or place of prostitution, assignation, or
 140 ~~lewdness.~~ or

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

143 (d) A ~~any~~ place where any law of the state is violated,
 144 ~~shall be deemed guilty of maintaining a nuisance, and the~~
 145 ~~building, erection, place, tent or booth and the furniture,~~
 146 ~~fixtures, and contents are declared a nuisance. All such places~~
 147 ~~or persons shall be abated or enjoined as provided in ss. 60.05~~
 148 ~~and 60.06.~~

149 (2) (a) As used in this subsection, the terms "criminal
 150 gang," "criminal gang member," "criminal gang associate," and

151 "criminal gang-related activity" have the same meanings as
152 provided in s. 874.03.

153 (b) A criminal gang, criminal gang member, or criminal
154 gang associate who engages in the commission of criminal gang-
155 related activity is a public nuisance. Any and all such persons
156 shall be abated or enjoined as provided in ss. 60.05 and 60.06.

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

163 (d) Nothing in this subsection shall prevent a local
164 governing body from adopting and enforcing laws consistent with
165 this chapter relating to criminal gangs and gang violence. Where
166 local laws duplicate or supplement this chapter, this chapter
167 shall be construed as providing alternative remedies and not as
168 preempting the field.

169 (e) The state, through the Department of Legal Affairs or
170 any state attorney, or any of the state's agencies,
171 instrumentalities, subdivisions, or municipalities having
172 jurisdiction over conduct in violation of a provision of this
173 chapter may institute civil proceedings under this subsection.
174 In any action brought under this subsection, the circuit court
175 shall proceed as soon as practicable to the hearing and

176 determination. Pending final determination, the circuit court
177 may at any time enter such injunctions, prohibitions, or
178 restraining orders, or take such actions, including the
179 acceptance of satisfactory performance bonds, as the court may
180 deem proper.

181 (3) A massage establishment as defined in s. 480.033(7)
182 that operates in violation of s. 480.0475 or s. 480.0535(2) is
183 declared a nuisance and may be abated or enjoined as provided in
184 ss. 60.05 and 60.06.

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

189 1. Section 812.019, relating to dealing in stolen
190 property.

191 2. Section 784.011, s. 784.021, s. 784.03, or s. 784.045,
192 relating to assault and battery.

193 3. Section 810.02, relating to burglary.

194 4. Section 812.014, relating to theft.

195 5. Section 812.131, relating to robbery by sudden
196 snatching.

197 (b) Notwithstanding any other law, a rental property that
198 is declared a nuisance under this subsection may not be abated
199 or subject to forfeiture under the Florida Contraband Forfeiture
200 Act if the nuisance was committed by someone other than the

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201 | owner of the property and the property owner commences
202 | rehabilitation of the property within 30 days after the property
203 | is declared a nuisance and completes the rehabilitation within a
204 | reasonable time thereafter.

205 | Section 3. This act shall take effect July 1, 2019.