

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Civil Justice Subcommittee
 2 Representative Newton offered the following:

Amendment

5 Remove everything after the enacting clause and insert:
 6 Section 1. Section 60.05, Florida Statutes, is amended to
 7 read:

8 60.05 Abatement of nuisances.—

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

15 (2) The court may allow a temporary injunction without
 16 bond on proper proof being made. If it appears by evidence or

Amendment No.

17 affidavit that a temporary injunction should be issued ~~issue~~,
18 the court, pending the determination on final hearing, may
19 enjoin any of the following:

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

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

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

25 (d) The conduct, operation, or maintenance of any business
26 or activity operated or maintained in the building or on the
27 premises in connection with or incident to the maintenance of
28 the nuisance.

29
30 The injunction shall specify the activities enjoined and may
31 ~~shall~~ not preclude the operation of any lawful business not
32 conducive to the maintenance of the nuisance complained of. ~~At~~
33 ~~least 3 days' notice in writing shall be given defendant of the~~
34 ~~time and place of application for the temporary injunction.~~

35 (3) (a) The defendant shall be given written notice to
36 abate the nuisance within 10 days after the issuance of the
37 notice. The notice must inform the defendant that an application
38 for temporary injunction may be filed if the nuisance is not
39 timely abated. If the nuisance is not timely abated, the
40 defendant must be given a second written notice that informs the
41 defendant that an application for a temporary injunction will be

Amendment No.

42 filed if the nuisance is not abated within 15 days after the end
43 of the initial 10-day period. However, if the defendant responds
44 to the first notice in writing within the initial 10-day period,
45 and in such response alleges and provides proof that:

46 1. Nuisance abatement involves compliance with another law
47 of this state and the requirements of such law make nuisance
48 abatement within 10 days impossible; or

49 2. The terms of an executed contract to perform services
50 necessary to abate the nuisance require more than 10 days to
51 complete,

52
53 the defendant must be given a second written notice providing
54 the defendant with an enlarged time period to abate the nuisance
55 sufficient to comply with such other law or contract terms.

56 (b) A second notice sent under paragraph (a) must also
57 provide the location where the application will be filed and the
58 time when it will be filed. If the nuisance is not timely abated
59 as provided in the second notice, the application for the
60 temporary injunction must be filed as indicated in the notice.

61 (c) In addition to the information required under
62 paragraphs (a) and (b), each notice must:

63 1. If applicable, describe the building, booth, tent, or
64 place that is an alleged nuisance;

65 2. State the activities that led to the nuisance
66 allegations;

318107 - h0625-strikeall.docx

Published On: 1/28/2020 6:51:59 PM

Amendment No.

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

68 4. State that costs will be assessed if abatement of the
69 nuisance is not completed and if the court determines that the
70 nuisance exists.

71 (c) The notices provided in this subsection must be sent
72 by personal service to the owner at his or her address as it
73 appears on the latest tax assessment roll or to the tenant of
74 such address. If an address is not found for the owner, the
75 notices must be sent to the location of the alleged nuisance and
76 displayed prominently and conspicuously at that location.

77 (4)-(3) Evidence of the general reputation of the alleged
78 nuisance and place is admissible to prove the existence of the
79 nuisance. An ~~No~~ action filed by a citizen may not ~~shall~~ be
80 dismissed unless the court is satisfied that it should be
81 dismissed. Otherwise the action shall continue and the state
82 attorney notified to proceed with it. If the action is brought
83 by a citizen and the court finds that there was no reasonable
84 ground for the action, the costs shall be taxed against the
85 citizen.

86 (5)-(4) On trial if the existence of a nuisance is shown,
87 the court shall issue a permanent injunction and order the costs
88 to be paid by the persons establishing or maintaining the
89 nuisance and shall adjudge that the costs are a lien on all
90 personal property found in the place of the nuisance and on the
91 failure of the property to bring enough to pay the costs, then

318107 - h0625-strikeall.docx

Published On: 1/28/2020 6:51:59 PM

Amendment No.

92 on the real estate occupied by the nuisance. A No lien may not
93 ~~shall~~ attach to the real estate of any other than such said
94 persons unless a second 5 days' written notice has been given in
95 accordance with paragraph (3)(a) to the owner or his or her
96 agent who fails to begin to abate the nuisance within the time
97 specified therein said 5 days. In a proceeding abating a
98 nuisance pursuant to s. 823.10 or s. 823.05, if a tenant has
99 been convicted of an offense under chapter 893 or s. 796.07, the
100 court may order the tenant to vacate the property within 72
101 hours if the tenant and owner of the premises are parties to the
102 nuisance abatement action and the order will lead to the
103 abatement of the nuisance.

104 (6)(5) If the action was brought by the Attorney General,
105 a state attorney, or any other officer or agency of state
106 government; if the court finds either before or after trial that
107 there was no reasonable ground for the action; and if judgment
108 is rendered for the defendant, the costs and reasonable attorney
109 ~~attorney's~~ fees shall be taxed against the state.

110 Section 2. Section 823.05, Florida Statutes, is amended to
111 read:

112 823.05 Places and groups engaged in certain activities
113 ~~criminal gang-related activity~~ declared a nuisance; abatement
114 and enjoinder ~~massage establishments engaged in prohibited~~
115 ~~activity; may be abated and enjoined.-~~

Amendment No.

116 (1) A person who erects, establishes, continues,
117 maintains, owns, or leases any of the following is deemed to be
118 maintaining a nuisance, and the building, erection, place, tent,
119 or booth, and the furniture, fixtures, and contents of such
120 structure, are declared a nuisance, and all such places or
121 persons shall be abated or enjoined as provided in ss. 60.05 and
122 60.06:

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

128 (b) A ~~any~~ house or place of prostitution, assignation, or
129 ~~lewdness.~~ ~~or~~

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

132 (d) A ~~any~~ place where any law of the state is violated,
133 ~~shall be deemed guilty of maintaining a nuisance, and the~~
134 ~~building, erection, place, tent or booth and the furniture,~~
135 ~~fixtures, and contents are declared a nuisance. All such places~~
136 ~~or persons shall be abated or enjoined as provided in ss. 60.05~~
137 ~~and 60.06.~~

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

Amendment No.

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

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

146 (c) The use of a location ~~on two or more occasions~~ by a
147 criminal gang, criminal gang members, or criminal gang
148 associates for the purpose of engaging in criminal gang-related
149 activity is a public nuisance. Such use of a location as a
150 public nuisance shall be abated or enjoined as provided in ss.
151 60.05 and 60.06.

152 (d) ~~Nothing in~~ This subsection does not ~~shall~~ prevent a
153 local governing body from adopting and enforcing laws consistent
154 with this chapter relating to criminal gangs and gang violence.
155 Where local laws duplicate or supplement this chapter, this
156 chapter shall be construed as providing alternative remedies and
157 not as preempting the field.

158 (e) The state, through the Department of Legal Affairs or
159 any state attorney, or any of the state's agencies,
160 instrumentalities, subdivisions, or municipalities having
161 jurisdiction over conduct in violation of a provision of this
162 chapter may institute civil proceedings under this subsection.
163 In any action brought under this subsection, the circuit court
164 shall proceed as soon as practicable to the hearing and

318107 - h0625-strikeall.docx

Published On: 1/28/2020 6:51:59 PM

Amendment No.

165 determination. Pending final determination, the circuit court
166 may at any time enter such injunctions, prohibitions, or
167 restraining orders, or take such actions, including the
168 acceptance of satisfactory performance bonds, as the court may
169 deem proper.

170 (3) A massage establishment as defined in s. 480.033(7)
171 which ~~that~~ operates in violation of s. 480.0475 or s.
172 480.0535(2) is declared a nuisance and may be abated or enjoined
173 as provided in ss. 60.05 and 60.06.

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

178 1. Section 812.019, relating to dealing in stolen
179 property.

180 2. Section 784.011, s. 784.021, s. 784.03, or s. 784.045,
181 relating to assault and battery.

182 3. Section 810.02, relating to burglary.

183 4. Section 812.014, relating to theft.

184 5. Section 812.131, relating to robbery by sudden
185 snatching.

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

Amendment No.

190 owner of the property and the property owner commences
191 rehabilitation of the property within 30 days after the property
192 is declared a nuisance and completes the rehabilitation within a
193 reasonable time thereafter.

194 Section 3. Section 893.138, Florida Statutes, is amended
195 to read:

196 893.138 Local administrative action to abate certain
197 activities declared ~~drug-related, prostitution-related, or~~
198 ~~stolen-property-related~~ public nuisances ~~and criminal gang~~
199 ~~activity.~~—

200 (1) It is the intent of this section to promote, protect,
201 and improve the health, safety, and welfare of the citizens of
202 the counties and municipalities of this state by authorizing the
203 creation of administrative boards with authority to impose
204 administrative fines and other noncriminal penalties in order to
205 provide an equitable, expeditious, effective, and inexpensive
206 method of enforcing ordinances in counties and municipalities
207 under circumstances when a pending or repeated violation
208 continues to exist.

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

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

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

318107 - h0625-strikeall.docx

Published On: 1/28/2020 6:51:59 PM

Amendment No.

215 (c) On one occasion as the site of the unlawful possession
216 of a controlled substance, where such possession constitutes a
217 felony and that has been previously used on more than one
218 occasion as the site of the unlawful sale, delivery,
219 manufacture, or cultivation of any controlled substance;

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

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

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

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

229 1. Section 782.04, relating to murder;

230 2. Section 782.051, relating to attempted felony murder;

231 3. Section 784.045(1)(a)2., relating to aggravated battery
232 with a deadly weapon; or

233 4. Section 784.021(1)(a), relating to aggravated assault
234 with a deadly weapon without intent to kill,

235

236 may be declared to be a public nuisance, and such nuisance may
237 be abated pursuant to the procedures provided in this section.

Amendment No.

238 (3) Any pain-management clinic, as described in s.
239 458.3265 or s. 459.0137, which has been used on more than two
240 occasions within a 6-month period as the site of a violation of:

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

243 (b) Section 810.02, relating to burglary;

244 (c) Section 812.014, relating to theft;

245 (d) Section 812.131, relating to robbery by sudden
246 snatching; or

247 (e) Section 893.13, relating to the unlawful distribution
248 of controlled substances,

249
250 may be declared to be a public nuisance, and such nuisance may
251 be abated pursuant to the procedures provided in this section.

252 (4) Any county or municipality may, by ordinance, create
253 an administrative board to hear complaints regarding the
254 nuisances described in subsection (2). Any employee, officer, or
255 resident of the county or municipality may bring a complaint
256 before the board after giving not less than 3 days' written
257 notice of such complaint to the owner of the place or premises
258 at his or her last known address. After a hearing in which the
259 board may consider any evidence, including evidence of the
260 general reputation of the place or premises, and at which the
261 owner of the premises shall have an opportunity to present
262 evidence in his or her defense, the board may declare the place

318107 - h0625-strikeall.docx

Published On: 1/28/2020 6:51:59 PM

Amendment No.

263 or premises to be a public nuisance as described in subsection
264 (2).

265 (5) If the board declares a place or premises to be a
266 public nuisance, it may enter an order requiring the owner of
267 such place or premises to adopt such procedure as may be
268 appropriate under the circumstances to abate any such nuisance
269 or it may enter an order immediately prohibiting:

270 (a) The maintaining of the nuisance;

271 (b) The operating or maintaining of the place or premises,
272 including the closure of the place or premises or any part
273 thereof; or

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

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

278 (7) An order entered under subsection (5) may be enforced
279 pursuant to the procedures contained in s. 120.69. This
280 subsection does not subject a municipality that creates a board
281 under this section, or the board so created, to any other
282 provision of chapter 120.

283 (8) The board may bring a complaint under s. 60.05 seeking
284 temporary and permanent injunctive relief against any nuisance
285 described in subsection (2).

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

Amendment No.

288 (10) As used in this section, the term "controlled
289 substance" includes any substance sold in lieu of a controlled
290 substance in violation of s. 817.563 or any imitation controlled
291 substance defined in s. 817.564.

292 (11) The provisions of this section may be supplemented by
293 a county or municipal ordinance. The ordinance may include, but
294 is not limited to, provisions that establish additional
295 penalties for public nuisances, including fines not to exceed
296 \$250 per day; provide for the payment of reasonable costs,
297 including reasonable attorney fees associated with
298 investigations of and hearings on public nuisances; provide for
299 continuing jurisdiction for a period of 1 year over any place or
300 premises that has been or is declared to be a public nuisance;
301 establish penalties, including fines not to exceed \$500 per day
302 for recurring public nuisances; provide for the recording of
303 orders on public nuisances so that notice must be given to
304 subsequent purchasers, successors in interest, or assigns of the
305 real property that is the subject of the order; provide that
306 recorded orders on public nuisances may become liens against the
307 real property that is the subject of the order; and provide for
308 the foreclosure of property subject to a lien and the recovery
309 of all costs, including reasonable attorney fees, associated
310 with the recording of orders and foreclosure. No lien created
311 pursuant to the provisions of this section may be foreclosed on
312 real property which is a homestead under s. 4, Art. X of the

318107 - h0625-strikeall.docx

Published On: 1/28/2020 6:51:59 PM

Amendment No.

313 State Constitution. Where a local government seeks to bring an
314 administrative action, based on a stolen property nuisance,
315 against a property owner operating an establishment where
316 multiple tenants, on one site, conduct their own retail
317 business, the property owner shall not be subject to a lien
318 against his or her property or the prohibition of operation
319 provision if the property owner evicts the business declared to
320 be a nuisance within 90 days after notification by registered
321 mail to the property owner of a second stolen property
322 conviction of the tenant. The total fines imposed pursuant to
323 the authority of this section shall not exceed \$15,000. Nothing
324 contained within this section prohibits a county or municipality
325 from proceeding against a public nuisance by any other means.

326 (12) Notwithstanding any other law, a rental property that
327 is declared a nuisance under this section may not be abated or
328 subject to forfeiture under the Florida Contraband Forfeiture
329 Act if the nuisance was committed by someone other than the
330 owner of the property and the property owner commences
331 rehabilitation of the property within 30 days after the property
332 is declared a nuisance and completes the rehabilitation within a
333 reasonable time thereafter.

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