

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: CS/SB 1022

INTRODUCER: Criminal Justice Committee and Senator Wright

SUBJECT: Public Nuisances

DATE: March 11, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wyant	Stokes	CJ	Fav/CS
2.			CA	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1022 amends s. 893.138, F.S., to revise provisions relating to the assessment and collection of fines that may be included in a county or municipal ordinance for public nuisances and removes the limit of total fines that may be imposed by such ordinance.

The bill requires for an abatement board to:

- Increase daily fines to \$500 if the nuisance activity is not abated within a year.
- Consider the gravity of the public nuisance and any actions taken by the owner when determining the amount of the fine.
- Award attorney fees, if requested, after considering the time and labor of legal assistants.

Additionally, the bill allows for an abatement board to:

- Retain jurisdiction over a place or premises for periods of one year until the public nuisance is abated.
- Enter into an agreement with the tax collector to recover fines via non-ad valorem special assessments.
- Authorize an appropriate entity to foreclose on a lien under certain circumstances.

The bill defines “legal assistant” as the person who, under the supervision and direction of a licensed attorney, engages in legal research, and case development or planning.

The bill takes effect on July 1, 2025.

II. Present Situation:

Nuisance Abatement

Section 893.138, F.S., allows local governments to establish a nuisance abatement board to hear public nuisance complaints. These boards may take various administrative actions to abate violence-related, drug-related, prostitution-related, or stolen property-related public nuisances and criminal gang activity, including a closure of the place or premises.

Section 893.138(2), F.S., lists criminal activities which, if committed at any place or premises during a specified period of time, may create a public nuisance. Such nuisance may be abated by order of a nuisance abatement board. Those properties subject to nuisance abatement by the board include any place or premises that has been used:

- On more than two occasions within a 6-month period as the site of a violation of s. 796.07, F.S., prohibiting prostitution;¹
- On more than two occasions within a 6-month period as a site for the unlawful sale, delivery, manufacture, or cultivation of a controlled substance;²
- On one occasion as the site of a felony involving the unlawful possession of a controlled substance and that has been previously used as the site for the unlawful sale, delivery, manufacture, or cultivation of a controlled substance;³
- By a criminal street gang for a pattern of criminal street gang activity;^{4,5}
- On more than two occasions within a 6-month period for a violation of s. 812.019, F.S., relating to stolen property;⁶
- On two or more occasions within a 6-month period, as the site of a violation of ch. 499, F.S., relating to the Florida Drug and Cosmetic Act;⁷
- On more than two occasions within a 6-month period, as the site of a violation of any combination of murder and other specified aggravated batteries;^{8,9} or
- On more than two occasions within a 12-month period, as the site of a violation of s. 562.12, F.S., relating to the unlicensed or unlawful sale of alcoholic beverages.¹⁰

Additionally, any pain-management clinic which has been used on more than two occasions within a 6-month period as the site of a violation relating to assault and battery, burglary, theft,

¹ Section 893.138(2)(a), F.S.

² Section 893.138(2)(b), F.S.

³ Section 893.138(2)(c), F.S.

⁴ “Criminal gang-related activity” means, in part, an activity committed with the intent to benefit, promote, or further the interests of a criminal gang, or for the purposes of increasing a person’s own standing within a criminal gang. Section 874.03(4)(a), F.S.

⁵ Section 893.138(2)(d), F.S.

⁶ Section 893.138(2)(e), F.S.

⁷ Section 893.138(2)(f), F.S.

⁸ Section 893.138(2)(g), F.S.

⁹ Offenses include murder pursuant to s. 782.04, F.S., attempted felony murder pursuant to s. 782.051, F.S., aggravated battery with a deadly weapon pursuant to s. 784.045(1)(a)2., F.S., and aggravated assault with a deadly weapon without intent to kill pursuant to s. 784.021(1)(a), F.S.

¹⁰ Section 893.138(2)(h), F.S.

robbery by sudden snatching, or the unlawful distribution of controlled substances may be declared a public nuisance and subject to nuisance abatement.¹¹

Under s. 893.138(5), F.S., a local administrative board created to address public nuisances may order the owner of such place or premises to adopt appropriate procedures to abate a nuisance, or enter an order immediately prohibiting:

- Maintaining the nuisance;
- Operating or maintaining the place or premises, including the closure or operation of the place or premises; and
- Conduct, operation, or maintenance of any business or activity on the premises which is conducive to such nuisance.

Penalties that may be imposed under s. 893.138, F.S., may be supplemented by a county or municipal ordinance, which may include, but is not limited to, the following penalties:¹²

- Imposing additional penalties for public nuisances, including fines not to exceed \$250 per day;
- Requiring the payment of reasonable costs, including reasonable attorney fees associated with investigations of and hearings on public nuisances;
- Providing continuing jurisdiction for a period of one year over any place or premises that has been or is declared to be a public nuisance;
- Imposing penalties, including fines not to exceed \$500 per day for recurring public nuisances;
- Requiring the recording of orders on public nuisances so that notice must be given to subsequent purchasers, successors in interest, or assigns of the real property that is the subject of the order;
- Providing that recorded orders on public nuisances may become liens against the real property that is the subject of the order; and
- Providing for the foreclosure of property subject to a lien and the recovery of all costs, including reasonable attorney fees, associated with the recording of orders and foreclosure. However, a lien may not be created to foreclose on real property which is a homestead under s. 4, Art. X of the State Constitution.

The total fines imposed in a county or municipal ordinance may not exceed \$15,000.

The nuisance abatement board may also bring a complaint under s. 60.05, F.S., seeking temporary and permanent injunctive relief against any nuisance described in s. 893.138(2), F.S.

Section 60.05, F.S., also provides a process for an Attorney General, state attorney, city attorney, county attorney, sheriff, or any citizen of the county to sue in the name of the state to prohibit the nuisance, the person or persons maintaining it, and the owner or agent of the building or ground on which the nuisance exists. For other types of public nuisances such as the disposal of dead animals, the abandonment of refrigerators and other appliances, and abandoned or derelict vessels, ch. 823, F.S., provides penalties for the maintenance of those nuisances.

¹¹ Section 893.138(3), F.S.

¹² Section 893.138(11), F.S.

III. Effect of Proposed Changes:

The bill amends s. 893.138, F.S., to revise provisions relating to the assessment and collection of fines that may be included in a county or municipal ordinance for public nuisances and removes the limit of total fines that may be imposed by such ordinance.

The bill requires for an abatement board to:

- Increase daily fines to \$500 if the nuisance activity is not abated within a year.
- Consider the gravity of the public nuisance and any actions taken by the owner when determining the amount of the fine.
- Award attorney fees, if requested, after considering the time and labor of legal assistants.

Additionally, the bill allows for an abatement board to:

- Retain jurisdiction over a place or premises for periods of one year until the public nuisance is abated.
- Enter into an agreement with the tax collector to recover fines via non-ad valorem special assessments.
- Authorize an appropriate entity to foreclose on a lien if:
 - 3 months after filing, the lien remains unpaid.
 - The nuisance abatement activity is unabated after 2 years.

The bill defines “legal assistant” as the person who, under the supervision and direction of a licensed attorney, engages in legal research, and case development or planning.

The bill takes effect on July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require the cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. **Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill substantially amends 893.138 of the Florida Statutes.

IX. **Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Criminal Justice on March 11, 2025:

The committee substitute:

- Revises provisions relating to the assessment and collection of fines that may be included in a county or municipal ordinance, and requires an abatement board to consider the gravity of the public nuisance and actions taken by the owner when determining the amount of the fine for such public nuisance.
- Requires an abatement board to award attorney fees, if requested, after considering the time and labor of any “legal assistants” and provides a definition for such term.
- Allows for the continuing jurisdiction over a place or premises that has been declared a public nuisance until the public nuisance is abated.
- Authorizes foreclosure when a lien remains unpaid 3 months after the filing of such or if the nuisance abatement activity is unabated after 2 years.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
