
HOUSE BILL No. 1131

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-1-52.7.

Synopsis: Abatement of drug nuisances. Provides that an action to abate a drug nuisance on property because of drug transactions occurring on the property may be brought by any of the following: (1) The attorney general. (2) The prosecuting attorney of the circuit where the nuisance is located. (3) The corporation counsel or city attorney of a city in which the nuisance is located. (4) An attorney representing a county in which a nuisance is located. (5) A community organization. Requires a person bringing a nuisance action to provide notice to a tenant and the owner of record at least 45 days before filing the action
(Continued next page)

Effective: July 1, 1998.

Alevizos

January 8, 1998, read first time and referred to Committee on Courts and Criminal Code.

C
O
P
Y



to abate a nuisance under this chapter. Requires a person bringing a nuisance action to post a copy of the complaint in a conspicuous place on the property not later than 48 hours after filing the complaint. Requires all tenants or residents of a property who may be affected by an order of the court in a nuisance action to be provided reasonable notice as ordered by the court and afforded an opportunity to be heard at all proceedings. Requires a notice of *lis pendens* to be filed concurrently with the commencement of a nuisance action. Allows a court to issue an injunction or order other equitable relief whether or not an adequate remedy exists at law. Allows a court, after a hearing, to order a tenant with knowledge of the existence of the nuisance to vacate the property within 72 hours after the hearing. Provides that a court may order the owner of the property to submit for court approval a plan for correction to ensure, to the extent reasonably possible, that the property will not again be used for a nuisance if the owner: (1) is a party to the action; and (2) knew of the existence of the nuisance. With certain exceptions, provides that a court may order appropriate relief without proof that a defendant knew of the existence of the nuisance. Provides that evidence of the general reputation of the property is admissible to corroborate testimony based on personal knowledge or observation, or evidence seized during the execution of a search and seizure warrant, but is not sufficient to establish the existence of a nuisance. Provides that evidence that the nuisance had been discontinued at the time of the filing of the complaint or at the time of the hearing does not bar the imposition of appropriate relief by the court. Allows a court to award court costs and reasonable attorney's fees to a community association that is the prevailing plaintiff in a nuisance action.

C
o
p
y



Introduced

Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

C
O
P
Y

HOUSE BILL No. 1131



A BILL FOR AN ACT to amend the Indiana Code concerning civil law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 34-1-52.7 IS ADDED TO THE INDIANA CODE
 2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 1998]:
 4 **Chapter 52.7. Actions for Drug Nuisances**
 5 **Sec. 1. As used in this chapter, "community organization"**
 6 **means a nonprofit association, nonprofit corporation, or other**
 7 **nonprofit organization that:**
 8 **(1) is comprised of individuals who reside or work:**
 9 **(A) in a building or complex of buildings;**
 10 **(B) on a street; or**
 11 **(C) in a neighborhood;**
 12 **that is located on or within one thousand (1,000) feet of a**
 13 **place that is alleged to be a nuisance; and**
 14 **(2) has the purpose of benefiting the quality of life in the**
 15 **neighborhood.**



1 **Sec. 2. As used in this chapter, "nuisance" means:**

- 2 (1) the use of a property to commit an act constituting an
3 offense under IC 35-48-4; or
4 (2) an attempt to commit or a conspiracy to commit an act
5 described in subdivision (1).

6 **Sec. 3. As used in this chapter, "property" means a house, a
7 building, a mobile home, or an apartment that is leased for
8 residential or commercial purposes. The term includes:**

- 9 (1) an entire building or complex of buildings; or
10 (2) a mobile home park;

11 **and all real property of any nature appurtenant to and used in
12 connection with a house, a building, a mobile home, or an
13 apartment, including all individual rental units and common areas.
14 The term does not include a hotel, motel, or other guest house
15 rented to a transient guest.**

16 **Sec. 4. As used in this chapter, "tenant" means a person who
17 leases or resides in a property. The term does not include a person
18 who:**

- 19 (1) owns a mobile home;
20 (2) leases or rents a site in a mobile home park for residential
21 use; and
22 (3) resides in a mobile home park.

23 **Sec. 5. An action to abate a nuisance under this chapter may be
24 initiated by any of the following:**

- 25 (1) The attorney general.
26 (2) The prosecuting attorney of the circuit where the nuisance
27 is located.
28 (3) The corporation counsel or city attorney of a city in which
29 a nuisance is located.
30 (4) An attorney representing a county in which a nuisance is
31 located.
32 (5) A community organization.

33 **Sec. 6. (a) A person initiating an action under this chapter shall
34 provide notice at least forty-five (45) days before filing the action
35 to:**

- 36 (1) a tenant; and
37 (2) the owner of record;

38 **of a property that a nuisance exists on the property.**

39 **(b) The notice required under this section must specify the
40 following:**

- 41 (1) The date and time the nuisance was first discovered.
42 (2) The location on the property where the nuisance is

C
O
P
Y



1 allegedly occurring.

2 (c) The notice must be:

3 (1) hand delivered; or

4 (2) sent by certified mail;

5 to a tenant and the owner of record.

6 Sec. 7. (a) Notice of a complaint initiating an action under this
7 chapter must be made as provided in the Indiana Rules of Trial
8 Procedure.

9 (b) Not later than forty-eight (48) hours after filing a complaint
10 under this chapter, the person initiating an action under this
11 chapter shall post a copy of the complaint in a conspicuous place
12 on the property alleged by the complaint to be a nuisance.

13 Sec. 8. (a) Not more than twenty (20) days after the filing of a
14 complaint and the filing of an affidavit that personal service on the
15 defendant cannot be had after due diligence, the person initiating
16 the action may cause a copy of the complaint to be mailed to the
17 defendant by certified mail, restricted delivery, return receipt to
18 the clerk of court requested. Service is considered completed after
19 filing with the court proof of the mailing and an affidavit that a
20 copy of the complaint has been posted on the property alleged to be
21 a nuisance.

22 (b) All tenants or residents of a property that is used in whole or
23 in part as a business, home, residence, or dwelling, other than
24 transient guests of a guest house, hotel, or motel, who may be
25 affected by an order issued under this chapter must be:

26 (1) provided reasonable notice as ordered by the court having
27 jurisdiction over the nuisance action; and

28 (2) afforded an opportunity to be heard at all proceedings in
29 the action.

30 (c) Notice of lis pendens shall be filed concurrently with the
31 initiation of an action under this chapter.

32 Sec. 9. (a) Except as otherwise provided under rules adopted by
33 the Indiana supreme court, upon the filing of a complaint initiating
34 an action under this chapter, the court shall schedule a hearing not
35 later than twenty (20) days after the filing date.

36 (b) Service of process must be made upon the owner of the
37 property alleged to be a nuisance under section 6 of this chapter at
38 least five (5) days before the hearing. If service cannot be
39 completed in time to give the owner the minimum notice required
40 by this subsection, the court may set a new hearing date.

41 Sec. 10. The court may issue an injunction or order other
42 equitable relief under this chapter regardless of whether an

C
O
P
Y



1 adequate remedy exists at law.

2 **Sec. 11.** Notwithstanding any other provision of law, and in
3 addition to or as a component of a remedy ordered under section
4 **10** of this chapter, the court, after a hearing, may order a tenant
5 with knowledge of the existence of a nuisance on the property
6 leased by the tenant to vacate the property within seventy-two (72)
7 hours after the issuance of the order.

8 **Sec. 12.** (a) The court, after a hearing, may grant a judgment of
9 restitution or the possession of the property to the owner if:

- 10 (1) the owner and tenant are parties to the action; and
11 (2) the tenant has failed to obey an order issued under section
12 **10** or **11** of this chapter.

13 (b) If the court orders the owner to have possession of the
14 property, the court shall require the sheriff to execute the order of
15 possession not later than five (5) days after the order is issued.

16 (c) If the owner is awarded possession of the property, the
17 owner may seek an order from the court allowing removal of a
18 tenant's personal property under IC 32-7-6.

19 **Sec. 13.** The court may order the owner of the property to
20 submit for court approval a plan for correction to ensure, to the
21 extent reasonably possible, that the property will not again be used
22 for a nuisance if the owner:

- 23 (1) is a party to the action; and
24 (2) knew of the existence of the nuisance.

25 **Sec. 14.** Except as provided in sections 11 and 13 of this chapter,
26 the court may order appropriate relief under this chapter without
27 proof that a defendant knew of the existence of the nuisance.

28 **Sec. 15.** In any action brought under this chapter:

- 29 (1) evidence of the general reputation of the property is
30 admissible to corroborate testimony based on personal
31 knowledge or observation, or evidence seized during the
32 execution of a search and seizure warrant, but is not sufficient
33 to establish the existence of a nuisance under this chapter; and
34 (2) evidence that the nuisance had been discontinued at the
35 time of the filing of the complaint or at the time of the hearing
36 does not bar the imposition of appropriate relief by the court
37 under sections 10 through 14 of this chapter.

38 **Sec. 16.** The court may award court costs and reasonable
39 attorney's fees to a community association that is the prevailing
40 plaintiff in an action brought under this chapter.

C
O
P
Y