

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
94th General Assembly
Regular Session, 2023

A Bill

HOUSE BILL 1672

By: Representative Pearce

By: Senator J. Petty

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING THE CIVIL ACTION TO ELIMINATE THE AVAILABILITY OF PREMISES USED CONTINUALLY IN CRIMINAL OFFENSES; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING THE CIVIL ACTION TO ELIMINATE THE AVAILABILITY OF PREMISES USED CONTINUALLY IN CRIMINAL OFFENSES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 5-74-109(c) and (d), concerning the civil remedies available to eliminate availability of premises used in criminal offenses, is amended to read as follows:

(c) Action to Abate – Permanent Injunction – Verification of Complaint.

(1) When there is reason to believe a common nuisance under subsection (b) of this section is kept or maintained, or exists in any county, the prosecuting attorney of the county in the name of the state, ~~or~~ the city attorney of any incorporated city, the Attorney General, or any citizen of the state or a resident of the county in his or her own name, may enjoin permanently the person conducting or maintaining the nuisance and the owner, lessee, or agent of the building or place in or upon which the nuisance exists from directly or indirectly maintaining or permitting the nuisance.



(2) Unless filed by the prosecuting attorney or the Attorney General, the complaint in the action shall be verified.

(d) Inspection Warrant. When there is reasonable cause to believe that any premises is being maintained in violation of this section, ~~any a~~ judicial officer may, upon the petition of the prosecuting attorney or the Attorney General, issue an inspection warrant for the premises.

SECTION 2. Arkansas Code § 5-74-109(e)(2)(B), concerning the bond requirements for a temporary injunction, is amended to read as follows:

(B) ~~No A~~ bond is not required when the proceeding is instituted by the prosecuting attorney, the Attorney General, or city attorney.

SECTION 3. Arkansas Code § 5-74-109(j)(3)(A), concerning an order or abatement and the use of funds paid as damages, is amended to read as follows:

(3)(A)(i) If the court finds that ~~any a~~ vacancy resulting from closure of the building or place may create a nuisance or that closure is otherwise harmful to the community, in lieu of ordering the building or place closed, the court may order the person who is seeking to keep the premises open to pay damages in an amount equal to the fair market rental value of the building or place, for ~~such a~~ period of time as determined appropriate by the court, ~~to the city attorney, or county prosecutor~~ prosecuting attorney, or the Attorney General.

(ii) ~~These funds~~ Damages ordered under subdivision (j)(3)(A)(i) of this section are to be used:

(a) ~~To~~ To investigate and litigate future nuisance abatement actions; or

(b) ~~the funds are to be used by~~ By the city or county in whose jurisdiction the nuisance is located or by the state for the purpose of carrying out its drug prevention and education programs.

(iii) If damages ordered under subdivision (j)(3)(A)(i) of this section are awarded to a city, eligible programs under subdivision (j)(3)(A)(ii)(b) may include those developed as a result of cooperative programs among schools, community agencies, and the local enforcement agency.

(iv) If damages ordered under subdivision (j)(3)(A)(i) of this section are awarded to a county, ~~funds the damages~~ shall be used for those programs under subdivision (j)(3)(A)(ii)(b) that are part of any county program in place or used by the county law enforcement agency.

(v) ~~These funds~~ Damages ordered under subdivision (j)(3)(A)(i) of this section shall not be used to supplant existing city, county, state, or federal resources used for drug prevention and education programs.