

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

A Bill

HOUSE BILL 1672

5 By: Representative Pearce
6 By: Senator J. Petty
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW CONCERNING THE CIVIL ACTION
10 TO ELIMINATE THE AVAILABILITY OF PREMISES USED
11 CONTINUALLY IN CRIMINAL OFFENSES; AND FOR OTHER
12 PURPOSES.
13
14

Subtitle

16 TO AMEND THE LAW CONCERNING THE CIVIL
17 ACTION TO ELIMINATE THE AVAILABILITY OF
18 PREMISES USED CONTINUALLY IN CRIMINAL
19 OFFENSES.
20
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

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

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

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



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

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

7
 8 SECTION 2. Arkansas Code § 5-74-109(e)(2)(B), concerning the bond
 9 requirements for a temporary injunction, is amended to read as follows:

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

13
 14 SECTION 3. Arkansas Code § 5-74-109(j)(3)(A), concerning an order or
 15 abatement and the use of funds paid as damages, is amended to read as
 16 follows:

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

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

27 (a) ~~To~~ To investigate and litigate future
 28 nuisance abatement actions, ~~r;~~ or

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

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

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

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

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36