
By: **Delegates Petzold, Barve, Dobson, Franchot, Heller, Hixson, Mandel,
Hurson, and Shriver**

Introduced and read first time: February 11, 2000

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property - Abatement of Nuisance**

3 FOR the purpose of expanding the definition of "nuisance" to include the providing of
4 certain sexual services, including vaginal intercourse, sexual acts, or sexual
5 contact; authorizing certain business owners organizations to bring an action to
6 abate certain nuisances; authorizing the District Court to require a manager of
7 a business located on property that has had a certain nuisance abatement action
8 brought against it to submit a certain plan of correction to the court if the
9 manager is a party in the action and the manager knew of the existence of the
10 nuisance; authorizing the District Court to award court costs and reasonable
11 attorney's fees to a business owners organization that is the prevailing plaintiff
12 in certain nuisance abatement actions; defining certain terms; and generally
13 relating to the abatement of certain nuisances.

14 BY repealing and reenacting, with amendments,
15 Article - Real Property
16 Section 14-120
17 Annotated Code of Maryland
18 (1996 Replacement Volume and 1999 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article - Real Property**

22 14-120.

23 (a) (1) In this section the following words have the meanings indicated.

24 (2) "Community association" means:

25 (i) A nonprofit association, corporation, or other organization that
26 is:

- 1 (ii) For the illegal manufacture, or distribution of:
- 2 1. A controlled dangerous substance; or
- 3 2. Controlled paraphernalia, as defined in Article 27, §
- 4 287(d) of the Code; [or]
- 5 (iii) For the illegal storage or concealment of a controlled dangerous
- 6 substance in sufficient quantity to reasonably indicate under all the circumstances an
- 7 intent to manufacture, distribute, or dispense:
- 8 1. A controlled dangerous substance; or
- 9 2. Controlled paraphernalia, as defined in Article 27, §
- 10 287(d) of the Code; OR
- 11 (IV) BY ANY PERSON TO PROVIDE SEXUAL SERVICES TO ANOTHER
- 12 PERSON, INCLUDING:
- 13 1. VAGINAL INTERCOURSE, AS THAT TERM IS DEFINED IN
- 14 ARTICLE 27, § 461 OF THE CODE;
- 15 2. A SEXUAL ACT, AS THAT TERM IS DEFINED IN ARTICLE 27,
- 16 § 461 OF THE CODE; OR
- 17 3. "SEXUAL CONTACT", WHICH MEANS THE INTENTIONAL
- 18 TOUCHING OF ANY PART OF THE RECIPIENT'S OR ACTOR'S ANAL OR GENITAL AREAS
- 19 OR OTHER INTIMATE PARTS FOR THE PURPOSES OF SEXUAL AROUSAL OR
- 20 GRATIFICATION OR FOR ABUSE OF EITHER PARTY AND INCLUDES THE
- 21 PENETRATION, HOWEVER SLIGHT, BY ANY PART OF A PERSON'S BODY, OTHER THAN
- 22 THE PENIS, MOUTH, OR TONGUE, INTO THE GENITAL OR ANAL OPENING OF
- 23 ANOTHER PERSON'S BODY IF THAT PENETRATION CAN BE REASONABLY CONSTRUED
- 24 AS BEING FOR THE PURPOSES OF SEXUAL AROUSAL OR GRATIFICATION OR FOR
- 25 ABUSE OF EITHER PARTY, BUT DOES NOT INCLUDE:
- 26 A. ACTS COMMONLY EXPRESSIVE OF FAMILIAL OR
- 27 FRIENDLY AFFECTION; OR
- 28 B. ACTS FOR ACCEPTED MEDICAL PURPOSES.
- 29 [(5)] (7) "Property" includes a mobile home.
- 30 [(6)] (8) (i) "Tenant" means the lessee or a person occupying property,
- 31 whether or not a party to a lease.
- 32 (ii) "Tenant" includes a lessee or a person occupying a mobile home,
- 33 whether or not a party to a lease.
- 34 (iii) "Tenant" does not include a mobile home owner who leases or
- 35 rents a site for residential use and resides in a mobile home park.

1 (b) An action under § 4-401 of the Courts Article to abate a nuisance may be
2 brought by:

3 (1) The State's Attorney of the county in which the nuisance is located;

4 (2) The county attorney or solicitor of the county in which the nuisance is
5 located; [or]

6 (3) A community association within whose boundaries the nuisance is
7 located; OR

8 (4) A BUSINESS OWNERS ORGANIZATION LOCATED IN THE SAME
9 COMMUNITY IN WHICH THE NUISANCE IS LOCATED.

10 (c) (1) An action may not be brought under this section concerning a
11 commercial property until 45 days after the tenant, if any, and owner of record receive
12 notice from a person entitled to bring an action under this section that a nuisance
13 exists.

14 (2) The notice shall specify:

15 (i) The date and time of day the nuisance was first discovered; and

16 (ii) The location on the property where the nuisance is allegedly
17 occurring.

18 (3) The notice shall be:

19 (i) Hand delivered to the tenant, if any, and the owner of record; or

20 (ii) Sent by certified mail to the tenant, if any, and the owner of
21 record.

22 (d) (1) In addition to any service of process required by the Maryland Rules,
23 the plaintiff shall cause to be posted in a conspicuous place on the property within 48
24 hours of filing the complaint the notice required under paragraph (2) of this
25 subsection.

26 (2) The notice shall indicate:

27 (i) The nature of the proceedings;

28 (ii) The time and place of the hearing; and

29 (iii) The name and telephone number of the person to contact for
30 additional information.

31 (e) The court may issue an injunction or order other equitable relief whether
32 or not an adequate remedy exists at law.

1 (f) (1) Notwithstanding any other provision of law, and in addition to or as a
2 component of any remedy ordered under subsection (e) of this section, the court, after
3 a hearing, may order a tenant with knowledge of the existence of the nuisance to
4 vacate the property within 72 hours.

5 (2) The court, after a hearing, may grant a judgment of restitution or the
6 possession of the property to the owner if:

7 (i) The owner and lessee are parties to the action; and

8 (ii) A tenant has failed to obey an order under subsection (e) of this
9 section or paragraph (1) of this subsection.

10 (3) If the court orders restitution of the possession of the property under
11 paragraph (2) of this subsection, the court shall immediately issue its warrant to the
12 sheriff or constable commanding execution of the warrant within 5 days after
13 issuance of the warrant.

14 (4) The court may order the owner of the property to submit for court
15 approval a plan of correction to ensure, to the extent reasonably possible, that the
16 property will not again be used for a nuisance if:

17 (i) The owner is a party to the action; and

18 (ii) The owner knew of the existence of the nuisance.

19 (5) THE COURT MAY ORDER THE MANAGER OF A BUSINESS LOCATED ON
20 THE PROPERTY TO SUBMIT FOR COURT APPROVAL A PLAN OF CORRECTION TO
21 ENSURE, TO THE EXTENT REASONABLY POSSIBLE, THAT THE PROPERTY WILL NOT
22 AGAIN BE USED FOR A NUISANCE IF:

23 (I) THE MANAGER IS A PARTY TO THE ACTION; AND

24 (II) THE MANAGER KNEW OF THE EXISTENCE OF THE NUISANCE.

25 (g) Except as provided in subsection (f) (1) and (4) of this section, the court
26 may order appropriate relief under subsections (e) and (f) of this section without proof
27 that a defendant knew of the existence of the nuisance.

28 (h) In any action brought under this section:

29 (1) Evidence of the general reputation of the property is admissible to
30 corroborate testimony based on personal knowledge or observation, or evidence seized
31 during the execution of a search and seizure warrant, but shall not, in and of itself, be
32 sufficient to establish the existence of a nuisance under this section; and

33 (2) Evidence that the nuisance had been discontinued at the time of the
34 filing of the complaint or at the time of the hearing does not bar the imposition of
35 appropriate relief by the court under subsections (e) and (f) of this section.

1 (i) The court may award court costs and reasonable attorney's fees to a
2 community association OR BUSINESS OWNERS ORGANIZATION that is the prevailing
3 plaintiff in an action brought under this section.

4 (j) An action under this section shall be heard within 14 days after service of
5 process on the parties.

6 (k) This section does not abrogate any equitable or legal right or remedy under
7 existing law to abate a nuisance.

8 (l) (1) An appeal from a judgment or order under this section shall be filed
9 within 10 days after the date of the order or judgment.

10 (2) (i) Upon motion of either party, the circuit court shall set a date for
11 the hearing of the appeal, which shall be not less than 5 or more than 15 days after
12 the date the motion is filed.

13 (ii) Notice of the order for a hearing shall be served on the opposite
14 party or the party's attorney at least 20 days before the hearing.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2000.