

Department of Legislative Services
Maryland General Assembly
2001 Session

FISCAL NOTE

Senate Bill 577 (Senator Munson)
Judicial Proceedings

Nuisance Control - Authority to Investigate and File a Complaint - Penalties for Violations

This bill redefines “nuisance,” authorizes a local health officer to perform duties related to nuisances formerly reserved to the Secretary of Health and Mental Hygiene, and increases the fines related to nuisances and the amount of money that may be spent to abate a nuisance.

Fiscal Summary

State Effect: Minimal increase in general fund revenues due to the bill’s penalty provisions. Potential minimal increase in expenditures.

Local Effect: Any additional work for local health officers could be handled within existing resources.

Small Business Effect: None.

Analysis

Bill Summary: The bill allows a local health officer to investigate and devise a means of controlling a suspected nuisance, and to bring an action to enjoin any person from committing a nuisance. If a local health officer finds that a nuisance exists, the health officer is required to serve written notice to the person who is causing the nuisance ordering the person to abate the nuisance within a specified time. The notice must be served on the person who is causing the nuisance, or if that person cannot be found, the notice is to be served on the owner or occupant of the property where the nuisance exists.

A local health officer may file a complaint in the District Court or circuit court for the county where the nuisance exists if the person fails to comply with the requirements of the notice to abate the nuisance. The complaint may seek a court order requiring: (1) compliance with the requirements of the abatement notice; (2) abatement of the nuisance within a specified time; (3) prevention of the nuisance from recurring; or (4) payment of a fine of not more than \$1,000.

The bill eliminates the provision that on the written complaint of two physicians or of at least three persons who claim to be affected by the condition, the Secretary shall investigate a claim of a nuisance. Under the bill, the Secretary may investigate any suspected nuisance without qualification.

The bill further provides that if the owner, occupant, or tenant served with the abatement order fails to abate or only partially abates the nuisance, a local health officer may summarily abate a nuisance. In doing so, a local health officer or representative may: (1) enter the property; and (2) at the expense of the owner, occupant, or tenant of the property, do any work and use any materials necessary to abate the nuisance. The owner, occupant, or tenant must reimburse the State for the cost of the abatement.

The bill forbids any person from interfering with the local health officer or representative while performing abatement under the provisions of this bill.

The fine for noncompliance with a notice served under the provisions of this bill is a maximum of \$1,000; the fine for failing to exercise due diligence under a court order to abate is a maximum of \$100 per day for each day the condition is not abated; the fine for a person who knowingly or willfully acts contrary to a court order to abate a condition is a maximum of \$200; the fine for interfering with the Secretary of Health and Mental Hygiene, a local health officer, or their representative when entering on any property for the purpose of abatement is \$1,000. The maximum amount that can be spent on abatement is \$5,000.

The Department of Health and Mental Hygiene is required to adopt regulations to implement the provisions of this bill.

Current Law: Only the Secretary of Health and Mental Hygiene is authorized to perform the tasks enumerated in this bill.

The fine for noncompliance with a notice served under the provisions of this bill is a maximum of \$50; the fine for failing to exercise due diligence under a court order to abate is a maximum of \$10 per day for each day the condition is not abated; the fine for a person who knowingly or willfully acts contrary to a court order to abate a condition is a

maximum of \$20; the fine for interfering with the Secretary or a representative of the secretary is \$100. These violations are misdemeanors. The maximum amount that can be spent by the State on abatement is \$500.

State Fiscal Effect: Higher fines could generate an increase in general fund revenues. Any such increase is expected to be minimal. The bill's provision that increases the amount of money spent on abatement, from \$500 to \$5,000, could cause an increase in expenditures if this money is not recovered from the property owner, occupant, or tenant.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Prince George's County, Judiciary (Administrative Office of the Courts), Department of Health and Mental Hygiene (Community Public Health Administration), Montgomery County, Department of Legislative Services

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