

HOUSE BILL NO. 187

INTRODUCED BY J. MANGAN

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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR AN INJUNCTION AGAINST AN OWNER OF PROPERTY AT WHICH A DRUG-RELATED OR CRIMINAL STREET GANG ACTIVITY NUISANCE EXISTS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Legislative findings.** The legislature finds that:

- (1) there is a drug crisis in the state that is plaguing our neighborhoods and housing and rental accommodations;
- (2) drugs have caused an increase in crime and violence, have caused a deterioration in the habitability of housing and rental accommodations, and have diminished property values;
- (3) criminal street gang activity is increasing in the state; and
- (4) there are inadequate incentives for property owners to take a more active role in preventing the use of their property for criminal street gang activity and for the manufacture, use, sale, storage, and distribution of drugs.

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 6], the following definitions apply:

- (1) "Community-based organization" means an entity:
 - (a) affiliated with or organized for the benefit of one or more communities or neighborhoods that contain an alleged drug-related nuisance or criminal street gang activity nuisance; or
 - (b) organized to improve the quality of life in one or more communities or neighborhoods that contain an alleged drug-related nuisance or criminal street gang activity nuisance.
- (2) "Criminal street gang" has the meaning provided in 45-8-402.
- (3) "Criminal street gang activity" is any activity referred to in chapter 8, part 4, of this title.
- (4) "Drug-related nuisance" means:
 - (a) property used or intended to be used to facilitate a violation of chapter 9 or 10 of this title;

or



1 (b) the manufacture use, sale, storage, distribution, possession, or transportation of dangerous
2 drugs in violation of chapter 9 of this title.

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4 NEW SECTION. **Section 3. Action to enjoin and abate drug-related or criminal street gang activity**
5 **nuisance.** A county attorney, city attorney, or person or a community-based organization in the
6 community or neighborhood may, if there is reason to believe that a drug-related nuisance or criminal street
7 gang activity nuisance exists in a community or neighborhood, file an action against the owner or owners
8 of the property at which the drug-related nuisance or criminal street gang activity nuisance is alleged to
9 exist in the district court to enjoin and abate the drug-related nuisance or criminal street gang activity
10 nuisance.

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12 NEW SECTION. **Section 4. Contents of complaint.** (1) The complaint filed pursuant to [section
13 3] must describe the adverse impact that the alleged drug-related nuisance or criminal street gang activity
14 nuisance is alleged to have on the community or neighborhood. Adverse impact includes but is not limited
15 to the following conditions, activities, and occurrences at or near the property where the alleged
16 drug-related nuisance or criminal street gang activity nuisance exists:

17 (a) diminished property value;

18 (b) increased fear of residents conducting their affairs in and outside of the buildings and using
19 the street, alleys, sidewalks, and other public places in the community or neighborhood;

20 (c) increased volume of vehicular and pedestrian traffic;

21 (d) increased calls for an ambulance or police;

22 (e) bothersome solicitations or approaches by strangers wishing to sell drugs or to seek
23 engagement in criminal street gang activity;

24 (f) the display or use of dangerous weapons;

25 (g) investigative purchases of drugs by peace officers;

26 (h) searches and arrests;

27 (i) housing code, health code, or zoning violations;

28 (j) accumulation of refuse in common areas;

29 (k) loitering or unreasonable noise; or

30 (l) complaints to peace officers and officials about the alleged drug-related nuisance or criminal

1 street gang activity nuisance.

2 (2) The complaint must contain a description of attempts by the complainant or other persons to
3 inform the owner or owners of the property of the alleged drug-related nuisance or criminal street gang
4 activity nuisance and its adverse impact. A complaint may not be filed unless at least one person has
5 informed the owner or owners of the property of the alleged drug-related nuisance or criminal street gang
6 activity nuisance and adverse impact. The complaint must be supported by the affidavit of at least five
7 persons residing within 1,000 feet of the property where the alleged drug-related nuisance or criminal
8 street gang activity nuisance exists and must state the nature of the alleged drug-related nuisance or
9 criminal street gang activity nuisance and adverse impact.

10 (3) The complaint must be served on the owner or owners of the property in the manner provided
11 in the Montana Rules of Civil Procedure.

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13 NEW SECTION. **Section 5. Preliminary injunction.** The court may, on motion of the complainant
14 and after a hearing, grant a preliminary injunction against a defendant to enjoin and abate the alleged
15 drug-related nuisance or criminal street gang activity nuisance. If a preliminary injunction is granted, the
16 hearing on the injunction must be set for the earliest possible date and takes precedence over all other
17 matters except hearings for preliminary injunctions in other proceedings.

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19 NEW SECTION. **Section 6. Grant of injunction -- civil penalty.** (1) Upon finding that a
20 preponderance of the evidence shows that the alleged drug-related nuisance or criminal street gang activity
21 nuisance exists, the court may grant the injunction.

22 (2) The court has continuing jurisdiction in the proceeding, and if the drug-related nuisance or
23 criminal street gang activity nuisance is not completely abated within 5 days after issuance of the
24 injunction, the court may impose upon a defendant a civil penalty in an amount of not more than \$1,000
25 for each day that the drug-related nuisance or criminal street gang activity nuisance continues and may
26 enforce the injunction in any manner provided by law for enforcement of a court order, including contempt
27 proceedings.

28 (3) The court may also:

29 (a) assess against a defendant damages proved by a complainant; and

30 (b) assess a complainant's costs and attorney fees against a defendant.

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2 NEW SECTION. **Section 7. Codification instruction.** [Sections 1 through 6] are intended to be
3 codified as an integral part of Title 45, chapter 8, part 1, and the provisions of Title 45, chapter 8, part
4 1, apply to [sections 1 through 6].

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