

**Office of Attorney General Jim Ryan**

# **Guide to Nuisance Abatement and INNAB Services**

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## SUSPECTED DRUG HOUSE REPORT

You **DO NOT** have to give information about yourself. But **DO** give as much information as you know about the suspected drug house and dealers.

The completed report should be returned to:

**PLEASE PRINT CLEARLY IN INK  
BE AS SPECIFIC AS POSSIBLE.**

1. Address of the suspected drug house \_\_\_\_\_

Description of the house (color, location on block, single or two-story etc): \_\_\_\_\_

2. Names and description of persons who live in this house; Name (& nickname), sex, race, age, height, weight, hair \_\_\_\_\_

Place an "X" beside names of those involved in dealing. (Include other on separate sheet).

3. This suspected drug house is:  
\_\_\_\_\_ rental \_\_\_\_\_ owner occupied  
Name of owner of house: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Address of Owner: \_\_\_\_\_

4. Have you seen drugs being sold at this house?  
\_\_\_\_\_ Yes \_\_\_\_\_ No

What kind of drugs are sold? \_\_\_\_\_

Where are drugs sold?  
\_\_\_\_\_ front door \_\_\_\_\_ back door  
\_\_\_\_\_ right side door \_\_\_\_\_ left side door  
\_\_\_\_\_ right side window \_\_\_\_\_ left side window  
other \_\_\_\_\_

5. Do you know how the drugs are purchased?  
\_\_\_\_\_ Yes \_\_\_\_\_ No  
Is there a code name used or a specific person to ask for? \_\_\_\_\_

6. When is traffic (visitors to house) heaviest at this house?

Days of Week	Time of Day
_____ Monday	_____ 6 am to 9 am
_____ Tuesday	_____ 9 am to 3 pm
_____ Wednesday	_____ 3 pm to 6 pm
_____ Thursday	_____ 6 pm to 11 pm
_____ Friday	_____ 11 pm to 6 am
_____ Saturday	_____ Sunday

Average number of visitors in 3-hour period: \_\_\_\_\_  
Average amount of time that visitors stay at house: \_\_\_\_\_

7. Describe security at this house:  
\_\_\_\_\_ Boarded Windows \_\_\_\_\_ Bars on Windows  
\_\_\_\_\_ Reinforced Doors  
\_\_\_\_\_ Weapons - What kind? \_\_\_\_\_  
\_\_\_\_\_ Guards - where? \_\_\_\_\_  
\_\_\_\_\_ Other security - describe: \_\_\_\_\_

8. Describe vehicles used by occupants of this house? Make & Model, Year, Color, License Plate #, Dents or other Features: \_\_\_\_\_

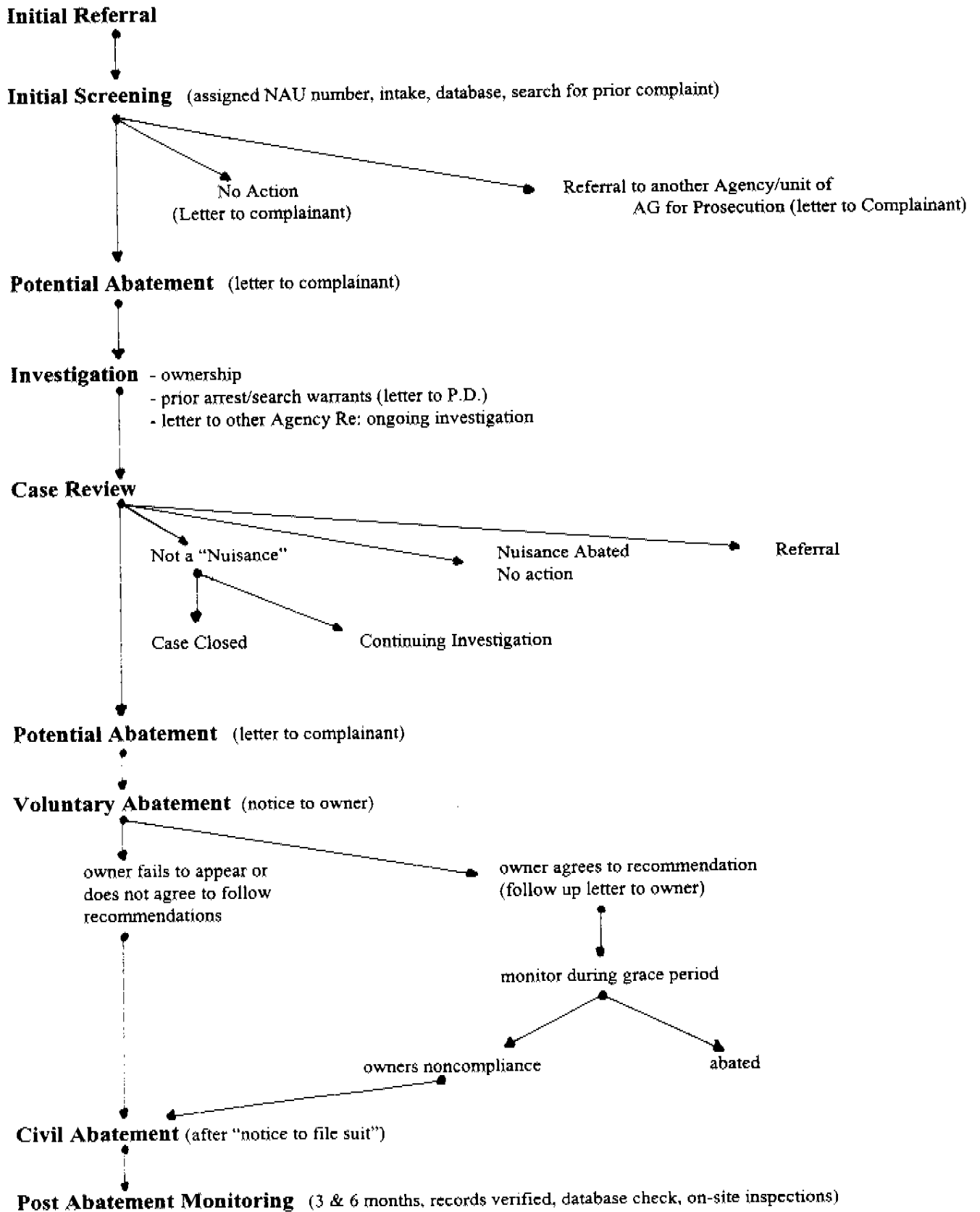
9. Have you seen other suspicious activity at this house?  
\_\_\_\_\_ Possible stolen merchandise or automobiles  
\_\_\_\_\_ Suspected Prostitution  
\_\_\_\_\_ Guns fired or openly displayed  
\_\_\_\_\_ other activity; describe \_\_\_\_\_

10. Please describe the people buying the drugs: (approx. age, race, type of clothing worn, etc.)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

11. You do not have to include your name and phone number. Doing so will add to the reliability of this report and allow us to contact you for further information.  
Name \_\_\_\_\_  
Phone \_\_\_\_\_

If you know neighbors who are also concerned about this suspected drug house, ask them to fill-out a report.

## NAU Flow Chart



**THE CONTROLLED SUBSTANCE AND  
CANNABIS NUISANCE ACT  
740 ILCS 40**

I. Location

- House
- Apartment
- Building
- Dwelling
- Warehouse
- Shop
- Store
- or anyplace whatever

II. Activity

any place at which or in which controlled substances are:

- Sold
- Possessed
- Served
- Stored
- Delivered
- Manufactured
- Cultivated
- Given away

(Note: can be based on arrests, search warrants, reputation of location)

III. Frequency

- More than once within a one (1) year period

## ARTICLE 37. PROPERTY FORFEITURE

### Section

- 5/37-1. Maintaining public nuisance.
- 5/37-2. Enforcement of lien upon public nuisance.
- 5/37-3. Revocation of licenses, permits and certificates.
- 5/37-4. Abatement of nuisance.
- 5/37-5. Enforcement by private person.

### Date Effective

*Article 37 was added by Laws 1965,  
p. 403, eff. July 1, 1965.*

### 5/37-1. Maintaining public nuisance

§ 37-1. **Maintaining Public Nuisance.** Any building used in the commission of offenses prohibited by Sections 9-1, 10-1, 10-2, 11-14, 11-15, 11-16, 11-17, 11-20, 11-20.1, 11-21, 11-22, 12-5.1, 16-1, 20-2, 23-1, 23-1(a)(1), 24-1(a)(7), 24-3, 28-1, 28-3, 31-5 or 39A-1 of the "Criminal Code of 1961", approved July 28, 1961, as heretofore and hereafter amended, or prohibited by the "Illinois Controlled Substances Act",<sup>1</sup> or the "Cannabis Control Act" enacted by the 77th General Assembly, as heretofore and hereafter amended,<sup>2</sup> or used in the commission of an inchoate offense relative to any of the aforesaid principal offenses is a public nuisance.

(b)<sup>3</sup> **Sentence.** A person convicted of knowingly maintaining such a public nuisance commits a Class A misdemeanor. Each subsequent offense under this Section is a Class 4 felony.

Laws 1961, p. 1983, § 37-1, added by Laws 1965, p. 403, § 1, eff. July 1, 1965. Amended by P.A. 76-1052, § 1, eff. Aug. 28, 1969; P.A. 77-772, § 1, eff. Aug. 16, 1971; P.A. 77-2638, § 1, eff. Jan. 1, 1973; P.A. 78-255, § 61, eff. Oct. 1, 1973; P.A. 84-787, § 1, eff. Jan. 1, 1986; P.A. 85-384, § 1, eff. Jan. 1, 1988.

Formerly Ill.Rev.Stat.1991, ch. 38, § 37-1.

<sup>1</sup> 720 ILCS 570/100 et seq.

<sup>2</sup> 720 ILCS 550/1 et seq.

<sup>3</sup> No "(a)" in enrolled bill.

5/9-1	Murder
5/10-1	Kidnapping
5/10-2	Agg. Kidnapping
5/11-14	Prostitution
5/11-15	Soliciting for Prostitution
5/11-16	Pandering
5/11-17	Keeping a Place of Prostitution
5/11-20	Obscenity
5/11-20.1	Child Pornography
5/11-21	Harmful Material
5/11-22	Tie-In Sales of Obscene Publications
5/12-5.1	Criminal Housing Management
5/16-1	Theft
5/20-2	Possession of Explosives
5/24-1	Unlawful Use of Weapons
5/24-3	Unlawful Sale of Firearms
5/28-1	Gambling
5/28-3	Keeping a Gambling Place
5/31-5	Concealing or Aiding a Fugitive
550/1	Controlled Substances Act
550/100	Cannabis Control Act

**CONTROLLED SUBSTANCE AND CANNABIS  
NUISANCE ACT (740 ILCS 40/1)**

**I. LOCATION**

HOUSE	DWELLING	STORE
APARTMENT	WAREHOUSE	OR ANYPLACE WHATEVER
BUILDING	SHOP	

**II. ACTIVITY**

SOLD	STORED	CULTIVATED
POSSESSED	DELIVERED	GIVEN AWAY
SERVED	MANUFACTURED	

**III. FREQUENCY - MORE THAN ONCE IN A ONE YEAR PERIOD**

**IV. CIVIL LAWSUIT - PRIOR TO FILING A LAWSUIT, NOTICE MUST BE SENT AND THE OWNER IS GIVEN THE OPPORTUNITY TO AGREE TO COMPLY WITH CONDITIONS THAT ABATE THE NUISANCE.**

IF NUISANCE IS ESTABLISHED, THE COURT SHALL ENTER AN ORDER REFLECTING THE FOLLOWING:  
PROHIBIT THE USE OF THE PROPERTY FOR ONE YEAR.

REMOVE AND SELL THE MOVABLE FIXTURES THAT WERE USED IN THE NUISANCE.

COST OF REMOVAL, CLOSING AND SALE TAXED TO OWNER.

OWNER AND AGENT POTENTIAL DEFENDANTS.

CONTEMPT FOR VIOLATION OF COURT ORDER.

**V. EVICTION - LEASE VOIDABLE IF PREMISE USED FOR DRUGS, ETC. FIVE (5) DAY NOTICE TO VACATE**

**MAINTAINING A PUBLIC NUISANCE (720 ILCS 5/37)**

**I. TYPES OF OFFENSES:**

ANY BUILDING USED IN THE COMMISSION OF THE FOLLOWING OFFENSES:

MURDER	HARMFUL MATERIAL
KIDNAPING	CRIMINAL HOUSING MANAGEMENT
AGGRAVATED KIDNAPING	THEFT
PROSTITUTION	POSSESSION OF EXPLOSIVES
SOLICITING FOR A JUVENILE PROSTITUTION	UUW
PANDERING	UNLAWFUL SALE OF FIREARMS
KEEPING A PLACE OF PROSTITUTION	GAMBLING
OBSCENITY	KEEPING A GAMBLING PLACE
CHILD PORNOGRAPHY	CONCEALING A FUGITIVE
ACTS PROHIBITED BY THE ILLINOIS CONTROLLED SUBSTANCES ACT	
ACTS PROHIBITED BY THE CANNABIS CONTROL ACT	

**II. CRIMINAL PENALTY - FIRST OFFENSE - CLASS A MISDEMEANOR (UP TO ONE (1) YEAR IMPRISONMENT, FINE UP TO \$1000.). SECOND OFFENSE - CLASS 4 FELONY (UP TO ONE (1) TO THREE (3) YEARS IMPRISONMENT.).**

**III. CIVIL PENALTY - IF ACTION IS BROUGHT UNDER THE CONTROLLED SUBSTANCE AND CANNABIS NUISANCE ACT, AND THE NUISANCE WAS MAINTAINED WITH THE INTENTIONAL, KNOWINGLY, RECKLESS, OR NEGLIGENT PERMISSION OF THE OWNER/AGENT, THE COURT SHALL ENTER AN ORDER PROHIBITING ALL PERSONS FROM USING THE PROPERTY FOR ONE (1) YEAR.**

**Law on Evictions  
for  
Controlled Substance  
and  
Cannabis Nuisance Act Violations**

**\*\*\* No part of this handout should be regarded as legal advice. The statute regarding evictions is very complicated and detailed. Strict compliance with the statute is necessary for a proper eviction. Seek the services of an attorney for any legal advice.**

**NEW SECTION EFFECTIVE JANUARY 1, 1998**  
**735 ILCS 5/9-120**

**LEASE VOID AT OPTION OF LESSOR OR ASSIGNEE**

“(a) If any lessee or occupant, on one or more occasions, uses or permits the use of leased premises for the commission of any act that would constitute a Felony or a Class A Misdemeanor under the laws of this state, the lease or rental agreement shall, at the option of the lessor or the lessor's assignee become void, and the owner or lessor shall be entitled to recover possession of the leased premises as against a tenant holding over after the expiration of his or her term.”

1. Tenant commits a Felony or a Class A Misdemeanor
2. Owner voids the lease or contract
3. Owner must give a 5 day written notice to vacate the premises.
4. If not vacated a Forcible Entry and Detainer Action must be filed

**5-day notice** (740 ILCS 40.11)

“If any lessee or occupant, on one or more occasions, shall use leased premises for the purpose of unlawful possessing, serving, storing, manufacturing, cultivating, delivering, using, selling or giving away controlled substances or shall permit them to be used for any such purposes, the lease or contract for letting such premises shall, at the option of the lessor or the lessor's assignee, become void, and the owner or the owner's assignee may notify the lessee or occupant to vacate the leased premises on or before a date 5 days after the giving of the notice. The notice shall state the basis for its issuance on forms provided by the circuit court clerk of the county in which the real property is located. The owner or owner's assignee may have the like remedy to recover possession thereof as against a tenant holding over after the expiration of his term. The owner or lessor may bring a forcible entry and detainer action, or assign to the State's Attorney of the county in which the real property is located the right to bring a forcible entry and

detainer action on behalf of the owner or lessor, against the lessee and all occupants of the leased premises.”

**Notice requirements:**

1. Description of premises  
All notices must adequately and accurately describe the premises, including the apartment number
2. Calculation of number of days  
The notice must give the tenant the full number of days required by the statute; in counting the number of days the date of service is excluded. If the last day falls on a Saturday, Sunday, or holiday then it is also excluded. Note: the notice can provide for more days than that required.
3. Certificate of service  
The copy of the notice actually served on the tenant does not have to bear a completed certificate of service. The only copy which need to be notarized is the copy tendered to the court after a forcible entry action is commenced.

**Serving Notice:**

**Note: the notice should not be the notarized original. The original, if needed, will have to be presented to the court. A copy of the original can be served.**

1. Serving the notice in person  
The notice must be served to a person 13 years old or older residing in the premises.
2. Sending the notice by mail  
The notice must be sent by certified or registered mail, with a returned receipt from the tenant.
3. Posting the notice on the premises  
If no one is on the premises, the notice can be posted.

IN THE CIRCUIT COURT OF . . . COUNTY, ILLINOIS

TO:

VS.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**LANDLORD'S 5 DAY NOTICE TO QUIT**

YOU ARE HEREBY NOTIFIED, that in consequence of your default for :

- Use of premises for the purpose of unlawfully possessing, serving, storing, manufacturing, cultivating, delivering, using, selling, or giving away controlled substances or for permitting the premises to be used for such purposes (740 ILCS 40/11).
- Being charged with having committed an offense on the premises constituting a CLASS X Felony (765 ILCS 705/5) to wit: \_\_\_\_\_
- Using or permitting the use of the premises for the commission of an act(s) that constitute(s) a Felony or a Class A Misdemeanor (735 ILCS 5/120) to wit: \_\_\_\_\_

on the premises occupied by you, being the \_\_\_\_\_

No. \_\_\_\_\_, otherwise described as \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

you have elected to terminate your lease, and you are hereby notified to quit and deliver up possession of the same to \_\_\_\_\_ within **FIVE (5) DAYS** of this date.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_.

\_\_\_\_\_  
Landlord

By \_\_\_\_\_  
Agent

**AFFIDAVIT OF SERVICE** - When served by a person not an officer  
STATE OF ILLINOIS County of . . .

\_\_\_\_\_ being duly sworn, on oath deposes and says  
that on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, he/she served the within  
notice:

- a. By delivering a copy thereof to the within named \_\_\_\_\_.
- b. By leaving a copy of the same with \_\_\_\_\_ a  
person above the age of 12 years, residing on, or being in charge of the within  
described premises.
- c. By posting a copy of same on the premises, no person being in actual  
possession thereof.

SUBSCRIBED AND SWORN to before me this

\_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_

\_\_\_\_\_  
Notary Public

**Illinois Compiled Statutes**  
**Criminal Offenses**  
**Criminal Code of 1961**  
**720 ILCS 5/**

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(720 ILCS 5/)

ARTICLE 37. PROPERTY FORFEITURE

(720 ILCS 5/37-1)

Sec. 37-1. Maintaining Public Nuisance. Any building used in the commission of offenses prohibited by Sections 9-1, 10-1, 10-2, 11-14, 11-15, 11-16, 11-17, 11-20, 11-20.1, 11-21, 11-22, 12-5.1, 16-1, 20-2, 23-1, 23-1(a)(1), 24-1(a)(7), 24-3, 28-1, 28-3, 31-5 or 39A-1 of the Criminal Code of 1961, or prohibited by the Illinois Controlled Substances Act, or the Cannabis Control Act, or used in the commission of an inchoate offense relative to any of the aforesaid principal offenses, or any real property erected, established, maintained, owned, leased, or used by a streetgang for the purpose of conducting streetgang related activity as defined in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act is a public nuisance.

(b) Sentence. A person convicted of knowingly maintaining such a public nuisance commits a Class A misdemeanor. Each subsequent offense under this Section is a Class 4 felony.

(Source: P.A. 91-876, eff. 1-1-01.)

(720 ILCS 5/37-2)

Sec. 37-2. Enforcement of lien upon public nuisance.

Any building, used in the commission of an offense specified in Section 37-1 of this Act with the intentional, knowing, reckless or negligent permission of the owner thereof, or the agent of the owner managing the building, shall, together with the underlying real estate, all fixtures and other property used to commit such an offense, be subject to a lien and may be sold to pay any unsatisfied judgment that may be recovered and any unsatisfied fine that may be levied under any Section of this Article and to pay to any person not maintaining the nuisance his damages as a consequence of the nuisance; provided, that the lien herein created shall not affect the rights of any purchaser, mortgagee, judgment creditor or other lien holder arising prior to the filing of a notice of such lien in the office of the recorder of the county in which the real estate subject to the lien is located, or in the office of the registrar of titles of such county if that real estate is registered under "An Act concerning land titles" approved May 1, 1897, as amended; which notice shall definitely describe the real estate and property involved, the nature and extent of the lien claimed, and the facts upon which the same is based. An action to enforce such lien may be commenced in any circuit court by the State's Attorney of the county of the nuisance or by the person suffering damages or both, except that a person seeking to recover damages must pursue his remedy within 6 months after the damages are sustained or his cause of action

becomes thereafter exclusively enforceable by the State's Attorney of the county of the nuisance.

(Source: P.A. 83-358.)

(720 ILCS 5/37-3)

Sec. 37-3. Revocation of licenses, permits and certificates.

All licenses, permits or certificates issued by the State of Illinois or any subdivision or political agency thereof authorizing the serving of food or liquor on any premises found to constitute a public nuisance as described in Section 37-1 shall be void and shall be revoked by the issuing authority; and no license, permit or certificate so revoked shall be reissued for such premises for a period of 60 days thereafter; nor shall any person convicted of knowingly maintaining such nuisance be reissued such license, permit or certificate for one year from his conviction. No license, permit or certificate shall be revoked pursuant to this Section without a full hearing conducted by the commission or agency which issued the license.

(Source: Laws 1965, p. 403.)

(720 ILCS 5/37-4)

Sec. 37-4. Abatement of nuisance.) The Attorney General of this State or the State's Attorney of the county wherein the nuisance exists may commence an action to abate a public nuisance as described in Section 37-1 of this Act, in the name of the People of the State of Illinois, in the circuit court. Upon being satisfied by affidavits or other sworn evidence that an alleged public nuisance exists, the court may without notice or bond enter a temporary restraining order or preliminary injunction to enjoin any defendant from maintaining such nuisance and may enter an order restraining any defendant from removing or interfering with all property used in connection with the public nuisance. If during the proceedings and hearings upon the merits, which shall be in the manner of "An Act in relation to places used for the purpose of using, keeping or selling controlled substances or cannabis", approved July 5, 1957, the existence of the nuisance is established, and it is found that such nuisance was maintained with the intentional, knowing, reckless or negligent permission of the owner or the agent of the owner managing the building, the court shall enter an order restraining all persons from maintaining or permitting such nuisance and from using the building for a period of one year thereafter, except that an owner, lessee or other occupant thereof may use such place if the owner shall give bond with sufficient security or surety approved by the court, in an amount between \$1,000 and \$5,000 inclusive, payable to the People of the State of Illinois, and including a condition that no offense specified in Section 37-1 of this Act shall be committed at, in or upon the property described and a condition that the principal obligor and surety assume responsibility for any fine, costs or damages resulting from such an offense thereafter.

(Source: P.A. 83-342.)

(720 ILCS 5/37-5)

Sec. 37-5. Enforcement by private person.

A private person may, after 30 days and within 90 days of giving the Attorney General and the State's Attorney of the county of nuisance written notice by certified or registered mail of the fact that a public nuisance as described in Section 37-1 of this Act, commence an action pursuant to Section 37-4 of this Act, provided that the Attorney General or the State's Attorney of the county of nuisance has not already commenced said action.

(Source: Laws 1965, p. 403.)

[ [TOP](#) ]

(735 ILCS 5/9-120)

Sec. 9-120. Leased premises used in furtherance of a criminal offense; lease void at option of lessor or assignee.

(a) If any lessee or occupant, on one or more occasions, uses or permits the use of leased premises for the commission of any act that would constitute a felony or a Class A misdemeanor under the laws of this State, the lease or rental agreement shall, at the option of the lessor or the lessor's assignee become void, and the owner or lessor shall be entitled to recover possession of the leased premises as against a tenant holding over after the expiration of his or her term.

(b) The owner or lessor may bring a forcible entry and detainer action, or, if the State's Attorney of the county in which the real property is located agrees, assign to that State's Attorney the right to bring a forcible entry and detainer action on behalf of the owner or lessor, against the lessee and all occupants of the leased premises. The assignment must be in writing on a form prepared by the State's Attorney of the county in which the real property is located. If the owner or lessor assigns the right to bring a forcible entry and detainer action, the assignment shall be limited to those rights and duties up to and including delivery of the order of eviction to the sheriff for execution. The owner or lessor shall remain liable for the cost of the eviction whether or not the right to bring the forcible entry and detainer action has been assigned.

(c) A person does not forfeit any part of his or her security deposit due solely to an eviction under the provisions of this Section, except that a security deposit may be used to pay fees charged by the sheriff for carrying out an eviction.

(d) If a lessor or the lessor's assignee voids a lease or contract under the provisions of this Section and the tenant or occupant has not vacated the premises within 5 days after receipt of a written notice to vacate the premises, the lessor or lessor's assignee may seek relief under this Article IX. Notwithstanding Sections 9-112, 9-113, and 9-114 of this Code, judgment for costs against a plaintiff seeking possession of the premises under this Section shall not be awarded to the defendant unless the action was brought by the plaintiff in bad faith. An action to possess premises under this Section shall not be deemed to be in bad faith when the plaintiff based his or her cause of action on information provided to him or her by a law enforcement agency or the State's Attorney.

(e) After a trial, if the court finds, by a preponderance of the evidence, that the allegations in the complaint have been proven, the court shall enter judgment for possession of the premises in favor of the plaintiff and the court shall order that the plaintiff shall be entitled to re-enter the premises immediately.

(f) A judgment for possession of the premises entered in an action brought by a lessor or lessor's assignee, if the action was brought as a result of a lessor or lessor's assignee declaring a lease void pursuant to this Section, may not be stayed for any period in excess of 7 days by the court unless all parties agree to a longer period. Thereafter the plaintiff shall be entitled to re-enter the premises immediately. The sheriff or other lawfully deputized officers shall execute an order entered pursuant to this Section within 7 days of its entry, or within 7 days of the expiration of a stay of judgment, if one is entered.

(g) Nothing in this Section shall limit the rights of an owner or lessor to bring a forcible entry and detainer action on the basis of other applicable law.

(Source: P.A. 90-360, eff. 1-1-98.)

**Illinois Compiled Statutes**  
**Civil Liabilities**  
**Controlled Substance and Cannabis Nuisance Act**  
**740 ILCS 40/**

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(740 ILCS 40/)

(740 ILCS 40/0.01)

Sec. 0.01. Short title. This Act may be cited as the Controlled Substance and Cannabis Nuisance Act.

(Source: P.A. 86-1324.)

(740 ILCS 40/1)

Sec. 1. As used in this Act unless the context otherwise requires:

"Department" means the Department of State Police of the State of Illinois.

"Controlled Substances" means any substance as defined and included in the Schedules of Article II of the "Illinois Controlled Substances Act," and cannabis as defined in the "Cannabis Control Act" enacted by the 77th General Assembly.

"Place" means any store, shop, warehouse, dwelling house, building, apartment or any place whatever.

"Nuisance" means any place at which or in which controlled substances are unlawfully sold, possessed, served, stored, delivered, manufactured, cultivated, given away or used more than once within a period of one year.

"Person" means any corporation, association, partner, or one or more individuals.

(Source: P.A. 87-765.)

(740 ILCS 40/2)

Sec. 2. All places and the fixtures and movable contents thereof, used for the purpose of unlawfully selling, possessing, serving, storing, delivering, manufacturing, cultivating, giving away or using controlled substances are hereby declared to be nuisances and may be abated as hereinafter provided and the owners, agents, occupants of and any other person using any such place may be enjoined as hereinafter provided.

(Source: P.A. 87-765.)

(740 ILCS 40/3)

Sec. 3. (a) The Department or the State's Attorney or any citizen of the county in which a nuisance exists may file a complaint in the name of the People of the State of Illinois, to enjoin all persons from maintaining or permitting such nuisance, to abate the same and to enjoin the use of any such place for the period of one year.

(b) Upon the filing of a complaint by the State's Attorney or the Department in which the complaint states that irreparable injury, loss or damage will result to the People of the State of Illinois, the court shall enter a temporary restraining order without notice enjoining the

maintenance of such nuisance, upon testimony under oath, affidavit, or verified complaint containing facts sufficient, if sustained, to justify the court in entering a preliminary injunction upon a hearing after notice. Every such temporary restraining order entered without notice shall be endorsed with the date and hour of entry of the order, shall be filed of record, and shall expire by its terms within such time after entry, not to exceed 10 days as fixed by the court, unless the temporary restraining order, for good cause is extended for a like period or unless the party against whom the order is directed consents that it may be extended for a longer period. The reason for extension shall be shown in the order. In case a temporary restraining order is entered without notice, the motion for a permanent injunction shall be set down for hearing at the earliest possible time and takes precedence over all matters except older matters of the same character, and when the motion comes on for hearing, the Department or State's Attorney, as the case may be, shall proceed with the application for a permanent injunction, and, if he does not do so, the court shall dissolve the temporary restraining order. On 2 days notice to the Department or State's Attorney, as the case may be, the defendant may appear and move the dissolution or modification of such temporary restraining order and in that event the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

(c) Upon the filing of the complaint by a citizen or the Department or the State's Attorney (in cases in which the Department or State's Attorney do not request injunctive relief without notice) in the circuit court, the court, if satisfied that the nuisance complained of exists, shall allow a temporary restraining order, with bond unless the application is filed by the Department or State's Attorney, in such amount as the court may determine, enjoining the defendant from maintaining any such nuisance within the jurisdiction of the court granting the injunctive relief. However, no such injunctive relief shall be granted, except on behalf of an owner or agent, unless it be made to appear to the satisfaction of the court that the owner or agent of such place, knew or had been personally served with a notice signed by the plaintiff and, that such notice has been served upon such owner or such agent of such place at least 5 days prior thereto, that such place, specifically describing the same, was being so used, naming the date or dates of its being so used, and that such owner or agent had failed to abate such nuisance, or that upon diligent inquiry such owner or agent could not be found within Illinois for the service of such preliminary notice. The lessee, if any, of such place shall be made a party defendant to such petition.

(d) In all cases in which the complaint is filed by a citizen, such complaint shall be verified.

(Source: P.A. 87-765.)

(740 ILCS 40/3.1)

Sec. 3.1. Before the filing of a complaint under paragraph (c) of Section 3 of this Act, the State's Attorney shall, by personal service or by certified mail, provide to the owner of the place at which the nuisance is located, or the agent of the owner, written notice of the following:

(1) That a nuisance, as defined in this Act, exists at the place specified in the notice;

(2) That the owner of the place or his or her agent has 14 days from the mailing of the notice or 7 days from personal service of the notice to appear at the State's Attorney's Office at the address provided in the notice to arrange to take action to abate

the nuisance; and

(3) That failure to appear at the State's Attorney's Office within the time indicated may result in the State's Attorney filing a complaint to enjoin the use of the owner's property for a period of one year.

If the owner of the place or his or her agent does not appear at the State's Attorney's Office as requested within the time periods prescribed above, the State's Attorney may file a complaint under Section 3 of this Act. If the owner or his or her agent appears before the State's Attorney in the time prescribed, the owner or his or her agent may agree to comply with reasonable recommendations requested by the State's Attorney designed to abate the nuisance. If the owner or his or her agent does not affirmatively agree to follow the State's Attorney's recommendations, the State's Attorney may file a complaint under Section 3 of this Act. If the owner or his or her agent agrees to follow the State's Attorney's recommendations but subsequently fails to comply with those recommendations within 60 days of the owner's or his or her agent's appearance before the State's Attorney, the State's Attorney may proceed to file a complaint under Section 3 of this Act, except that in cases in which the prompt failure to file a complaint would not result in irreparable harm, loss, or damage, the State's Attorney shall, before the filing of the complaint, provide the owner of the place or his or her agent with written notification by personal service or by certified mail sent to the last known address of the owner or agent that he or she has failed to satisfactorily comply with the requested recommendations and that the State's Attorney intends to file a suit under Section 3 of this Act to abate the nuisance.

(Source: P.A. 92-55, eff. 7-12-01; 92-59, eff. 7-12-01.)

(740 ILCS 40/4)

Sec. 4. The defendant shall be held to answer the allegations of the complaint as in other civil proceedings. At all hearings upon the merits, evidence of the general reputation of such place, of the inmates thereof, and of those resorting thereto, shall be admissible for the purpose of proving the existence of such nuisance. If the complaint is filed upon the relation of a citizen, the proceeding shall not be dismissed for want of prosecution, nor upon motion of such relator, unless there is filed with such motion a sworn statement made by such relator and his attorney, setting forth the reasons therefor, and unless such dismissal is approved by the State's Attorney in writing or in open court. If the court is of the opinion that such proceeding ought not to be dismissed, the court may overrule such motion and may enter an order directing the State's Attorney to prosecute such cause to final determination. The cause shall be heard immediately upon issue being joined, and if the hearing is continued the court may permit any citizen of the county consenting thereto to be substituted for the original relator. If any such complaint is filed upon the relation of a citizen, and the court find that there was no reasonable ground or cause for filing the same, the costs may be taxed against such relator.

(Source: Laws 1965, p. 3637.)

(740 ILCS 40/5)

Sec. 5. The plaintiff at any time before, but not later than 10 days after, the filing of the answer, unless further time be granted by the court, may file interrogatories in writing concerning matters material to the allegations of the complaint or respecting the ownership of the property upon which it is claimed the nuisance is maintained. A full answer to each interrogatory under the oath of the defendant shall

be filed with the clerk within 10 days after a copy of the interrogatories has been served upon him. For a failure to so answer interrogatories the court may strike the answer to the complaint from the files and enter an order of default and final judgment, and a rule to answer interrogatories may be entered and the court may punish a defendant for contempt of court for a refusal to obey such rule. No person shall be excused from answering interrogatories under oath on the ground that an answer may tend to incriminate him or subject him to a penalty or forfeiture. The answer shall be evidence against, but not on behalf of, the defendant and it and evidence derived from it shall not be used against him in any criminal proceeding other than as rebuttal evidence to testimony given by the defendant or in a case for perjury. (Source: P.A. 87-765.)

(740 ILCS 40/6)

Sec. 6. If the existence of the nuisance is established, the court shall enter a judgment perpetually restraining all persons from maintaining or permitting such nuisance, and from using the place in which the same is maintained for any purpose, except a purpose that the court designates, for a period of one year thereafter, unless such judgment is sooner vacated, as hereinafter provided, and perpetually restraining the defendant from maintaining any such nuisance within the jurisdiction of the court. No injunction shall be entered against an owner, nor shall an order be entered that any place be closed or kept closed, if it appears that the owner or his or her agent has in good faith endeavored to prevent the nuisance or did not have knowledge of the nuisance. An owner or agent who has complied with the recommendations requested by the State's Attorney under Section 3.1 of this Act shall be deemed to have endeavored in good faith to prevent the nuisance. While the judgment remains in effect, such place shall be in the custody of the court. An order of abatement shall also be entered as a part of such judgment, which order shall direct the sheriff of the county to remove from such place all fixtures and movable property used in conducting or aiding or abetting such nuisance, and to sell the same in the manner provided by law for the sale of chattels in the enforcement of a judgment for the payment of money, and to close such place against its use for any purpose, except a purpose that the court designates, and to keep it closed for a period of one year unless sooner released as hereinafter provided. The sheriff's fees for removing and selling the movable property shall be taxed as a part of the costs, and shall be the same as those for levying upon and selling like property in the enforcement of a judgment for the payment of money. For closing the place and keeping it closed, the court shall allow a reasonable fee to be taxed as part of the costs. Nothing in this Act contained shall authorize any relief respecting any other place than that named in the complaint.

(Source: P.A. 87-765.)

(740 ILCS 40/7)

Sec. 7. The proceeds of the sale of the movable property shall be applied in payment of the costs of the proceeding, and the balance, if any, shall be forwarded by the clerk of the circuit court to the State Treasurer for deposit into the Drug Treatment Fund, which is established as a special fund within the State Treasury. The Department of Human Services may make grants to persons licensed under Section 15-10 of the Alcoholism and Other Drug Abuse and Dependency Act or to municipalities or counties from funds appropriated to the Department from the Drug Treatment Fund for the treatment of persons addicted to alcohol,

cannabis, or controlled substances. The Department may adopt any rules it deems appropriate for the administration of these grants. The Department shall ensure that the moneys collected in each county be returned proportionately to the counties through grants to licensees located within the county in which the assessment was collected. Moneys in the Fund shall not supplant other local, state or federal funds. (Source: P.A. 88-670, eff. 12-2-94; 89-507, eff. 7-1-97.)

(740 ILCS 40/8)

Sec. 8. In case of the violation of any injunction or order of abatement issued under the provisions of this Act, the court may summarily try and punish the offender for his contempt of court. The hearing may be had upon affidavits, or either party may demand the production and oral examination of witnesses.

(Source: Laws 1965, p. 3637.)

(740 ILCS 40/9)

Sec. 9. If the owner of the place has not been guilty of any contempt of court in the proceedings, and appears and pays all costs, fees, and allowances that are a lien on the place and files a bond in the full value of the property, to be ascertained by the court, with sureties, to be approved by the court conditioned that he will immediately abate any such nuisance that may exist at the place and prevent it from being established or kept therein within a period of one year thereafter, the court may, if satisfied of good faith, order the place to be delivered to the owner and the order of abatement cancelled so far as it may relate to such place.

The release of such place under the provisions of this Act does not release it from any judgment, lien, or liability to which it may be subject.

(Source: Laws 1957, p. 1120.)

(740 ILCS 40/10)

Sec. 10. Whenever a fine or costs shall be assessed under the provisions of this Act against the owner of any property herein declared to be a nuisance, such fine or costs shall constitute a lien upon such property to the extent of the interest of such owner, and an order of execution shall issue thereon.

(Source: Laws 1957, p. 1120.)

(740 ILCS 40/11)

Sec. 11. (a) If any lessee or occupant, on one or more occasions, shall use leased premises for the purpose of unlawful possessing, serving, storing, manufacturing, cultivating, delivering, using, selling or giving away controlled substances or shall permit them to be used for any such purposes, the lease or contract for letting such premises shall, at the option of the lessor or the lessor's assignee, become void, and the owner or the owner's assignee may notify the lessee or occupant by posting a written notice at the premises requiring the lessee or occupant to vacate the leased premises on or before a date 5 days after the giving of the notice. The notice shall state the basis for its issuance on forms provided by the circuit court clerk of the county in which the real property is located. The owner or owner's assignee may have the like remedy to recover possession thereof as against a tenant holding over after the expiration of his term. The owner or lessor may bring a forcible entry and detainer action, or assign to the State's Attorney of the county in which the real property is located the right to bring a forcible entry and detainer action on

behalf of the owner or lessor, against the lessee and all occupants of the leased premises. The assignment must be in writing on a form prepared by the State's Attorney of the county in which the real property is located. If the owner or lessor assigns the right to bring a forcible entry and detainer action, the assignment shall be limited to those rights and duties up to and including delivery of the order of eviction to the sheriff for execution. The owner or lessor remains liable for the cost of the eviction whether or not the right to bring the forcible entry and detainer action has been assigned.

(b) If a controlled substance is found or used anywhere in the premises of an apartment, there is a rebuttable presumption that the controlled substance was either used or possessed by a lessee or occupant or that a lessee or occupant permitted the premises to be used for that use or possession. A person shall not forfeit his or her security deposit or any part of the security deposit due solely to an eviction under the provisions of the Act.

(c) If a lessor or the lessor's assignee voids a contract under the provisions of this Section, and a tenant or occupant has not vacated the premises within 5 days after receipt of a written notice to vacate the premises, the lessor or the lessor's assignee may seek relief under Article IX of the Code of Civil Procedure. Notwithstanding Sections 9-112, 9-113 and 9-114 of the Code of Civil Procedure, judgment for costs against the plaintiff seeking possession of the premises under this Section shall not be awarded to the defendant unless the action was brought by the plaintiff in bad faith. An action to possess premises under this Section shall not be deemed to be in bad faith where the plaintiff based his or her cause of action on information provided to him or her by a law enforcement agency or the State's Attorney.

(Source: P.A. 89-82, eff. 6-30-95.)

(740 ILCS 40/13)

Sec. 13.

Nothing contained in this Act shall apply to any unlawful act which results from failing to comply with the provisions prescribed in the "Illinois Controlled Substances Act," enacted by the 77th General Assembly.

(Source: P. A. 77-766.)

[ [TOP](#) ]

(765 ILCS 705/5)

Sec. 5. Class X felony by lessee or occupant.

(a) If, after the effective date of this amendatory Act of 1995, any lessee or occupant is charged during his or her lease or contract term with having committed an offense on the premises constituting a Class X felony under the laws of this State, upon a judicial finding of probable cause at a preliminary hearing or indictment by a grand jury, the lease or contract for letting the premises shall, at the option of the lessor or the lessor's assignee, become void, and the owner or the owner's assignee may notify the lessee or occupant by posting a written notice at the premises requiring the lessee or occupant to vacate the leased premises on or before a date 5 days after the giving of the notice. The notice shall state the basis for its issuance on forms provided by the circuit court clerk of the county in which the real property is located. The owner or owner's assignee may have the same remedy to recover possession of the premises as against a tenant holding over after the expiration of his or her term. The owner or lessor may bring a forcible entry and detainer action.

(b) A person does not forfeit his or her security deposit or any part of the security deposit due solely to an eviction under the provisions of this Section.

(c) If a lessor or the lessor's assignee voids a contract under the provisions of this Section, and a tenant or occupant has not vacated the premises within 5 days after receipt of a written notice to vacate the premises, the lessor or the lessor's assignee may seek relief under Article IX of the Code of Civil Procedure. Notwithstanding Sections 9-112, 9-113, and 9-114 of the Code of Civil Procedure, judgment for costs against the plaintiff seeking possession of the premises under this Section shall not be awarded to the defendant unless the action was brought by the plaintiff in bad faith. An action to possess premises under this Section shall not be deemed to be in bad faith if the plaintiff based his or her cause of action on information provided to him or her by a law enforcement agency or the State's Attorney.

(d) The provisions of this Section are enforceable only if the lessee or occupant and the owner or owner's assignee have executed a lease addendum for drug free housing as promulgated by the United States Department of Housing and Urban Development or a substantially similar document.

(Source: P.A. 89-82, eff. 6-30-95.)