



HOUSE BILL No. 5099

September 21, 1995, Introduced by Reps. Scott, Vaughn, Murphy, Hanley, DeHart, Stallworth, Tesanovich, LaForge, Clack, Gagliardi, Cherry, Parks, Pitoniak, DeMars, Walberg, Kilpatrick, Brewer, Leland, Goschka and Prusi and referred to the Committee on Judiciary and Civil Rights.

A bill to provide for expedited eviction of persons engaged in certain drug-related activities and to enjoin persons engaged in certain drug-related activities from being at or near certain residential premises; to provide civil remedies; to prescribe duties for certain state agencies; to grant immunity to certain persons; to provide for the distribution of information and drug treatment services; and to provide opportunities for drug rehabilitation.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "expedited eviction of drug traffickers act".

3 Sec. 2. As used in this act:

4 (a) "Complete eviction" means the eviction and removal of a
5 tenant and all members of the tenant's household.

1 (b) "Controlled substance" means that term as defined in
2 section 7104 of the public health code, Act No. 368 of the Public
3 Acts of 1978, being section 333.7104 of the Michigan Compiled
4 Laws.

5 (c) "Deliver" means that term as defined in section 7105 of
6 Act No. 368 of the Public Acts of 1978, being section 333.7105 of
7 the Michigan Compiled Laws.

8 (d) "Distribute" means that term as defined in section 7105
9 of Act No. 368 of the Public Acts of 1978.

10 (e) "Drug dependent person" means a person who engages in
11 substance abuse as defined in section 6107 of Act No. 368 of the
12 Public Acts of 1978, being section 333.6107 of the Michigan
13 Compiled Laws.

14 (f) "Drug-related criminal activity" means the unlawful man-
15 ufacture of, delivery of, or possession with intent to manufac-
16 ture or deliver of a controlled substance in violation of section
17 7401 of Act No. 368 of the Public Acts of 1978, being section
18 333.7401 of the Michigan Compiled Laws, or an unlawful attempt or
19 conspiracy to commit such an act.

20 (g) "Guest" means an individual who has been given express
21 or implied permission by a tenant, a member of the tenant's
22 household, or another guest of the tenant to enter an individual
23 rental unit or any portion of the leased residential premises.

24 (h) "Individual rental unit" means an apartment or individ-
25 ual dwelling or accommodation that is leased to a particular
26 tenant, whether or not it is used or occupied or intended to be
27 used or occupied by a single family or household.

1 (i) "Landlord" means a person, entity, corporation, or
2 governmental authority or agency that owns, operates, or manages
3 any leased residential premises.

4 (j) "Leased residential premises" means a house, building,
5 mobile home, or apartment, whether publicly or privately owned,
6 that is leased for residential purposes. These terms include the
7 entire building or complex of buildings or mobile home park and
8 all real property of any nature appurtenant to and used in con-
9 nection with the building or mobile home park, including all
10 individual rental units and common areas. These terms do not
11 include a hotel, motel, or other guest house or part of a guest
12 house rented to a transient guest.

13 (k) "Manufacture" means that term as defined in section 7106
14 of Act No. 368 of the Public Acts of 1978, being section 333.7106
15 of the Michigan Compiled Laws.

16 (l) "Office of substance abuse services" means the state
17 agency created in section 6201 of Act No. 368 of the Public Acts
18 of 1978, being section 333.6201 of the Michigan Compiled Laws, to
19 plan, manage, monitor, and evaluate alcohol and other drug treat-
20 ment services in the state.

21 (m) "Partial eviction" means the eviction and removal of
22 specified persons other than the tenant from a leased residential
23 premises.

24 (n) "Person" means an individual, corporation, association,
25 partnership, trustee, lessee, agent, assignee, enterprise, gov-
26 ernmental entity, and any other legal entity or group of

1 individuals associated in fact that is capable of holding a legal
2 or beneficial interest in property.

3 (o) "Resident" means an individual who lawfully resides in a
4 leased residential premises who is not a signatory to a lease or
5 has no contractual relationship to a landlord. The term
6 includes, but is not limited to, members of the tenant's
7 household.

8 (p) "Tenant" means an individual or entity who is a named
9 party or signatory to a lease or rental agreement, and who occu-
10 pies, resides at, or has a legal right to possess and use an
11 individual rental unit.

12 (q) "Tenant organization" means an organization or associa-
13 tion, whether or not incorporated, that is representative of the
14 tenants or residents of a leased residential premises and whose
15 membership consists of tenants of the leased residential
16 premises. The term also includes a community-based organization
17 with members who are tenants of the leased residential premises.

18 Sec. 4. The civil causes of action established in this act
19 shall be proved by a preponderance of the evidence, except as
20 otherwise provided in this act.

21 Sec. 6. (1) A civil action pursuant to this act may be
22 brought by any of the following:

23 (a) The landlord of a leased residential premises, or his or
24 her agent.

25 (b) A tenant organization.

26 (c) A criminal prosecuting attorney, or municipal, county,
27 or state attorney.

1 (2) If the court determines in its discretion that the
2 plaintiff bringing an action pursuant to this act has failed to
3 prosecute the matter with reasonable diligence, the court may
4 substitute as plaintiff a person who consents if that substituted
5 person would have been authorized to initiate the action.

6 (3) A civil action pursuant to this act may be brought
7 against any person within the jurisdiction of the court, includ-
8 ing, but not limited to, a tenant, adult or minor member of the
9 tenant's household, guest, or resident of the leased residential
10 premises. If any defendant's true name is unknown to the plain-
11 tiff, process may issue against the defendant under a fictitious
12 name, stating it to be fictitious and adding an appropriate
13 description sufficient to identify him or her.

14 (4) A complaint initiating an action pursuant to this act
15 shall be personally served, and notice to all defendants shall be
16 provided in the same manner as a complaint is served in civil
17 actions. After filing an affidavit that personal service cannot
18 be had after due diligence on 1 or more defendants within 20 days
19 after the filing of the complaint, the plaintiff may:

20 (a) Mail a copy of the complaint to the defendant by certi-
21 fied mail, restricted delivery, with return receipt requested to
22 the clerk of court.

23 (b) Affix a copy of the complaint conspicuously to the main
24 entrance to the premises and to all entrances to the individual
25 rental unit where the drug-related criminal activity is alleged
26 to have occurred.

1 (5) Service is complete 5 days after filing with the court
2 proof that the complaint has been mailed and an affidavit that a
3 copy of the complaint has been affixed to the premises.

4 (6) All tenants or residents of a premises that is used in
5 whole or in part as a home, residence, or dwelling, other than
6 transient guests of a guest house, hotel, or motel, who may be
7 affected by an order issued pursuant to this act, shall be given
8 reasonable notice as ordered by the court and shall be afforded
9 an opportunity to be heard at all hearings.

10 (7) Notwithstanding any other provision of law, rule, or
11 regulation concerning the procedures used in eviction proceed-
12 ings, it is not necessary to provide notice to the tenant to
13 vacate the premises prior to filing the complaint initiating a
14 civil action pursuant to this act.

15 (8) If an action pursuant to this act is initiated by a
16 tenant organization, prosecuting attorney, attorney general, or
17 municipal or county attorney, or the owner of the leased residen-
18 tial premises shall be named as a defendant and shall be served
19 with a copy of the complaint pursuant to subsection (4). An
20 agent of the owner may be named as a party and shall have the
21 right to appear and participate in all proceedings under this
22 act.

23 (9) A tenant organization is not permitted to bring an
24 action pursuant to this act unless the organization is repre-
25 sented by an attorney who is licensed in this state.

1 Sec. 8. (1) Subject to sections 10 and 24, the court shall
2 order the immediate eviction of a tenant if it finds 1 or more of
3 the following:

4 (a) Drug-related criminal activity has occurred on or within
5 the individual rental unit leased to the tenant.

6 (b) The individual rental unit leased to the tenant was used
7 in furtherance of or to promote drug-related criminal activity.

8 (c) The tenant, any member of the tenant's household, or any
9 guest has engaged in drug-related criminal activity on or in the
10 immediate vicinity of any portion of the leased residential
11 premises.

12 (d) The tenant has given permission to or invited an indi-
13 vidual to return or reenter any portion of the leased residential
14 premises, knowing that the individual has been removed and barred
15 from the leased residential premises pursuant to this act.

16 (e) The tenant has failed to notify law enforcement or
17 public housing authorities immediately upon learning that an
18 individual who has been removed and barred from the tenant's
19 individual rental unit pursuant to this act has returned to or
20 reentered the tenant's individual rental unit.

21 (2) The court shall, subject to sections 10 and 24, order
22 the immediate removal from the leased residential premises of any
23 individual other than the tenant, including, but not limited to,
24 an adult or minor member of the tenant's household, if the court
25 finds that the household member has engaged in drug-related crim-
26 inal activity on or in the immediate vicinity of any portion of
27 the leased residential premises. Individuals removed pursuant to

1 this section shall be barred from returning to or reentering any
2 portion of the leased residential premises.

3 (3) If the court finds that a member of the tenant's house-
4 hold or guest or resident of the tenant's leased residential
5 premises has engaged in drug-related criminal activity on or in
6 the immediate vicinity of any portion of the leased residential
7 premises, but the individual has not been named as a party
8 defendant, has not appeared in the action, or has not been sub-
9 jected to the jurisdiction of the court, a removal order issued
10 pursuant to subsection (2) shall be directed against the tenant,
11 and shall provide that as an express condition of the tenancy,
12 the tenant shall not give permission to or invite the barred
13 individual to return to or reenter any portion of the leased res-
14 idential premises. The tenant shall acknowledge in writing that
15 he or she understands the terms of the court's order, and that he
16 or she further understands that the failure to comply with the
17 court's order will result in the mandatory termination of the
18 tenancy pursuant to section 18.

19 Sec. 10. (1) The court may refrain from ordering the com-
20 plete eviction of a tenant pursuant to section 8(1) of this act
21 if the tenant establishes all of the following:

22 (a) He or she was not involved in the drug-related criminal
23 activity.

24 (b) He or she did not know or have reason to know that
25 drug-related criminal activity was occurring on or within the
26 individual rental unit, that the individual rental unit was used
27 in any way in furtherance of or to promote drug-related criminal

1 activity, or that any member of the tenant's household or any
2 guest had engaged in the drug-related criminal activity on or in
3 the immediate vicinity of any portion of the entire premises.

4 (c) He or she had done everything that could reasonably be
5 expected in the circumstances to prevent the commission of the
6 drug-related criminal activity.

7 (d) He or she promptly reported the drug-related criminal
8 activity to appropriate law enforcement authorities.

9 (2) When the grounds for a complete eviction have been
10 established, the court shall immediately order the eviction of
11 the tenant, unless, due to the circumstances of the criminal
12 activity and the condition of the tenant, the court is clearly
13 convinced that immediate eviction or removal would be a serious
14 injustice, the prevention of which overrides the need to protect
15 the rights, safety, and health of the other tenants and residents
16 of the leased residential premises.

17 (3) An affirmative defense under subsection (1) shall be
18 established by a preponderance of the evidence. An exemption
19 under subsection (2) shall be established by clear and convincing
20 evidence.

21 Sec. 12. (1) If the plaintiff establishes grounds for a
22 complete eviction but the court finds that the tenant satisfacto-
23 rily established the basis for an affirmative defense or exemp-
24 tion pursuant to section 10, and the court in its discretion
25 elects not to order the complete eviction of the tenant, the
26 court, except as provided in section 24, shall order the
27 immediate removal from the entire premises of any individual

1 other than the tenant, including, but not limited to, adult or
2 minor members of the tenant's household who have engaged in
3 drug-related criminal activity on any portion of the entire
4 premises. Individuals removed pursuant to this section shall be
5 permanently barred from returning to or reentering any portion of
6 the leased residential premises. The court shall further order
7 as an express condition of the tenancy that the tenant shall not
8 give permission to or invite any person who has been removed pur-
9 suant to this act to return to or reenter any portion of the
10 leased residential premises.

11 (2) The tenant who is subject to an order under subsection
12 (1) shall acknowledge in writing that he or she understands the
13 terms of the court's order issued pursuant to subsection (1) and
14 that he or she further understands that the failure to comply
15 with the court's order will result in the mandatory termination
16 of the tenancy pursuant to section 8. Refusal by the tenant to
17 acknowledge the terms of the court order shall vitiate a prior
18 finding by the court that an exemption to a complete eviction
19 exists, or that the tenant has satisfactorily established an
20 affirmative defense.

21 Sec. 14. The court before which the civil action has been
22 brought pursuant to this act shall have the authority at any time
23 to issue a temporary restraining order, grant preliminary relief,
24 or take other action the court considers necessary to enjoin or
25 prevent the commission of drug-related criminal activity on or in
26 the immediate vicinity of leased residential premises, or to
27 protect the rights and interests of all tenants and residents. A

1 person who violates the preliminary restraining order or
2 preliminary relief shall be held in civil or criminal contempt.

3 Sec. 16. A removal or eviction order issued by a court pur-
4 suant to this act shall be enforced by the person bringing the
5 action. However, the appropriate law enforcement agency shall,
6 upon the request of the person bringing the action, assume
7 responsibility for the actual execution of the removal or
8 eviction.

9 Sec. 18. (1) Any person authorized to bring an action pur-
10 suant to this act may at any time move to enforce a removal order
11 issued pursuant to this act.

12 (2) A motion to enforce a removal order shall be heard on an
13 expedited basis.

14 (3) The court shall order the immediate eviction of the
15 tenant when it finds that the tenant has knowingly violated an
16 express term or condition of an order issued by the court pursu-
17 ant to this act.

18 Sec. 20. It is not be a defense to an action brought pursu-
19 ant to this act that the drug-related criminal activity was an
20 isolated incident or has not recurred, and it is not a defense
21 that the person who actually engaged in the drug-related criminal
22 activity no longer resides in the tenant's individual rental
23 unit.

24 Sec. 22. (1) When a complaint is filed initiating an action
25 pursuant to this act, the court shall set the matter for a hear-
26 ing which shall be held within 15 days after the filing of the
27 complaint.

1 (2) The court shall not grant a continuance or stay the
2 civil proceedings pending the disposition of a related criminal
3 proceeding, except for compelling and extraordinary reasons or on
4 application of the prosecuting attorney for good cause shown.

5 Sec. 24. (1) On the application of the tenant or other
6 individual subject to removal, the court may suspend the execu-
7 tion of an order of complete or partial eviction for a period of
8 not more than 10 days in order to refer the individual to a
9 licensed substance abuse treatment program or facility for alco-
10 hol and other drug addiction assessment and treatment recommenda-
11 tions, in order to determine whether the individual is a suitable
12 candidate for a stay of execution of eviction or removal pursuant
13 to subsection (3) if all of the following circumstances exist:

14 (a) The individual asserts all of the following:

15 (i) He or she is drug dependent within the meaning of this
16 act.

17 (ii) He or she is willing to participate in a licensed
18 treatment and monitoring program recommended by the licensed sub-
19 stance abuse treatment program or facility and approved by the
20 court.

21 (iii) He or she meets the requirements set forth in subsec-
22 tion (3)(d) or (e).

23 (b) The court is clearly convinced that the temporary sus-
24 pension of execution of the order of eviction or removal will not
25 endanger the safety of the community or otherwise unduly jeopar-
26 dize the rights or interests of other tenants and residents of
27 the leased residential premises.

1 (2) Pending the filing of an application for a stay of
2 execution pursuant to subsection (3), a temporary suspension
3 issued pursuant to this subsection shall automatically expire on
4 the date fixed by the court, or 10 days after the suspension is
5 granted, whichever is earlier. The order of eviction or removal
6 shall be immediately enforced when the temporary suspension
7 expires unless a stay is granted in accordance with the provi-
8 sions of subsection (3).

9 (3) On application of the tenant or other individual subject
10 to removal, the court may stay execution of an order of complete
11 or partial eviction, for a period of time as provided in
12 subsection (7) during which the individual is participating in a
13 court-approved and licensed alcohol and other drug treatment pro-
14 gram, if the tenant or other individual subject to complete or
15 partial eviction establishes by clear and convincing evidence
16 that all of the following circumstances exist:

17 (a) He or she is drug dependent and the drug-related crimi-
18 nal activity that was the basis for the order of eviction or
19 removal was committed in order to support the person's drug
20 dependency.

21 (b) If the individual is an adult and there is no evidence
22 that, in the commission of the drug-related criminal activity, he
23 or she distributed a controlled substance to an individual under
24 16 years of age.

25 (c) There is no evidence that the individual unlawfully used
26 or possessed a firearm on the leased premises, or that the
27 individual used or threatened to use violence in committing any

1 of the acts that are the basis for the order of eviction or
2 removal.

3 (d) The individual has not previously undergone
4 court-approved treatment pursuant to this section.

5 (e) The individual has agreed to participate in the course
6 of alcohol and other drug treatment recommended by the treatment
7 facility conducting the court-ordered addiction assessment.

8 (f) The stay of execution of the order of complete or par-
9 tial eviction will not endanger the safety of the community or
10 otherwise unduly jeopardize the rights or interests of other
11 tenants and residents of the leased residential premises.

12 (g) Admission to the recommended course of treatment will
13 serve to benefit the individual by addressing his or her drug
14 dependency and will remove the incentive for the person to engage
15 in drug-related criminal activity.

16 (4) The plaintiff in the civil action and the tenant organi-
17 zation for the premises, whether or not the organization joined
18 in the civil action, shall have an opportunity to be heard with
19 respect to an application to temporarily suspend execution of an
20 eviction order pursuant to subsection (1) or to stay execution of
21 an eviction order pursuant to subsection (3), or to discharge the
22 order of eviction or removal pursuant to subsection (12), and
23 shall also have the right to participate in any action upon a
24 violation pursuant to subsection (11).

25 (5) When the court is satisfied that the grounds for a stay
26 set forth in subsection (3) have been established by clear and
27 convincing evidence, the court shall order the individual to

1 participate in the recommended course of treatment and to undergo
2 periodic drug testing as a condition of the stay of execution of
3 the eviction or removal order. The course of treatment shall
4 take place in a substance abuse treatment program licensed by the
5 office of substance abuse services on alcohol and other drugs to
6 provide substance abuse treatment. The court shall impose rea-
7 sonable terms and conditions of the individual's participation in
8 the court-approved treatment program as if the individual were
9 placed on probation following a conviction for a crime. The
10 terms and conditions of participation shall include a requirement
11 that the individual comply with all rules and regulations estab-
12 lished by the treatment program. The terms and conditions
13 imposed by the court may also include, but need not be limited
14 to, establishing a curfew or imposing restrictions on the
15 individual's associations and places where he or she may travel.
16 The court may at any time modify or impose additional terms or
17 conditions, if the court, prior to its removal of any significant
18 term or condition, provides notice to all persons entitled pursu-
19 ant to subsection (4) to participate in the proceedings. The
20 individual placed on probationary tenancy shall consent to the
21 original or amended terms and conditions as a condition of the
22 stay of execution of the eviction or removal order, and shall
23 acknowledge in writing that he or she understands and accepts all
24 of the terms and conditions of participation in the
25 court-approved treatment program. If the individual refuses to
26 accept or comply with any of the original or amended terms and
27 conditions, the stay of execution shall be automatically

1 rescinded and the order of eviction or removal shall be
2 immediately enforced.

3 (6) If the individual maintains compliance with the terms
4 and conditions of the court and with the requirements of the
5 course of treatment and monitoring, the stay of execution of an
6 order of eviction or removal shall remain in force for a period
7 of 6 months. The court, upon recommendation by the treatment
8 program, may extend the initial period of the probationary ten-
9 ancy for an additional 6 months.

10 (7) A stay of execution of an order of eviction or removal
11 pursuant to this section shall be contingent upon the individual
12 commencing his or her participation in the recommended course of
13 treatment, or being placed on a certified waiting list until a
14 position for the recommended course of treatment becomes avail-
15 able, within 10 days of the entry of the court's order granting
16 the stay of execution of eviction or removal. If the individual
17 is placed on a certified list, he or she shall submit to regular
18 drug testing as ordered by the court and shall attend, with veri-
19 fication, no fewer than 5 12-step recovery meetings per week
20 until the course of treatment can begin. If the individual fails
21 to comply with the conditions of this subsection within this time
22 period, the stay of execution shall be automatically rescinded
23 unless the court determines that there are extraordinary and com-
24 pelling reasons to reinstate the stay pending the individual's
25 participation in the recommended course of treatment by a date to
26 be fixed by the court.

1 (8) As a condition of the stay of execution of the eviction
2 or removal order, the treatment program shall agree in writing to
3 report periodically to the court on the individual's progress and
4 compliance with court-imposed terms and conditions. The treat-
5 ment program shall further agree to promptly report any signifi-
6 cant failure to comply with the requirements of the course of
7 treatment and to immediately advise the court in the event that
8 the individual terminates his or her participation in the course
9 of treatment. The individual and, if the individual is a minor,
10 the individual's parent or legal guardian shall sign, as a condi-
11 tion of the stay of execution, the necessary consent forms to
12 release information to the court pursuant to this section.

13 (9) The court may assign the county probation department
14 and, in the case of a juvenile, the department of social services
15 the responsibility to assist in monitoring and supervising the
16 individual's participation in the recommended course of treatment
17 and his or her compliance with all court-imposed terms and condi-
18 tions of the probationary tenancy. The court may also assign the
19 county probation department the responsibility of administering
20 the periodic drug testing. The agency shall immediately report
21 any significant violation of the court-imposed terms and condi-
22 tions in accordance with subsection (8).

23 (10) Upon a first significant violation of any court-ordered
24 term or condition of the probationary tenancy, the court may and
25 upon recommendation of the treatment program or upon subsequent
26 violation shall in the absence of extraordinary and compelling
27 reasons rescind the stay of execution of the order of eviction or

1 removal and immediately enforce the order of eviction and
2 removal. In making its determination whether to rescind the stay
3 after a first significant violation, the court shall consider the
4 nature and seriousness of the infraction in relation to the
5 individual's progress in the course of treatment, and shall also
6 consider the recommendations of the treatment program. If the
7 treatment program discontinues the individual's course of treat-
8 ment, the court shall revoke the probationary tenancy and rescind
9 the stay of execution of the order of eviction or removal, unless
10 the treatment program recommends that another treatment program
11 be engaged to provide the course of treatment. Notwithstanding
12 any other provision of this section, if the court finds reason-
13 able grounds to believe that the individual, during the term of
14 the probationary tenancy, has been involved in drug-related crim-
15 inal activity, whether or not the activity occurred on the leased
16 residential premises, the court shall immediately rescind the
17 stay of execution of the order of eviction or removal and the
18 order of eviction or removal shall be immediately enforced.

19 (11) An action for a violation of any term or condition of
20 the probationary tenancy by any person that could have initiated
21 the eviction action pursuant to this act, by the treatment pro-
22 gram, by any agency assigned by the court to assist in monitoring
23 or supervising the probationary tenancy, or by the court on its
24 own motion. The action shall be summary in nature and shall be
25 heard and decided within 5 days of the notice to the court of the
26 violation.

1 (12) If after the expiration of the term of probationary
2 tenancy the court determines that the individual has
3 satisfactorily complied with the terms and conditions of the rec-
4 ommended course of treatment and that the individual no longer
5 poses a risk to the other residents and tenants of the leased
6 residential premises, the court shall discharge the order of
7 eviction or removal and shall dismiss the action brought pursuant
8 to this act. Nothing in this section shall be construed to pre-
9 vent the initiation at any time of a new action pursuant to this
10 act.

11 Sec. 26. (1) The fact that a criminal prosecution involving
12 drug-related criminal activity is not commenced or, if commenced,
13 has not yet been concluded or has terminated without a conviction
14 or adjudication of delinquency does not preclude a civil action
15 or the issuance of an order pursuant to this act.

16 (2) If a criminal prosecution involving the drug-related
17 criminal activity results in a final criminal conviction or adju-
18 dication of delinquency, the conviction or adjudication creates a
19 rebuttable presumption that the drug violation occurred. A final
20 conviction or adjudication estops the convicted defendant or
21 adjudicated juvenile from denying the essential allegations of
22 the criminal offense in any subsequent civil proceeding brought
23 pursuant to this act.

24 (3) Evidence or testimony admitted in the criminal proceed-
25 ing, including recordings or transcripts of the adult or juvenile
26 criminal proceedings, whether or not they have been transcribed,

1 may be admitted in the civil action initiated pursuant to this
2 act.

3 (4) If the evidence or records of a criminal proceeding that
4 did not result in an adjudication of delinquency have been closed
5 in accordance with section 28 of Act No. 288 of the Public Acts
6 of 1939, being section 712A.28 of the Michigan Compiled Laws, the
7 court in a civil action brought pursuant to this act, notwith-
8 standing any other provision of law, may order the evidence or
9 records, whether or not they have been transcribed, to be opened
10 if the court finds that the evidence or records are relevant to
11 the fair disposition of the civil action.

12 Sec. 28. The parties to an action brought pursuant to this
13 act are not entitled to conduct discovery otherwise available in
14 a civil action except by leave of the court if required to ensure
15 the fair disposition of the civil action. However, the plaintiff
16 in a civil action brought pursuant to this act shall provide to
17 the tenant and all other named defendants a reasonable opportu-
18 nity prior to the hearing to examine relevant documents or
19 records within the plaintiff's possession that directly relate to
20 the action, subject to the limitations of section 30.

21 Sec. 30. A law enforcement agency may make available to a
22 person authorized to bring an action pursuant to this act a
23 police report, edited portion of a police report, forensic labo-
24 ratory report, or edited portion of a forensic laboratory report,
25 concerning drug-related criminal activity committed on or in the
26 immediate vicinity of the leased residential premises. The
27 agency shall not disclose this information if, in the agency's

1 opinion, the disclosure would jeopardize an investigation,
2 prosecution, or other proceeding, or if the disclosure would vio-
3 late any federal or state statute. A law enforcement agency
4 shall also make an officer available to testify as a fact witness
5 or expert witness in a civil action brought pursuant to this
6 act.

7 Sec. 32. If proof necessary to establish the grounds for
8 eviction depends, in whole or in part, upon the affidavit or tes-
9 timony of witnesses who are not peace officers, the court, upon a
10 showing of prior threats of violence or acts of violence by a
11 defendant or another individual, may issue orders to protect
12 those witnesses, including, but not limited to, the nondisclosure
13 of the name, address, or other information that may identify
14 those witnesses.

15 Sec. 34. A landlord or owner is entitled to collect rent
16 due from the tenant during the pendency of any civil action
17 brought pursuant to this act.

18 Sec. 36. A tenant organization, prosecuting attorney,
19 attorney general, or a municipal or county attorney that brings a
20 successful action pursuant to this act, including an action that
21 is ultimately discharged under section 24(12), is entitled to
22 recover the cost of the suit, including, but not limited to, rea-
23 sonable attorney fees and costs, from the landlord or owner of
24 the leased residential premises involved, if the landlord or
25 owner, or his or her appropriate agent, refused to bring the
26 action within 10 days after having been requested to do so in
27 writing, if the request was delivered personally or by certified

1 mail, return receipt requested. If the court determines,
2 pursuant to section 8, that an owner or landlord of the leased
3 residential premises, or his or her agent, has failed to prose-
4 cute the action with reasonable diligence, the owner, landlord,
5 or agent is responsible for the payment of all reasonable costs
6 of the suit expended by a prevailing substitute plaintiff desig-
7 nated pursuant to section 8.

8 Sec. 38. The causes of action and remedies authorized by
9 this act shall be cumulative with each other and shall be in
10 addition to any other causes of action or other available legal
11 or equitable remedies.

12 Sec. 40. A person who, in good faith, institutes or partic-
13 ipates in, who encourages a person to institute or participate
14 in, or who in good faith provides any information relied upon by
15 any person in instituting or participating in a civil action pur-
16 suant to this act is immune from civil liability that might oth-
17 erwise be incurred or imposed. A person who provides information
18 has the same immunity from civil liability with respect to testi-
19 mony given in a judicial proceeding conducted pursuant to this
20 act.

21 Sec. 42. (1) The court, prior to the removal of any indi-
22 vidual pursuant to this act, shall provide that individual with
23 notice of the removal, outreach information, and referral materi-
24 als on how to obtain alcohol and other drug treatment.

25 (2) No less than 10 days prior to the removal of any person
26 pursuant to this act, the court shall notify the local alcohol
27 and other drug agency, the local child welfare agency if

1 applicable, and other appropriate social service agencies of the
2 removal.

3 (3) The office of substance abuse services or its designee
4 shall prepare the outreach information and referral materials and
5 shall disseminate the information and materials to all courts
6 having jurisdiction to issue orders pursuant to this act.

7 (4) Licensed treatment programs may apply to the office of
8 substance abuse services or its designee for compensation for
9 treatment services provided to individuals removed pursuant to
10 this act. The office of substance abuse services shall adopt
11 appropriate rules pursuant to the administrative procedures act
12 of 1969, Act No. 306 of the Public Acts of 1969, being sections
13 24.201 to 24.328 of the Michigan Compiled Laws, to govern the
14 treatment programs and the manner of dispensation of compensation
15 to the licensed treatment programs.

16 (5) Compensation for the licensed treatment programs shall
17 be drawn from the treatment for displaced residents fund created
18 in section 30 of the drug nuisance abatement act.

19 Sec. 44. Notwithstanding any other provision of law, a
20 landlord or owner does not bear any responsibility or liability
21 for relocating any person who has been evicted, removed, or
22 barred pursuant to this act.

23 Sec. 46. Any person who knowingly violates any order issued
24 pursuant to this act, or who knowingly interferes with,
25 obstructs, impairs, or prevents any law enforcement officer from
26 enforcing or executing any order issued pursuant to this act, is
27 subject to criminal contempt power of the court under section

1 1701 of the revised judicature act of 1961, Act No. 236 of the
2 Public Acts of 1961, being section 600.1701 of the Michigan
3 Compiled Laws. This section shall not be construed to preclude
4 or preempt a criminal prosecution for any other criminal
5 offense.

6 Sec. 48. This act shall not take effect unless all of the
7 following bills of the 88th Legislature are enacted into law:

8 (a) Senate Bill No. _____ or House Bill No. 5097
9 (request no. 00032'95).

10 (b) Senate Bill No. _____ or House Bill No. _____
11 (request no. 00032'95 a).

12 (c) Senate Bill No. _____ or House Bill No. 5098
13 (request no. 00034'95).