

**SHB 2414 - H AMD 1076**

By Representatives Ross, Johnson, Hurst, Rodne

ADOPTED 02/11/2010

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 59.18.075 and 1992 c 38 s 4 are each amended to read  
4 as follows:

5 (1) Any law enforcement agency which seizes a legend drug pursuant  
6 to a violation of chapter 69.41 RCW, a controlled substance pursuant to  
7 a violation of chapter 69.50 RCW, or an imitation controlled substance  
8 pursuant to a violation of chapter 69.52 RCW, shall make a reasonable  
9 attempt to discover the identity of the landlord and shall notify the  
10 landlord in writing, at the last address listed in the property tax  
11 records and at any other address known to the law enforcement agency,  
12 of the seizure and the location of the seizure of the illegal drugs or  
13 substances.

14 (2) Any law enforcement agency which arrests a tenant for  
15 threatening another tenant with a firearm or other deadly weapon, or  
16 for some other unlawful use of a firearm or other deadly weapon on the  
17 rental premises, or for physically assaulting another person on the  
18 rental premises, shall make a reasonable attempt to discover the  
19 identity of the landlord and notify the landlord about the arrest in  
20 writing, at the last address listed in the property tax records and at  
21 any other address known to the law enforcement agency.

22 (3)(a) A law enforcement agency that has found that a tenant or  
23 other occupant of a rental unit has committed a criminal street gang-  
24 related offense as defined in RCW 9.94A.030 or that has been called to  
25 a rental premises to investigate a criminal street gang-related offense  
26 shall make a reasonable attempt to discover the identity of the  
27 landlord and notify the landlord in writing, at the last address listed  
28 in the property tax records and at any other address known to the law  
29 enforcement agency, of the criminal street gang-related offense on the  
30 rental premises.

1       (b) For the purposes of this subsection, the law enforcement agency  
2 shall include the following information with the notice:

3       (i) The name of the tenant and the individual or individuals who  
4 were involved in the criminal street gang-related offense;

5       (ii) The rental unit where the incident occurred;

6       (iii) The date of the incident;

7       (iv) Actions taken by the law enforcement agency in response to the  
8 incident;

9       (v) A statement outlining the authority of a landlord under chapter  
10 59.12 RCW to commence an unlawful detainer action against a tenant who  
11 has committed or permitted gang-related activity at the premises; and

12       (vi) Penalties the landlord may face for failure to abate a  
13 nuisance.

14       NEW SECTION. Sec. 2. Notwithstanding the provisions of any other  
15 law or ordinance, the legislative authority of a county or municipality  
16 may, by ordinance, to protect the public health, safety, and welfare of  
17 the residents of the county or municipality, adopt procedures pursuant  
18 to which a public agency may file a nuisance action in superior court  
19 to seek any or all of the forms of relief detailed in this chapter.  
20 The legislative authority of a county or municipality may further  
21 authorize and adopt rules providing for a nuisance action instituted by  
22 a person who resides, works in, or owns property in the same  
23 multifamily building or apartment complex or within a one-block radius  
24 of the property where the nuisance is alleged to exist. A nuisance  
25 action instituted by a person may only be brought against a building or  
26 a unit within a building as defined in section 3 of this act. A  
27 nuisance action authorized under this section is subject to the  
28 provisions set forth in sections 3 through 15 of this act.

29       NEW SECTION. Sec. 3. The definitions in this section apply  
30 throughout this chapter unless the context clearly requires otherwise.

31       (1) "Building" includes, but is not limited to, any structure or  
32 separate part or portion thereof, whether permanent or not, or the  
33 ground itself.

34       (2) "Criminal street gang activity" means a pattern of criminal  
35 street gang activity as defined in RCW 9.94A.030.

1 (3) "Criminal street gang associate or member" and "criminal street  
2 gang-related offense" have the meaning prescribed in RCW 9.94A.030.

3 (4) "Public agency" includes a county, city, town, municipal  
4 corporation, and an office, department, division, or agency thereof.

5 NEW SECTION. **Sec. 4.** An ordinance may authorize a nuisance action  
6 providing for a restraining order, preliminary injunction, or permanent  
7 injunction against a specific criminal street gang associate or member  
8 to enjoin his or her activity that is associated with any criminal  
9 street gang activity or any criminal street gang-related offense and  
10 that is occurring within the county or municipality.

11 NEW SECTION. **Sec. 5.** An ordinance may authorize a nuisance action  
12 providing for a restraining order, preliminary injunction, or order of  
13 abatement against any building or unit within a building used for the  
14 purpose of aiding, promoting, or conducting criminal street gang  
15 activity. In a multiunit building, only the offending unit shall be  
16 declared a nuisance, and only the offending unit shall be enjoined,  
17 abated, and prevented. Nothing in this chapter applies to property  
18 used for the purpose of, or activity involved in, providing health  
19 services, food and financial assistance, treatment, counseling,  
20 training, religious services, education, civic involvement, or any  
21 social service or charitable assistance.

22 NEW SECTION. **Sec. 6.** (1) Upon application for a temporary  
23 restraining order or preliminary injunction, the court may, upon a  
24 showing of good cause, (a) issue an ex parte restraining order or  
25 preliminary injunction, preventing the defendant and all other persons,  
26 other than the legal owner, from removing or in any manner interfering  
27 with the personal property and contents of the place where the nuisance  
28 is alleged to exist, and (b) grant preliminary equitable relief as is  
29 necessary to prevent the continuance or recurrence of the nuisance  
30 pending final resolution of the matter on the merits. Such ex parte  
31 restraining order or preliminary injunction may remain in effect no  
32 more than fifteen days from the date of issuance, except as provided in  
33 section 8 of this act.

34 (2) The restraining order or preliminary injunction issued under  
35 subsection (1) of this section in an action under section 4 of this act

1 must be served on the defendant personally, or by leaving a copy at the  
2 dwelling house or usual place of abode of the defendant with any person  
3 of suitable age and discretion residing therein. Where such a person  
4 cannot with reasonable diligence be served as described, the  
5 restraining order or preliminary injunction may be served by posting a  
6 copy in a conspicuous place at the dwelling house or usual place of  
7 abode of the defendant and thereafter mailing a copy by registered mail  
8 to the defendant at his or her usual mailing address.

9 (3) The restraining order or preliminary injunction issued under  
10 subsection (1) of this section in an action under section 5 of this act  
11 must be served on the occupant and the owner of the building or unit  
12 personally, or by leaving a copy with any person of suitable age and  
13 discretion who is in charge of the property or who is residing at the  
14 property. Where such a person cannot with reasonable diligence be  
15 served as described, the restraining order or preliminary injunction  
16 may be served by posting a copy in a conspicuous place on the property  
17 and thereafter mailing a copy by registered mail to the person to be  
18 served at his or her usual mailing address. Additionally, a copy of  
19 the restraining order or preliminary injunction must be sent by  
20 registered mail to the owner of the building.

21 NEW SECTION. **Sec. 7.** An action under this chapter shall have  
22 precedence over all other actions, except prior matters of the same  
23 character, actions under chapter 7.43 RCW, criminal proceedings,  
24 election contests, hearings on temporary restraining orders and  
25 injunctions, child dependency hearings, foreclosures by a legal owner,  
26 actions to forfeit vehicles used in violation of the uniform controlled  
27 substances act, and any other case determined to be a priority by  
28 statute or by the court.

29 NEW SECTION. **Sec. 8.** A copy of the complaint, together with a  
30 notice of the time and place of the hearing of the action, shall be  
31 served upon the defendant at least six business days before the  
32 hearing, and as provided for in section 6 of this act. If the hearing  
33 is then continued at the request of any defendant, all temporary orders  
34 and injunctions shall be extended as a matter of course.

1           NEW SECTION.   **Sec. 9.**   (1) Except as provided in subsection (2) of  
2 this section, (a) if the existence of the nuisance under section 4 of  
3 this act is established in the action, a permanent injunction must be  
4 entered as part of the final judgment in the case, and (b) if the  
5 existence of the nuisance under section 5 of this act is established in  
6 the action, an order of abatement must be entered as part of the final  
7 judgment in the case. The plaintiff's costs in the action, including  
8 those of abatement, are a lien upon the building or unit within a  
9 building to the extent of the owner's interest. The lien must be filed  
10 as a judgment summary stating the name of the owner and the legal  
11 description of the real property. The lien must be recorded and  
12 enforced as a judgment summary.

13           (2) If the court finds and concludes that the owner of the building  
14 or unit within a building:

15           (a) Had no knowledge of the existence of the nuisance, or was not  
16 provided adequate notice under RCW 59.18.075 of the occurrence of a  
17 criminal street gang-related offense at the rental unit, or has been  
18 making reasonable efforts to abate the nuisance;

19           (b) Has not been guilty of any contempt of court in the  
20 proceedings; and

21           (c) Will immediately abate any such nuisance that may exist at the  
22 building or unit within a building and prevent it from being a nuisance  
23 for a period of one year thereafter, the court shall, if satisfied with  
24 the owner's good faith, order the building or unit within a building to  
25 be delivered to the owner, and no order of abatement shall be entered.  
26 If an order of abatement has been entered and the owner subsequently  
27 meets the requirements of this subsection, the order of abatement shall  
28 be canceled.

29           (3) For the purposes of determining whether the owner of the  
30 building or unit within a building made reasonable efforts to abate the  
31 nuisance, the court shall consider such factors as whether the owner:

32           (a) Terminated or attempted to terminate the tenancy or lease of a  
33 tenant or leaseholder where the nuisance is occurring, if the tenant or  
34 leaseholder is involved in the criminal street gang activity;

35           (b) Placed restrictions on the rental agreement or lease;

36           (c) Adopted feasible measures on the property to try to prevent the  
37 criminal street gang activity;

1 (d) Cooperated with law enforcement to attempt to stop the criminal  
2 street gang activity; and

3 (e) Made other efforts the court finds relevant.

4 (4) In an action filed under section 5 of this act, if the court  
5 finds there is insufficient evidence to establish the existence of the  
6 nuisance, the court may order the person who filed the complaint to pay  
7 the owner reasonable attorneys' fees and costs to defend the action,  
8 any loss of rent or revenue experienced as a result of the action,  
9 restraining order, or preliminary injunction, and damages up to five  
10 hundred dollars each.

11 NEW SECTION. **Sec. 10.** Any final order of abatement issued under  
12 this chapter must:

13 (1) If the building or unit is not subject to the interests of  
14 innocent legal owners, provide for the immediate closure of the  
15 building or unit within a building against its use for any purpose, and  
16 for keeping it closed for a period of one year unless released sooner  
17 as provided in this chapter;

18 (2) State that while the order of abatement remains in effect, the  
19 building or unit within a building shall remain in the custody of the  
20 court; and

21 (3) Authorize a law enforcement officer to enter the building or  
22 unit within a building to create an inventory of the personal property  
23 and contents located in the building or unit within a building for  
24 submission to the court.

25 NEW SECTION. **Sec. 11.** An intentional violation of a restraining  
26 order, preliminary injunction, permanent injunction, or order of  
27 abatement in an action brought by a public agency under this chapter is  
28 a misdemeanor and shall be punishable as such. If the violation also  
29 constitutes a criminal offense under another provision of the law, the  
30 violation may be prosecuted pursuant to this section or the other  
31 provision of law, or both.

32 NEW SECTION. **Sec. 12.** Whenever the owner of a building or unit  
33 within a building upon which the act or acts constituting the contempt  
34 have been committed, or the owner of any interest in the building or  
35 unit has been found in contempt of court, and fined in any proceedings

1 under this chapter, the fine is a lien upon the building or unit within  
2 a building to the extent of the owner's interest. The lien must be  
3 filed as a judgment summary stating the name of the owner and the legal  
4 description of the real property. The lien must be recorded and  
5 enforced as a judgment summary.

6 NEW SECTION. **Sec. 13.** An action may not be brought pursuant to  
7 this section against any governmental entity or any charitable or  
8 nonprofit organization that is conducting, with ordinary care and  
9 skill, activities relating to prevention or education concerning  
10 criminal street gangs.

11 NEW SECTION. **Sec. 14.** The abatement of a nuisance under this  
12 chapter does not prejudice the right of any person to recover damages  
13 for its past existence.

14 NEW SECTION. **Sec. 15.** If any provision of this act or its  
15 application to any person or circumstance is held invalid, the  
16 remainder of the act or the application of the provision to other  
17 persons or circumstances is not affected.

18 NEW SECTION. **Sec. 16.** Sections 2 through 15 of this act  
19 constitute a new chapter in Title 9 RCW."

20 Correct the title.

EFFECT: Strikes all of the provisions in the underlying bill and  
replaces with SHB 2550, including provisions that:

(1) Authorize the legislative authority of a county or municipality  
to adopt procedures in an ordinance for the filing of a nuisance action  
against a criminal street gang member or a building or unit used to aid  
or conduct criminal street gang activity;

(2) Permit a nuisance action to be filed by a public agency or a  
person who resides, works in, or owns property in the same building or  
within a one-block radius of the alleged nuisance;

(3) Provide procedures for a court to issue restraining orders,  
preliminary injunctions, permanent injunctions, and abatement orders in  
a criminal street gang nuisance action;

(4) Allow precedence over other court actions (with certain  
exceptions);

(5) Permit attorneys' fees, costs, loss of rent or revenue, and up to 500 dollars in damages to the owner if the court finds there is insufficient evidence to establish the existence of a nuisance;

(6) Prescribe a penalty (a misdemeanor) for intentional violation of an order or injunction in an criminal street gang nuisance action brought by a public agency; and

(7) Adds a new provision (not in SHB 2550) that amends the Residential Landlord-Tenant Act to require a law enforcement agency that has found that a tenant or occupant committed a criminal street gang-related offense or that has investigated such an offense on a rental property to make a reasonable attempt to notify the landlord of the offense.

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