

CHAPTER 98-395

Senate Bill No. 1292

An act relating to controlled substances; amending s. 893.12, F.S.; deleting the requirement that a copy of the record of the destruction of seized controlled substances be sent to the Drug Enforcement Administration; amending s. 893.138, F.S.; increasing the maximum cumulative fine that may be levied against properties designated public nuisances for drug-related activity or other offenses; requiring the Department of Health to contract with South Florida Substance Abuse, Inc., to provide certain treatment to clients served by such facility and providing an appropriation therefor; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (a) of subsection (1) of section 893.12, Florida Statutes, is amended to read:

893.12 Contraband; seizure, forfeiture, sale.—

(1) All substances controlled by this chapter and all listed chemicals, which substances or chemicals are handled, delivered, possessed, or distributed contrary to any provisions of this chapter, and all such controlled substances or listed chemicals the lawful possession of which is not established or the title to which cannot be ascertained, are declared to be contraband, are subject to seizure and confiscation by any person whose duty it is to enforce the provisions of the chapter, and shall be disposed of as follows:

(a) Except as in this section otherwise provided, the court having jurisdiction shall order such controlled substances or listed chemicals forfeited and destroyed. A record of the place where said controlled substances or listed chemicals were seized, of the kinds and quantities of controlled substances or listed chemicals destroyed, and of the time, place, and manner of destruction shall be kept, and a return under oath reporting said destruction shall be made to the court or magistrate ~~and to the United States Drug Enforcement Administration~~ by the officer who destroys them.

Section 2. Subsection (10) of section 893.138, Florida Statutes, is amended to read:

893.138 Local administrative action to abate drug-related or prostitution-related public nuisances and criminal street gang activity.—

(10) The provisions of this section may be supplemented by a county or municipal ordinance. The ordinance may include, but is not limited to, provisions that establish additional penalties for public nuisances, including fines not to exceed \$250 per day; provide for the payment of reasonable costs, including reasonable attorney fees associated with investigations of and hearings on public nuisances; provide for continuing jurisdiction for a period of 1 year over any place or premises that has been or is declared to be a

public nuisance; establish penalties, including fines not to exceed \$500 per day for recurring public nuisances; provide for the recording of orders on public nuisances so that notice must be given to subsequent purchasers, successors in interest, or assigns of the real property that is the subject of the order; provide that recorded orders on public nuisances may become liens against the real property that is the subject of the order; and provide for the foreclosure of property subject to a lien and the recovery of all costs, including reasonable attorney fees, associated with the recording of orders and foreclosure. No lien created pursuant to the provisions of this section may be foreclosed on real property which is a homestead under s. 4, Art. X of the State Constitution. The total fines imposed pursuant to the authority of this section shall not exceed \$7,500 ~~\$5,000~~. Nothing contained within this section prohibits a county or municipality from proceeding against a public nuisance by any other means.

Section 3. The Department of Health is hereby directed to contract with South Florida Substance Abuse, Inc., in the amount of \$400,000 during fiscal year 1998-1999, to provide HIV/AIDS and methadone treatment to clients served by such facility. For the purposes of this section, the sum of \$400,000 is hereby appropriated from the General Revenue Fund to the Department of Health in fiscal year 1998-1999.

Section 4. This act shall take effect upon becoming a law.

Became a law without the Governor's approval May 31, 1998.

Filed in Office Secretary of State May 29, 1998.