

## Assembly Bill No. 1384

### CHAPTER 613

An act to amend Section 11571 of, and to add and repeal Section 11571.1 of, the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 19, 1998. Filed  
with Secretary of State September 21, 1998.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 1384, Havice. Controlled substances: abatement.

Under existing law, the conduct of certain unlawful activities relating to controlled substances in any building constitutes a nuisance, which may be abated in an action brought by a city attorney or district attorney. Existing law also defines unlawful detainer by a tenant or subtenant to include the commission of a nuisance upon the premises or use of the premises for an unlawful purpose. The sale of a controlled substance on the premises or the use of the premises in furtherance of that activity is deemed to be such a nuisance relating to unlawful detainer. The law relating to unlawful detainer sets forth a summary procedure by which a landlord may demand possession of the premises and evict the tenant or subtenant.

This bill would authorize a city attorney or city prosecutor to file an action for unlawful detainer against any person who is guilty of unlawful detainer by engaging in the above specified activities relating to controlled substances, subject to the procedural requirements contained in those provisions as well as additional procedural requirements prescribed in this bill wherein the court is authorized to issue a partial eviction, as specified. The bill would make this provision applicable only to specified court jurisdictions in Los Angeles County and repeal it as of January 1, 2002, unless a later enacted statute deletes or extends that date.

The bill also would require the city attorney and city prosecutor to maintain specified records of all actions filed pursuant to these provisions and, commencing January 1, 2000, to annually file copies thereof with the Judicial Council by January 30 of each year. The bill additionally would require the court, after judgment is entered in any proceeding brought under these provisions, to submit to the Judicial Council, on a form provided by the Judicial Council, information on the case. The bill would require the Judicial Council thereafter to submit a brief report to the Senate and Assembly Judiciary Committees on or before January 1, 2001, summarizing the information collected thereby, and evaluating the merits of the pilot program established by these provisions.

This bill would contain legislative findings as to the necessity of a special statute.

*The people of the State of California do enact as follows:*

SECTION 1. Section 11571 of the Health and Safety Code is amended to read:

11571. Whenever there is reason to believe that a nuisance as described in Section 11570 is kept, maintained, or exists in any county, the district attorney of the county, in the name of the people, may, or the city attorney of any incorporated city or of any city and county, or any citizen of the state resident in the county, in his or her own name, may maintain an action to abate and prevent the nuisance and perpetually to enjoin the person conducting or maintaining it, and the owner, lessee, or agent of the building or place, in or upon which the nuisance exists, from directly or indirectly maintaining or permitting the nuisance.

SEC. 2. Section 11571.1 is added to the Health and Safety Code, to read:

11571.1. (a) To effectuate the purposes of this article, the city prosecutor or city attorney may file, in the name of the people, an action for unlawful detainer against any person who is in violation of the nuisance or illegal purpose provisions of subdivision 4 of Section 1161 of the Code of Civil Procedure, with respect to a controlled substance purpose. In filing this action, the city prosecutor or city attorney shall utilize the procedures set forth in Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of the Code of Civil Procedure, except that in cases filed under this section, the following also shall apply:

(1) Prior to filing an action pursuant to this section, the city prosecutor or city attorney shall give 15 calendar days written notice to the owner, requiring the owner to file an action for the removal of the person who is in violation of the nuisance or illegal purpose provisions of subdivision 4 of Section 1161 of the Code of Civil Procedure with respect to a controlled substance purpose. This notice shall include sufficient documentation establishing a violation of the nuisance or illegal purpose provisions of subdivision 4 of Section 1161 of the Code of Civil Procedure and shall be served upon the owner and the tenant in accordance with subdivision (e) of this section. The owner shall, within 15 calendar days of the mailing of the written notice, either provide the city prosecutor or city attorney with all relevant information pertaining to the unlawful detainer case, or provide a written explanation setting forth any safety-related reasons for noncompliance, and an assignment to the city prosecutor or city attorney of the right to bring an unlawful detainer action against the tenant. The assignment shall be on a form provided by the city prosecutor or city attorney and may contain a provision for costs



of investigation, discovery, and reasonable attorney's fees, in an amount not to exceed six hundred dollars (\$600). If the city prosecutor or city attorney accepts the assignment of the right of the owner to bring the unlawful detainer action, the owner shall retain all other rights and duties, including the handling of the tenant's personal property, following issuance of the writ of possession and its delivery to and execution by the appropriate agency.

(2) Upon the failure of the owner to file an action pursuant to this section, or to respond to the city prosecutor or city attorney as provided in paragraph (1), or having filed an action, if the owner fails to prosecute it diligently and in good faith, the city prosecutor or city attorney may file and prosecute the action in municipal court, and join the owner as defendants in the action. This action shall have precedence over any similar proceeding thereafter brought by the owner, or to one previously brought by the owner and not prosecuted diligently and in good faith. Service of the summons and complaint upon the defendant owner shall be in accordance with Sections 415.10, 415.20, 415.30, 415.40, and 415.50 of the Code of Civil Procedure.

(3) If a jury or court finds the defendant tenant guilty of unlawful detainer in a case filed pursuant to paragraph (2), the city prosecutor or city attorney may be awarded costs, including the costs of investigation and discovery and reasonable attorney's fees. These costs shall be assessed against the defendant owner, to whom notice was directed pursuant to paragraph (1), and once an abstract of judgment is recorded, it shall constitute a lien on the subject real property.

(4) Nothing in this article shall prevent a local governing body from adopting and enforcing laws, consistent with this article relating to drug abatement. Where local laws duplicate or supplement this article, this article shall be construed as providing alternative remedies and not preempting the field.

(5) Nothing in this article shall prevent a tenant from receiving relief against a forfeiture of a lease pursuant to Section 1179 of the Code of Civil Procedure.

(b) In any proceeding brought under this section, the court may, upon a showing of good cause, issue a partial eviction ordering the removal of any person, including, but not limited to, members of the tenant's household if the court finds that the person has engaged in the activities described in subdivision (a). Persons removed pursuant to this section may be permanently barred from returning to or reentering any portion of the entire premises. The court may further order as an express condition of the tenancy that the remaining tenants shall not give permission to or invite any person who has been removed pursuant to this subdivision to return to or reenter any portion of the entire premises.



(c) For the purposes of this section, “controlled substance purpose” means the manufacture, cultivation, importation into the state, transportation, possession, possession for sale, sale, furnishing, administering, or giving away, or providing a place to use or fortification of a place involving, cocaine, phencyclidine, heroin, methamphetamine, or any other controlled substance, in a violation of subdivision (a) of Section 11350, Section 11351, 11351.5, 11352, or 11359, subdivision (a) of Section 11360, or Section 11366, 11366.6, 11378, 11378.5, 11379, 11379.5, 11379.6, or 11383.

(d) Notwithstanding subdivision (b) of Section 68097.2 of the Government Code, a public entity may waive all or part of the costs incurred in furnishing the testimony of a peace officer in an unlawful detainer action brought pursuant to this section.

(e) The notice and documentation described in paragraph (1) of subdivision (a) shall be given in writing and may be given either by personal delivery or by deposit in the United States mail in a sealed envelope, postage prepaid, addressed to the owner at the address known to the public entity giving the notice, or as shown on the last equalized assessment roll, if not known. Separate notice and documentation shall be provided to the tenant in accordance with this subdivision. Service by mail shall be deemed to be completed at the time of deposit in the United States mail. Proof of giving the notice may be made by a declaration signed under penalty of perjury by any employee of the public entity which shows service in conformity with this section.

(f) This section shall only apply to the following courts in the County of Los Angeles:

- (1) Los Angeles Judicial District, downtown courthouse.
- (2) Los Angeles Judicial District, Van Nuys Branch.
- (3) Los Cerritos Judicial District.
- (4) Southeast Judicial District.
- (5) Long Beach Judicial District.

(g) (1) The city attorney and city prosecutor shall maintain records of all actions filed pursuant to this section, including the collection of the following information:

(A) The number of notices provided pursuant to paragraph (1) of subdivision (a).

(B) The number of times that an owner, upon notice, files or fails to file an action following receipt of the notice.

(C) The number of times that an owner is joined as a defendant pursuant to this section.

(D) As to each case filed pursuant to this section, the following information:

- (i) The final disposition of the action.
- (ii) Whether the defendant was represented by counsel.
- (iii) Whether the case was a trial by the court or trial by a jury.



(iv) Whether an appeal was taken, and, if so, the result of the appeal.

(v) Whether the court ordered a partial eviction.

(2) After judgment is entered in any proceeding brought under this section, the court shall submit to the Judicial Council, on a form provided by the Judicial Council, information on the case. That information shall include a brief summary of the facts of the case.

(3) Commencing January 1, 2000, copies of the records maintained pursuant to this section shall be filed annually with the Judicial Council on or before January 30 of each year. The Judicial Council shall thereafter submit a brief report to the Senate and Assembly Judiciary Committees on or before January 1, 2001, summarizing the information collected pursuant to this section and evaluating the merits of the pilot program established by this section.

(h) This section shall remain in effect only until January 1, 2002, and as of that date is repealed unless a later enacted statute deletes or extends that date.

SEC. 3. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances surrounding the drug problem in the jurisdictions of the Los Angeles Judicial District, downtown courthouse, the Los Angeles Judicial District, Van Nuys Branch, the Los Cerritos Judicial District, the Southeast Judicial District, and the Long Beach Judicial District. The facts constituting the special circumstances that distinguish these court jurisdictions in Los Angeles County from those in other counties are the severity of the problem and the widespread use of rental housing to facilitate drug trafficking.

