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## SENATE BILL NO. 535

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice  
on February 7, 1996)

(Patron Prior to Substitute—Senator Marsh)

*A BILL to amend and reenact § 18.2-258.01 of the Code of Virginia, relating to nuisances.*

**Be it enacted by the General Assembly of Virginia:**

**1. That § 18.2-258.01 of the Code of Virginia is amended and reenacted as follows:**

§ 18.2-258.01. Enjoining nuisances involving illegal drug transactions.

The attorney for the Commonwealth, or any citizen of the county, city, or town, where such a nuisance as is described in § 18.2-258 exists, may, in addition to the remedies given in and punishment imposed by this chapter, maintain a suit in equity in the name of the Commonwealth to enjoin the same; provided, however, the attorney for the Commonwealth shall not be required to prosecute any suit brought by a citizen under this section. In every case where the bill charges, on the knowledge or belief of complainant, and is sworn to by two witnesses, that a nuisance exists as described in § 18.2-258, a temporary injunction may be granted as soon as the bill is presented to the court provided reasonable notice has been given. The injunction shall enjoin and restrain any owners, tenants, their agents, employees, and any other person from contributing to or maintaining the nuisance and may impose such other requirements as the court deems appropriate. If, after hearing, the court finds that the material allegations of the bill are true, although the premises complained of may not then be unlawfully used, it shall continue the injunction against such persons or premises for such period of time as it deems appropriate, with the right to dissolve the injunction upon a proper showing by the owner of the premises. *In addition, the court may assess a civil penalty not to exceed \$25,000 against any or all of the defendants, based upon the severity of the nuisance and its duration, to be paid into the general fund of the locality in which the nuisance was located. In establishing the amount of any civil penalty, the court shall consider all of the following factors:*

*1. Actions taken by the defendant to mitigate or correct the problem at the dwelling, building or place or the reasons why the defendant did not take such action;*

*2. Previous actions brought against the defendant pursuant to this article;*

*3. The cost to the locality of investigating and correcting the condition; and*

*4. Any other factor deemed by the court to be relevant.*