H.B. 202
LOCAL GOVERNMENT NUISANCE ORDINANCE REFORM

HOUSE FLOOR AMENDMENTS   AMENDMENT 2   FEBRUARY 14, 2020 2:59 PM

Representative **Jefferson Moss** proposes the following amendments:

1.   *Page 2, Lines 28 through 31:*

28   prohibited -- Exceptions.

29   (1) (a) The governing body of [each] a municipality may impose a criminal penalty   { on

30   an individual }   for the violation of any municipal ordinance by a fine not to exceed the maximum

31   class B misdemeanor fine under Section 76-3-301 [or], by a term of imprisonment up to six

2.   *Page 2, Lines 36 through 37:*

36   neighbors or adjacent properties of the individual's residence.] not impose a criminal penalty

36a   greater than an infraction for a violation pertaining to an individual's   **pet, as defined in Section 4-12-102, or an individual's**   use of the individual's

36b   residence unless:

36c   (i) the violation:

36d   (A) is a nuisance as defined in Subsection 78B-6-1101(1); and

36e   (B) threatens the health, safety, or welfare of the individual or an identifiable third party; or

36f   (ii) the municipality has imposed a fine on the individual for a violation that involves the same

36g   residence **or pet** on three previous occasions within the   { previous }   **past** 12 months. ←Ĥ

    (c) Subsection (1)(b) does not apply to municipal enforcement of a building code or fire code ordinance in accordance with Title 15A, State Construction and Fire Codes Act.

37   (2) (a) Except as provided in Subsection (2)(b), the governing body may prescribe a

3.   *Page 2, Lines 50 through 51:*

50   (ii) an animal control officer described in Section 11-46-102.

50a   Ĥ➔ (4) { For purposes of this section, an ongoing violation constitutes a single violation }   **A municipality may not issue more than one infraction within a 14-day time period for a violation described in Subsection (1)(b) that is ongoing.** ←Ĥ

51   Section 2. Section **17-53-208** is amended to read:

4.   *Page 4, Line 120 through Page 5, Line 128a:*

120   properties of the individual's residence.] not impose a criminal penalty greater than an infraction

120a   for a violation pertaining to an individual's   **pet, as defined in Section 4-12-102, or an individual's**   use of the individual's residence unless:

120b   (i) the violation:

120c   (A) is a nuisance as defined in Subsection 78B-6-1101(1); and✪ ✪(B) threatens the health, safety, or welfare

of the individual or an identifiable third party; or

120e   (ii) the county has imposed a fine on the individual for a violation that involves the same

120f   residence   **or pet**   on three previous occasions within the past 12 months. ←Ĥ

(c) Subsection (2)(b) does not apply to county enforcement of a building code or fire code ordinance in accordance with Title 15A, State Construction and Fire Codes Act.

121   [(b)]   {(c)}   **(d)**   When a penalty for a violation of an ordinance includes any possibility of

122   imprisonment, the county legislative body shall include in the ordinance a statement that the

123   county is required, under Section 78B-22-301, to provide for indigent defense services, as that

124   term is defined in Section 78B-22-102.

(e) Notwithstanding any other provision of law, the following may issue a criminal citation for a violation that is punished as a misdemeanor if the violation threatens the health and safety of an animal or the public:

(i) a fire officer described in Section 53-7-102;

(ii) a law enforcement officer described in Section 53-13-103; or

(iii) an animal control officer described in Section 11-46-102.

125   (3) (a) Except as specifically authorized by statute, the county legislative body may not

126   impose a civil penalty for the violation of a county traffic ordinance.

127   (b) Subsection (3)(a) does not apply to an ordinance regulating the parking of vehicles

128   on a highway.

128a   Ĥ→ (4)   {For purposes of this section, an ongoing violation constitutes a single violation}   **A county may not issue more than one infraction within a 14-day period for a violation described in Subsection (2)(b) that is ongoing**   . ←Ĥ