

1-1 By: Capriglione, et al. H.B. No. 1925
 1-2 (Senate Sponsor - Buckingham, Bettencourt, Lucio)
 1-3 (In the Senate - Received from the House May 10, 2021;
 1-4 May 10, 2021, read first time and referred to Committee on Local
 1-5 Government; May 17, 2021, reported favorably by the following
 1-6 vote: Yeas 5, Nays 3, one present not voting; May 17, 2021, sent to
 1-7 printer.)

1-8 COMMITTEE VOTE

| | Yea | Nay | Absent | PNV |
|------|-----|-----|--------|-----|
| 1-9 | | | | |
| 1-10 | X | | | |
| 1-11 | | | | X |
| 1-12 | | X | | |
| 1-13 | | X | | |
| 1-14 | X | | | |
| 1-15 | X | | | |
| 1-16 | X | | | |
| 1-17 | X | | | |
| 1-18 | | X | | |

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to prohibitions on camping in a public place and to a
 1-22 political subdivision's designation of property for camping by
 1-23 homeless individuals; creating a criminal offense.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Chapter 48, Penal Code, is amended by adding
 1-26 Section 48.05 to read as follows:

1-27 Sec. 48.05. PROHIBITED CAMPING. (a) In this section:

1-28 (1) "Camp" means to reside temporarily in a place,
 1-29 with shelter.

1-30 (2) "Shelter" includes a tent, tarpaulin, lean-to,
 1-31 sleeping bag, bedroll, blankets, or any form of temporary,
 1-32 semipermanent, or permanent shelter, other than clothing or any
 1-33 handheld device, designed to protect a person from weather
 1-34 conditions that threaten personal health and safety.

1-35 (b) A person commits an offense if the person intentionally
 1-36 or knowingly camps in a public place without the effective consent
 1-37 of the officer or agency having the legal duty or authority to
 1-38 manage the public place.

1-39 (c) The actor's intent or knowledge may be established
 1-40 through evidence of activities associated with sustaining a living
 1-41 accommodation that are conducted in a public place, including:

1-42 (1) cooking;

1-43 (2) making a fire;

1-44 (3) storing personal belongings for an extended
 1-45 period;

1-46 (4) digging; or

1-47 (5) sleeping.

1-48 (d) Consent given by an officer or agency of a political
 1-49 subdivision is not effective for purposes of Subsection (b), unless
 1-50 given to authorize the person to camp for:

1-51 (1) recreational purposes;

1-52 (2) purposes of sheltering homeless individuals, if
 1-53 the property on which the camping occurs is subject to a plan
 1-54 approved under Subchapter PP, Chapter 2306, Government Code, and
 1-55 the camping occurs in a manner that complies with the plan;

1-56 (3) purposes permitted by a beach access plan that has
 1-57 been approved under Section 61.015, Natural Resources Code, and the
 1-58 camping occurs in a manner that complies with the plan; or

1-59 (4) purposes related to providing emergency shelter
 1-60 during a disaster declared under Section 418.014, Government Code,
 1-61 or a local disaster declared under Section 418.108 of that code.

2-1 (e) An offense under this section is a Class C misdemeanor.
2-2 (f) This section does not preempt an ordinance, order, rule,
2-3 or other regulation adopted by a state agency or political
2-4 subdivision relating to prohibiting camping in a public place or
2-5 affect the authority of a state agency or political subdivision to
2-6 adopt or enforce an ordinance, order, rule, or other regulation
2-7 relating to prohibiting camping in a public place if the ordinance,
2-8 order, rule, or other regulation:
2-9 (1) is compatible with and equal to or more stringent
2-10 than the offense prescribed by this section; or
2-11 (2) relates to an issue not specifically addressed by
2-12 this section.
2-13 (g) Except as provided by Subsection (h), before or at the
2-14 time a peace officer arrests or issues a citation to a person for an
2-15 offense under this section, the peace officer must make a
2-16 reasonable effort to:
2-17 (1) advise the person of an alternative place at which
2-18 the person may lawfully camp; and
2-19 (2) contact, if reasonable and appropriate, an
2-20 appropriate official of the political subdivision in which the
2-21 public place is located, or an appropriate nonprofit organization
2-22 operating within that political subdivision, and request the
2-23 official or organization to provide the person with:
2-24 (A) information regarding the prevention of
2-25 human trafficking; or
2-26 (B) any other services that would reduce the
2-27 likelihood of the person suspected of committing the offense
2-28 continuing to camp in the public place.
2-29 (h) Subsection (g) does not apply if the peace officer
2-30 determines there is an imminent threat to the health or safety of
2-31 any person to the extent that compliance with that subsection is
2-32 impracticable.
2-33 (i) If the person is arrested or detained solely for an
2-34 offense under this section, a peace officer enforcing this section
2-35 shall ensure that all of the person's personal property not
2-36 designated as contraband under other law is preserved by:
2-37 (1) permitting the person to remove all the property
2-38 from the public place at the time of the person's departure; or
2-39 (2) taking custody of the property and allowing the
2-40 person to retrieve the property after the person is released from
2-41 custody.
2-42 (j) A fee may not be charged for the storage or release of
2-43 property under Subsection (i)(2).
2-44 SECTION 2. Chapter 2306, Government Code, is amended by
2-45 adding Subchapter PP to read as follows:
2-46 SUBCHAPTER PP. PROPERTY DESIGNATED BY POLITICAL SUBDIVISION FOR
2-47 CAMPING BY HOMELESS INDIVIDUALS
2-48 Sec. 2306.1121. DEFINITION. In this subchapter, "camp" has
2-49 the meaning assigned by Section 48.05, Penal Code.
2-50 Sec. 2306.1122. APPROVAL REQUIRED. (a) A political
2-51 subdivision may not designate a property to be used by homeless
2-52 individuals to camp unless the department approves a plan described
2-53 by Section 2306.1123(b).
2-54 (b) Not later than the 30th day after the date the
2-55 department receives a plan submitted by a political subdivision
2-56 under this subchapter, the department shall make a final
2-57 determination regarding approval of the plan.
2-58 Sec. 2306.1123. PLAN REQUIREMENTS. (a) In this section,
2-59 "proposed new campers" means homeless individuals the applicant
2-60 intends to allow to camp at the property.
2-61 (b) A plan required by Section 2306.1122 must describe each
2-62 of the following with respect to a proposed property:
2-63 (1) the availability of local health care for proposed
2-64 new campers, including access to Medicaid services and mental
2-65 health services;
2-66 (2) the availability of indigent services for proposed
2-67 new campers;
2-68 (3) the availability of reasonably affordable public
2-69 transportation for proposed new campers;

3-1 (4) local law enforcement resources in the area; and
3-2 (5) the steps the applicant has taken to coordinate
3-3 with the local mental health authority to provide for any proposed
3-4 new campers.

3-5 (c) An applicant shall respond to reasonable requests for
3-6 additional information made by the department regarding the
3-7 proposed property or plan.

3-8 SECTION 3. Subtitle C, Title 11, Local Government Code, is
3-9 amended by adding Chapter 364 to read as follows:

3-10 CHAPTER 364. ENFORCEMENT OF PUBLIC CAMPING BANS

3-11 Sec. 364.001. DEFINITIONS. In this chapter:

3-12 (1) "Local entity" means:

3-13 (A) the governing body of a municipality or
3-14 county;

3-15 (B) an officer or employee of or a division,
3-16 department, or other body that is part of a municipality or county,
3-17 including a sheriff, municipal police department, municipal
3-18 attorney, or county attorney; and

3-19 (C) a district attorney or criminal district
3-20 attorney.

3-21 (2) "Policy" includes a formal, written rule,
3-22 ordinance, order, or policy and an informal, unwritten policy.

3-23 (3) "Public camping ban" means a law, rule, ordinance,
3-24 order, or other regulation that prohibits camping in a public
3-25 place, including Section 48.05, Penal Code.

3-26 Sec. 364.002. POLICY ON CAMPING BANS. (a) A local entity
3-27 may not adopt or enforce a policy under which the entity prohibits
3-28 or discourages the enforcement of any public camping ban.

3-29 (b) In compliance with Subsection (a), a local entity may
3-30 not prohibit or discourage a peace officer or prosecuting attorney
3-31 who is employed by or otherwise under the direction or control of
3-32 the entity from enforcing a public camping ban.

3-33 (c) This section does not prohibit a policy that encourages
3-34 diversion or a provision of services in lieu of citation or arrest.

3-35 Sec. 364.003. INJUNCTIVE RELIEF. (a) The attorney general
3-36 may bring an action in a district court in Travis County or in a
3-37 county in which the principal office of the entity is located to
3-38 enjoin a violation of Section 364.002.

3-39 (b) The attorney general may recover reasonable expenses
3-40 incurred in obtaining relief under this section, including court
3-41 costs, reasonable attorney's fees, investigative costs, witness
3-42 fees, and deposition costs.

3-43 Sec. 364.004. DENIAL OF STATE GRANT FUNDS. (a) A local
3-44 entity may not receive state grant funds, and state grant funds for
3-45 the local entity shall be denied, for the state fiscal year
3-46 following the year in which a final judicial determination in an
3-47 action brought under Section 364.003 is made that the entity has
3-48 intentionally violated Section 364.002.

3-49 (b) The comptroller shall adopt rules to implement this
3-50 section uniformly among the state agencies from which state grant
3-51 funds are distributed to a municipality or county.

3-52 (c) A local entity that has not violated Section 364.002 may
3-53 not be denied state grant funds, regardless of whether the entity is
3-54 a part of another entity that is in violation of that section.

3-55 SECTION 4. Subchapter PP, Chapter 2306, Government Code, as
3-56 added by this Act, applies only to the designation and use of
3-57 property described by that subchapter that first begins on or after
3-58 the effective date of this Act. The designation and use of property
3-59 described by Subchapter PP, Chapter 2306, Government Code, as added
3-60 by this Act, that first began before the effective date of this Act
3-61 is governed by the law in effect when the designation and use first
3-62 began, and the former law is continued in effect for that purpose.

3-63 SECTION 5. This Act takes effect September 1, 2021.

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