

BILL ANALYSIS

C.S.H.B. 2813
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Civil Practices
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, Texas law contains two statutes that deal with public or common nuisance. These statutes, similar in design and intent are used by local governments to address problem locations where owners, landlords, and property managers are not taking steps within their powers to prevent such activities as gambling, prostitution, and illegal drug use from occurring. Having two statutes, with sometimes conflicting provisions, makes it difficult to determine which is the appropriate statute governing a particular case.

CSHB 2813 combines and modernizes the two statutes while incorporating provisions for other nuisance issues, making it an omnibus nuisance bill. The bill allows certain entities to issue civil injunctions to deter certain gang related conduct and seeks to aid communities which experience high volumes of gang activity to be able to participate in the disenfranchising of gang-related gatherings.

The bill allows certain municipalities to create a nuisance abatement fund for the purpose of ongoing nuisance abatement, including hiring and compensation of enforcement personnel. This fund would consist of monies from actions and fines resulting from nuisance enforcement, donations and grants.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

CSHB 2813 amends Subchapter A, Chapter 125, Civil Practice and Remedies Code. It provides definition of terms and adds murder and capital murder to conditions under which a person maintains a common nuisance. It provides for suits to abate common nuisance, injunctions, and fines of from \$1,000 to \$10,000 and/or confinement in jail for a term of not less than 10 or more than 30 days. Judgements must order that the place where a nuisance exists be closed for one year unless the owner, tenant or lessee posts a bond. Provides bond requirements and notice requirements for subsequent purchasers or mortgagees. Makes conforming amendments and deletes current language regarding a multiunit residential property at which a public nuisance exists.

CSHB 2813 amends Subchapter C, Chapter 125, Civil Practice and Remedies Code, by adding Section 125.047 to provide for the creation of a Nuisance Abatement Fund in certain municipalities to be used for the hiring and compensation of enforcing personnel; monies for the fund to come from actions and settlements under this chapter and other sources, including fines, donations and grants.

Further, it amends Sections 125.061-125.063, Civil Practice and Remedies Code, providing definitions, including what constitutes gang activity. CSHB 2813 amends Subchapter D, Chapter 125, Civil Practice and Remedies Code, by adding Section 125.0675 to provide for injunctive relief. Repeals Subchapter B, Chapter 125, and Section 125.041, Civil Practice and Remedies Code.

EFFECTIVE DATE

September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The original bill was a substantive rewrite of the public and common nuisance statutes and provide a penalty. CSHB 2813 includes this language as well as the substance of three other nuisance bills. It addresses additional nuisance issues, by allowing certain entities to issue civil injunctions to deter certain gang related conduct and gatherings and to prevent combination and criminal street gangs from engaging in future activities; it also sets terms for these injunctions. The bill allows certain municipalities to create a

nuisance abatement fund for the purpose of ongoing nuisance abatement, including hiring and compensation of enforcement personnel; monies for the fund will come from actions and settlements under this chapter and other sources, including fines, donations and grants.