

BILL ANALYSIS

Senate Research Center

H.B. 240
By: Hernandez (Huffman)
Criminal Justice
5/18/2017
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties contend that courts are uncertain regarding what evidentiary weight to assign the fact that massage services occur in violation of laws regulating massage therapy and other massage services at a place unlicensed for that purpose in a nuisance-abatement suit and that such uncertainty diminishes the efficacy of such suits in combating human trafficking.

H.B. 240 addresses this issue by making proof that unlawful services occurring at unlicensed massage parlors prima facie evidence that the defendant in a nuisance and abatement suit knowingly tolerated the activity and that the activity was habitual.

H.B. 240 amends current law relating to evidence in a suit to abate certain common nuisances and to notice of certain arrests.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 125, Civil Practice and Remedies Code, by adding Section 125.0017, as follows:

Sec. 125.0017. NOTICE OF ARREST FOR CERTAIN ACTIVITIES. Requires the law enforcement agency, if a law enforcement agency makes an arrest related to an activity described by Section 125.0015(a)(6) (relating to the classification of a person's maintenance of a certain place that tolerates certain prostitution as common nuisance) or (7) (relating to the classification of a person's maintenance of a certain place that compels prostitution as common nuisance) that occurs at property leased to a person operating a massage establishment as defined by Section 455.001 (Definitions), Occupations Code, not later than the seventh day after the date of the arrest, to provide written notice by certified mail to the property owner of the arrest.

SECTION 2. Amends Section 125.002, Civil Practice and Remedies Code, by adding Subsection (b-1), as follows:

(b-1) Authorizes a person bringing the suit, if the nuisance that is the basis of the suit brought under Subsection (a) (relating to a suit to enjoin and abate a common nuisance to be brought by a certain individual) involves massage therapy or other massage services that are provided in violation of Chapter 455 (Massage Therapy), Occupations Code, to request a landowner or landlord of the place where the nuisance is allegedly maintained to provide the contact information of the business or the owner of the business. Requires the landowner or landlord to provide the requested information not later than the seventh day after the date the landowner or landlord receives the request.

SECTION 3. Amends Section 125.004, Civil Practice and Remedies Code, by adding Subsection (a-1) and amending Subsection (d), as follows:

(a-1) Provides that if the defendant is a landowner who leases real estate to a person operating a massage establishment as defined by Section 455.001, Occupations Code, proof that an activity described by Section 125.0015(a)(6) or (7) was committed at the massage establishment after notice of an arrest was provided to the landowner in accordance with Section 125.0017 is prima facie evidence that the defendant knowingly tolerated the activity.

(d) Creates an exception under Subsection (a-1) and makes a nonsubstantive change.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2017.