

BILL ANALYSIS

C.S.H.B. 715
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties are concerned that a defendant in a suit to abate a common nuisance who leases real estate to a person operating a massage establishment as a cover for prostitution can avoid certain legal consequences by claiming ignorance of that lessee's activities. C.S.H.B. 715 seeks to address this concern by requiring a law enforcement agency making an arrest related to certain prostitution-related activities that occurred at property leased to a person operating a massage establishment to provide notice of the arrest to the lessor and by making the fact that certain prostitution-related activities occurred at the massage establishment after such notice was provided prima facie evidence that the lessor knowingly tolerated those activities.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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

C.S.H.B. 715 amends the Civil Practice and Remedies Code to require a law enforcement agency that makes an arrest related to an activity constituting prostitution, promotion of prostitution, aggravated promotion of prostitution, or compelling prostitution that occurs at property leased to a person operating a massage establishment to provide written notice by certified mail to the property owner of the arrest not later than the seventh day after the date of the arrest. The bill establishes proof that such an activity was committed at a massage establishment after the required notice of arrest was provided to a defendant landowner who leases real estate to a person operating the massage establishment as prima facie evidence that the defendant knowingly tolerated the activity for purposes of statutory provisions relating to evidence in a suit to abate certain common nuisances.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 715 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

No equivalent provision.

SECTION 1. Section 125.004, Civil Practice and Remedies Code, is amended by adding Subsection (a-1) and amending Subsection (d) to read as follows:

(a-1) 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) is committed at the massage establishment

is prima facie evidence that the defendant knowingly tolerated the activity.

(d) Notwithstanding Subsections [Subsection] (a) and (a-1), evidence that the defendant, the defendant's authorized representative, or another person acting at the direction of the defendant or the defendant's authorized representative requested law enforcement or emergency assistance with respect to an activity at the place where the common nuisance is allegedly maintained is not admissible for the purpose of showing the defendant tolerated the activity or failed to make reasonable attempts to abate the activity alleged to constitute the nuisance but may be admitted for other purposes, such as showing that a crime listed in Section 125.0015 occurred. Evidence that the defendant refused to cooperate with law enforcement or emergency services with respect to the activity is admissible. The

HOUSE COMMITTEE SUBSTITUTE

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

Sec. 125.0017. NOTICE OF ARREST FOR CERTAIN ACTIVITIES. If a law enforcement agency makes an arrest related to an activity described by Section 125.0015(a)(6) or (7) that occurs at property leased to a person operating a massage establishment as defined by Section 455.001, Occupations Code, not later than the seventh day after the date of the arrest, the law enforcement agency shall provide written notice by certified mail to the property owner of the arrest.

SECTION 2. Section 125.004, Civil Practice and Remedies Code, is amended by adding Subsection (a-1) and amending Subsection (d) to read as follows:

(a-1) 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) Notwithstanding Subsections [Subsection] (a) and (a-1), evidence that the defendant, the defendant's authorized representative, or another person acting at the direction of the defendant or the defendant's authorized representative requested law enforcement or emergency assistance with respect to an activity at the place where the common nuisance is allegedly maintained is not admissible for the purpose of showing the defendant tolerated the activity or failed to make reasonable attempts to abate the activity alleged to constitute the nuisance but may be admitted for other purposes, such as showing that a crime listed in Section 125.0015 occurred. Evidence that the defendant refused to cooperate with law enforcement or emergency services with respect to the activity is admissible. The

posting of a sign prohibiting the activity alleged is not conclusive evidence that the owner did not tolerate the activity.

posting of a sign prohibiting the activity alleged is not conclusive evidence that the owner did not tolerate the activity.

SECTION 2. The change in law made by this Act applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrues before the effective date of this Act is governed by the law applicable to the cause of action immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3. Same as introduced version.

SECTION 3. This Act takes effect September 1, 2017.

SECTION 4. Same as introduced version.