

By: Ortega

H.B. No. 2359

A BILL TO BE ENTITLED

AN ACT

relating to common nuisances.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 125.0015(a), Civil Practice and Remedies Code, is amended to read as follows:

(a) A person who maintains a place to which persons habitually go for the following purposes and who knowingly tolerates the activity and furthermore fails to make reasonable attempts to abate the activity maintains a common nuisance:

(1) discharge of a firearm in a public place as prohibited by the Penal Code;

(2) reckless discharge of a firearm as prohibited by the Penal Code;

(3) engaging in organized criminal activity as a member of a combination as prohibited by the Penal Code;

(4) delivery, possession, manufacture, or use of a ~~controlled~~ substance or other item in violation of Chapter 481, Health and Safety Code;

(5) gambling, gambling promotion, or communicating gambling information as prohibited by the Penal Code;

(6) prostitution, promotion of prostitution, or aggravated promotion of prostitution as prohibited by the Penal Code;

(7) compelling prostitution as prohibited by the Penal

- 1 Code;
- 2 (8) commercial manufacture, commercial distribution,
3 or commercial exhibition of obscene material as prohibited by the
4 Penal Code;
- 5 (9) aggravated assault as described by Section 22.02,
6 Penal Code;
- 7 (10) sexual assault as described by Section 22.011,
8 Penal Code;
- 9 (11) aggravated sexual assault as described by Section
10 22.021, Penal Code;
- 11 (12) robbery as described by Section 29.02, Penal
12 Code;
- 13 (13) aggravated robbery as described by Section 29.03,
14 Penal Code;
- 15 (14) unlawfully carrying a weapon as described by
16 Section 46.02, Penal Code;
- 17 (15) murder as described by Section 19.02, Penal Code;
- 18 (16) capital murder as described by Section 19.03,
19 Penal Code;
- 20 (17) continuous sexual abuse of young child or
21 children as described by Section 21.02, Penal Code;
- 22 (18) massage therapy or other massage services in
23 violation of Chapter 455, Occupations Code;
- 24 (19) employing a minor at a sexually oriented business
25 as defined by Section 243.002, Local Government Code;
- 26 (20) trafficking of persons as described by Section
27 20A.02, Penal Code;

1 (21) sexual conduct or performance by a child as
2 described by Section 43.25, Penal Code; [~~or~~]

3 (22) employment harmful to a child as described by
4 Section 43.251, Penal Code;

5 (23) criminal trespass as described by Section 30.05,
6 Penal Code;

7 (24) disorderly conduct as described by Section 42.01,
8 Penal Code;

9 (25) arson as described by Section 28.02, Penal Code;

10 (26) criminal mischief as described by Section 28.03,
11 Penal Code, that causes a pecuniary loss of \$500 or more; or

12 (27) a graffiti offense in violation of Section 28.08,
13 Penal Code.

14 SECTION 2. Section 125.002, Civil Practice and Remedies
15 Code, is amended by adding Subsection (a-1) to read as follows:

16 (a-1) Notwithstanding Subsection (a), a suit to enjoin or
17 abate a common nuisance that is brought by a county attorney of a
18 county with a population of 800,000 or more and located on the
19 international border may be brought in the name of the county.

20 SECTION 3. Section 125.046(a), Civil Practice and Remedies
21 Code, is amended to read as follows:

22 (a) If, in any judicial proceeding under Subchapter A, a
23 court determines that a person is maintaining a vacant lot, vacant
24 or abandoned building, or multiunit residential property that is a
25 common nuisance, the court may, on its own motion or on the motion
26 of any party, order the appointment of a receiver to manage the
27 property or render any other order allowed by law as necessary to

1 abate the nuisance.

2 SECTION 4. Section 125.047(a)(2), Civil Practice and
3 Remedies Code, is amended to read as follows:

4 (2) "Nuisance abatement" means an activity taken by a
5 municipality or county to reduce the occurrences of a common or
6 public nuisance.

7 SECTION 5. Sections 125.047(b), (c), and (d), Civil
8 Practice and Remedies Code, are amended to read as follows:

9 (b) This section applies only to:

10 (1) a municipality with a population of 1.5 million or
11 more; or

12 (2) a county with a population of 800,000 or more and
13 located on the international border.

14 (c) A municipality or county shall create a fund as a
15 separate account in the treasury of the municipality or county.

16 (d) The fund consists of:

17 (1) money awarded the municipality or county in an
18 action under this chapter;

19 (2) money awarded the municipality or county under a
20 settlement to an action under this chapter;

21 (3) fines resulting from code enforcement citations
22 issued by the municipality or county for conduct defined as a common
23 or public nuisance under this chapter;

24 (4) bonds forfeited to the municipality or county
25 under this chapter; and

26 (5) donations or grants made to the municipality or
27 county for the purpose of nuisance abatement.

1 SECTION 6. This Act takes effect September 1, 2017.