

1-1 By: Kolkhorst S.B. No. 1196
 1-2 (In the Senate - Filed March 2, 2017; March 9, 2017, read
 1-3 first time and referred to Committee on Criminal Justice;
 1-4 April 10, 2017, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 8, Nays 0; April 10, 2017,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
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 COMMITTEE SUBSTITUTE FOR S.B. No. 1196 By: Perry

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

1-21 relating to the declaration of a common nuisance involving a
 1-22 computer network or web address.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 125.001, Civil Practice and Remedies
 1-25 Code, is amended by adding Subdivisions (1-a) and (4) to read as
 1-26 follows:

1-27 (1-a) "Computer network" means the interconnection of
 1-28 two or more computers or computer systems by satellite, microwave,
 1-29 line, or other communication medium with the capability to transmit
 1-30 information between the computers.

1-31 (4) "Web address" means a website operating on the
 1-32 Internet.

1-33 SECTION 2. Section 125.0015, Civil Practice and Remedies
 1-34 Code, is amended by adding Subsections (c) and (d) to read as
 1-35 follows:

1-36 (c) A person operating a web address or computer network in
 1-37 connection with an activity described by Subsection (a)(3), (6),
 1-38 (7), (10), (11), (17), (18), (19), (20), (21), or (22) maintains a
 1-39 common nuisance.

1-40 (d) Subsection (c) does not apply to:

1-41 (1) a provider of remote computing services or
 1-42 electronic communication services to the public;

1-43 (2) a provider of an interactive computer service as
 1-44 defined by 47 U.S.C. Section 230;

1-45 (3) an Internet service provider;

1-46 (4) a search engine operator;

1-47 (5) a browsing or hosting company;

1-48 (6) an operating system provider; or

1-49 (7) a device manufacturer.

1-50 SECTION 3. Subchapter A, Chapter 125, Civil Practice and
 1-51 Remedies Code, is amended by adding Section 125.0025 to read as
 1-52 follows:

1-53 Sec. 125.0025. SUIT TO DECLARE CERTAIN COMMON NUISANCES.

1-54 (a) A suit to declare that a person operating a web address or
 1-55 computer network is maintaining a common nuisance may be brought by
 1-56 an individual, by the attorney general, or by a district, county, or
 1-57 city attorney.

1-58 (b) Except as provided by Section 125.003(d), on a finding
 1-59 that a web address or computer network is a common nuisance, the
 1-60 sole remedy available is a judicial finding issued to the attorney

2-1 general.
2-2 (c) The attorney general may:
2-3 (1) notify Internet service providers, search engine
2-4 operators, browsing or hosting companies, or device manufacturers
2-5 on which applications are hosted of the judicial finding issued to
2-6 the attorney general under Subsection (b) to determine if the
2-7 persons notified are able to offer technical assistance to the
2-8 attorney general in a manner consistent with 47 U.S.C. Section 230;
2-9 or

2-10 (2) post the judicial finding issued to the attorney
2-11 general under Subsection (b) on the attorney general's Internet
2-12 website.

2-13 SECTION 4. The heading to Section 125.002, Civil Practice
2-14 and Remedies Code, is amended to read as follows:

2-15 Sec. 125.002. SUIT TO ABATE CERTAIN COMMON NUISANCES
2-16 [~~NUISANCE~~]; BOND.

2-17 SECTION 5. Sections 125.002(a), (g), and (h), Civil
2-18 Practice and Remedies Code, are amended to read as follows:

2-19 (a) A suit to enjoin and abate a common nuisance described
2-20 by Section 125.0015(a) or (b) may be brought by an individual, by
2-21 the attorney general, or by a district, county, or city attorney.
2-22 The suit must be brought in the county in which it is alleged to
2-23 exist against the person who is maintaining or about to maintain the
2-24 nuisance. The suit must be brought in the name of the state if
2-25 brought by the attorney general or a district or county attorney, in
2-26 the name of the city if brought by a city attorney, or in the name of
2-27 the individual if brought by a private citizen. Verification of the
2-28 petition or proof of personal injury by the acts complained of need
2-29 not be shown. For purposes of this subsection, personal injury may
2-30 include economic or monetary loss.

2-31 (g) In an action brought under this chapter, other than an
2-32 action brought under Section 125.0025, the petitioner may file a
2-33 notice of lis pendens and a certified copy of an order of the court
2-34 in the office of the county clerk in each county in which the land is
2-35 located. The notice of lis pendens must conform to the requirements
2-36 of Section 12.007, Property Code, and constitutes notice as
2-37 provided by Section 13.004, Property Code. A certified copy of an
2-38 order of the court filed in the office of the county clerk
2-39 constitutes notice of the terms of the order and is binding on
2-40 subsequent purchasers and lienholders.

2-41 (h) A person who may bring a suit under Subsection (a)
2-42 [~~Section 125.0015~~] shall consider, among other factors, whether the
2-43 property owner, the owner's authorized representative, or the
2-44 operator or occupant of the business, dwelling, or other place
2-45 where the criminal acts occurred:

2-46 (1) promptly notifies the appropriate governmental
2-47 entity or the entity's law enforcement agency of the occurrence of
2-48 criminal acts on the property; and

2-49 (2) cooperates with the governmental entity's law
2-50 enforcement investigation of criminal acts occurring at the
2-51 property.

2-52 SECTION 6. This Act takes effect September 1, 2017.

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