

SENATE AMENDMENTS

2nd Printing

By: Capriglione, Harless, Lucio III, Geren,
King of Parker, et al.

H.B. No. 1925

A BILL TO BE ENTITLED

1 AN ACT

2 relating to prohibitions on camping in a public place and to a
3 political subdivision's designation of property for camping by
4 homeless individuals; creating a criminal offense.

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

6 SECTION 1. Chapter 48, Penal Code, is amended by adding
7 Section 48.05 to read as follows:

8 Sec. 48.05. PROHIBITED CAMPING. (a) In this section:

9 (1) "Camp" means to reside temporarily in a place,
10 with shelter.

11 (2) "Shelter" includes a tent, tarpaulin, lean-to,
12 sleeping bag, bedroll, blankets, or any form of temporary,
13 semipermanent, or permanent shelter, other than clothing or any
14 handheld device, designed to protect a person from weather
15 conditions that threaten personal health and safety.

16 (b) A person commits an offense if the person intentionally
17 or knowingly camps in a public place without the effective consent
18 of the officer or agency having the legal duty or authority to
19 manage the public place.

20 (c) The actor's intent or knowledge may be established
21 through evidence of activities associated with sustaining a living
22 accommodation that are conducted in a public place, including:

23 (1) cooking;

24 (2) making a fire;

1 (3) storing personal belongings for an extended
2 period;

3 (4) digging; or

4 (5) sleeping.

5 (d) Consent given by an officer or agency of a political
6 subdivision is not effective for purposes of Subsection (b), unless
7 given to authorize the person to camp for:

8 (1) recreational purposes;

9 (2) purposes of sheltering homeless individuals, if
10 the property on which the camping occurs is subject to a plan
11 approved under Subchapter PP, Chapter 2306, Government Code, and
12 the camping occurs in a manner that complies with the plan;

13 (3) purposes permitted by a beach access plan that has
14 been approved under Section 61.015, Natural Resources Code, and the
15 camping occurs in a manner that complies with the plan; or

16 (4) purposes related to providing emergency shelter
17 during a disaster declared under Section 418.014, Government Code,
18 or a local disaster declared under Section 418.108 of that code.

19 (e) An offense under this section is a Class C misdemeanor.

20 (f) This section does not preempt an ordinance, order, rule,
21 or other regulation adopted by a state agency or political
22 subdivision relating to prohibiting camping in a public place or
23 affect the authority of a state agency or political subdivision to
24 adopt or enforce an ordinance, order, rule, or other regulation
25 relating to prohibiting camping in a public place if the ordinance,
26 order, rule, or other regulation:

27 (1) is compatible with and equal to or more stringent

1 than the offense prescribed by this section; or

2 (2) relates to an issue not specifically addressed by
3 this section.

4 (g) Except as provided by Subsection (h), before or at the
5 time a peace officer arrests or issues a citation to a person for an
6 offense under this section, the peace officer must make a
7 reasonable effort to:

8 (1) advise the person of an alternative place at which
9 the person may lawfully camp; and

10 (2) contact, if reasonable and appropriate, an
11 appropriate official of the political subdivision in which the
12 public place is located, or an appropriate nonprofit organization
13 operating within that political subdivision, and request the
14 official or organization to provide the person with:

15 (A) information regarding the prevention of
16 human trafficking; or

17 (B) any other services that would reduce the
18 likelihood of the person suspected of committing the offense
19 continuing to camp in the public place.

20 (h) Subsection (g) does not apply if the peace officer
21 determines there is an imminent threat to the health or safety of
22 any person to the extent that compliance with that subsection is
23 impracticable.

24 (i) If the person is arrested or detained solely for an
25 offense under this section, a peace officer enforcing this section
26 shall ensure that all of the person's personal property not
27 designated as contraband under other law is preserved by:

1 (1) permitting the person to remove all the property
2 from the public place at the time of the person's departure; or

3 (2) taking custody of the property and allowing the
4 person to retrieve the property after the person is released from
5 custody.

6 (j) A fee may not be charged for the storage or release of
7 property under Subsection (i)(2).

8 SECTION 2. Chapter 2306, Government Code, is amended by
9 adding Subchapter PP to read as follows:

10 SUBCHAPTER PP. PROPERTY DESIGNATED BY POLITICAL SUBDIVISION FOR
11 CAMPING BY HOMELESS INDIVIDUALS

12 Sec. 2306.1121. DEFINITION. In this subchapter, "camp" has
13 the meaning assigned by Section 48.05, Penal Code.

14 Sec. 2306.1122. APPROVAL REQUIRED. (a) A political
15 subdivision may not designate a property to be used by homeless
16 individuals to camp unless the department approves a plan described
17 by Section 2306.1123(b).

18 (b) Not later than the 30th day after the date the
19 department receives a plan submitted by a political subdivision
20 under this subchapter, the department shall make a final
21 determination regarding approval of the plan.

22 Sec. 2306.1123. PLAN REQUIREMENTS. (a) In this section,
23 "proposed new campers" means homeless individuals the applicant
24 intends to allow to camp at the property.

25 (b) A plan required by Section 2306.1122 must describe each
26 of the following with respect to a proposed property:

27 (1) the availability of local health care for proposed

1 new campers, including access to Medicaid services and mental
2 health services;

3 (2) the availability of indigent services for proposed
4 new campers;

5 (3) the availability of reasonably affordable public
6 transportation for proposed new campers;

7 (4) local law enforcement resources in the area; and

8 (5) the steps the applicant has taken to coordinate
9 with the local mental health authority to provide for any proposed
10 new campers.

11 (c) An applicant shall respond to reasonable requests for
12 additional information made by the department regarding the
13 proposed property or plan.

14 SECTION 3. Subtitle C, Title 11, Local Government Code, is
15 amended by adding Chapter 364 to read as follows:

16 CHAPTER 364. ENFORCEMENT OF PUBLIC CAMPING BANS

17 Sec. 364.001. DEFINITIONS. In this chapter:

18 (1) "Local entity" means:

19 (A) the governing body of a municipality or
20 county;

21 (B) an officer or employee of or a division,
22 department, or other body that is part of a municipality or county,
23 including a sheriff, municipal police department, municipal
24 attorney, or county attorney; and

25 (C) a district attorney or criminal district
26 attorney.

27 (2) "Policy" includes a formal, written rule,

1 ordinance, order, or policy and an informal, unwritten policy.

2 (3) "Public camping ban" means a law, rule, ordinance,
3 order, or other regulation that prohibits camping in a public
4 place, including Section 48.05, Penal Code.

5 Sec. 364.002. POLICY ON CAMPING BANS. (a) A local entity
6 may not adopt or enforce a policy under which the entity prohibits
7 or discourages the enforcement of any public camping ban.

8 (b) In compliance with Subsection (a), a local entity may
9 not prohibit or discourage a peace officer or prosecuting attorney
10 who is employed by or otherwise under the direction or control of
11 the entity from enforcing a public camping ban.

12 (c) This section does not prohibit a policy that encourages
13 diversion or a provision of services in lieu of citation or arrest.

14 Sec. 364.003. INJUNCTIVE RELIEF. (a) The attorney general
15 may bring an action in a district court in Travis County or in a
16 county in which the principal office of the entity is located to
17 enjoin a violation of Section 364.002.

18 (b) The attorney general may recover reasonable expenses
19 incurred in obtaining relief under this section, including court
20 costs, reasonable attorney's fees, investigative costs, witness
21 fees, and deposition costs.

22 Sec. 364.004. DENIAL OF STATE GRANT FUNDS. (a) A local
23 entity may not receive state grant funds, and state grant funds for
24 the local entity shall be denied, for the state fiscal year
25 following the year in which a final judicial determination in an
26 action brought under Section 364.003 is made that the entity has
27 intentionally violated Section 364.002.

1 (b) The comptroller shall adopt rules to implement this
2 section uniformly among the state agencies from which state grant
3 funds are distributed to a municipality or county.

4 (c) A local entity that has not violated Section 364.002 may
5 not be denied state grant funds, regardless of whether the entity is
6 a part of another entity that is in violation of that section.

7 SECTION 4. Subchapter PP, Chapter 2306, Government Code, as
8 added by this Act, applies only to the designation and use of
9 property described by that subchapter that first begins on or after
10 the effective date of this Act. The designation and use of property
11 described by Subchapter PP, Chapter 2306, Government Code, as added
12 by this Act, that first began before the effective date of this Act
13 is governed by the law in effect when the designation and use first
14 began, and the former law is continued in effect for that purpose.

15 SECTION 5. This Act takes effect September 1, 2021.

ADOPTED

MAY 20 2021

Latey Spaw
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: *D. Beal*

1 Amend H.B. No. 1925 (senate committee report) as follows:

2 (1) In SECTION 2 of the bill, in added Section 2306.1123(b),
3 Government Code (page 2, line 61), strike "required by Section
4 2306.1122" and substitute "submitted for approval under this
5 subchapter".

6 (2) In SECTION 2 of the bill, immediately following added
7 Section 2306.1123, Government Code (page 3, between lines 7 and
8 8), insert the following:

9 Sec. 2306.1124. APPROVAL OF CERTAIN PROPERTY PROHIBITED.

10 The department may not approve a plan described by Section
11 2306.1123(b) if the department determines that a property proposed
12 under the plan is a public park.

13 (3) Strike SECTION 4 of the bill, adding transition language
14 (page 3, lines 55 through 62), and substitute the following:

15 SECTION 4. (a) Except as provided by Subsection (b) of this
16 section:

17 (1) Subchapter PP, Chapter 2306, Government Code, as
18 added by this Act, applies only to the designation and use of
19 property described by that subchapter that first begins on or after
20 the effective date of this Act; and

21 (2) the designation and use of property described by
22 Subchapter PP, Chapter 2306, Government Code, as added by this
23 Act, that first began before the effective date of this Act is
24 governed by the law in effect when the designation and use first
25 began, and the former law is continued in effect for that purpose.

1 (b) Subchapter PP, Chapter 2306, Government Code, as added by
2 this Act, applies to a public park, as described by Section
3 2306.1124, Government Code, as added by this Act, regardless of
4 the date that the public park was first designated by a political
5 subdivision to be used by homeless individuals to camp.

6 (c) A political subdivision that designated a property to be
7 used by homeless individuals to camp before the effective date of
8 this Act may apply on or after that date for approval of a plan
9 under Subchapter PP, Chapter 2306, Government Code, as added by
10 this Act.

[Handwritten signature]

Beverly Powell

J. J. [unclear] Eddie Lewis

Capo Bl
Caulle

Wampsey

Zuffanti

FLOOR AMENDMENT NO. 2

BY: *[Signature]*
D. Buckley

Layton

1 Amend H.B. 1925 (senate committee report) by striking the
2 following and renumbering subsequent SECTIONS of the bill
3 accordingly: Section 1. Chapter 48, Penal Code, is amended as
4 follows:

5 (1) Strike "arrests or" in Sec. 48.05 of the bill (page 2,
6 line 14.

ADOPTED
VV
MAY 20 1961
[Signature]
Secretary of the Senate

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 23, 2021

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1925 by Capriglione (Relating to prohibitions on camping in a public place and to a political subdivision's designation of property for camping by homeless individuals; creating a criminal offense.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code to create a Class C misdemeanor offense of intentionally or knowingly camping in a public place without effective consent.

The bill would amend the Government Code to require a political subdivision to file a plan with, and receive approval from, the Department of Housing and Community Affairs before designating a property to be used by homeless individuals to camp.

The bill would prohibit a local entity from adopting or enforcing a policy under which the entity prohibits or discourages the enforcement of any public camping ban. The Attorney General could bring an action against a locality violating that provision and a locality found in violation would be denied state grant funds for the state fiscal year following.

Based on information provided by the Comptroller of Public Accounts, the Office of the Attorney General, the Office of Court Administration, and the Department of Housing and Community Affairs, it is assumed that the costs associated with the bill could be absorbed using existing resources

Local Government Impact

A Class C misdemeanor is punishable by a fine of not more than \$500. In addition to the fine, punishment can include up to 180 days of deferred disposition. Costs associated with enforcement and prosecution could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal impact.

According to the Office of Court Administration, no significant fiscal impact to local courts is anticipated.

According to the Office of Attorney General, the bill would allow the agency to seek injunctive relief and recover reasonable expenses that were incurred in obtaining relief including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition costs against local entities who violate the bill. The local entity found to be in violation of the bill would be forced to provide or pay for legal representation and any expenses awarded by the court, which could be very costly. A local entity that violates the bill could also be denied state grant funds.

Source Agencies: 212 Office of Court Admin, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 332 Dept Housing-Comm Affairs

LBB Staff: JMc, LBO, AF, CMA, ANE, SMAT

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 16, 2021

TO: Honorable Paul Bettencourt, Chair, Senate Committee on Local Government

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1925 by Capriglione (Relating to prohibitions on camping in a public place and to a political subdivision's designation of property for camping by homeless individuals; creating a criminal offense.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code to create a Class C misdemeanor offense of intentionally or knowingly camping in a public place without effective consent.

The bill would amend the Government Code to require a political subdivision to file a plan with, and receive approval from, the Department of Housing and Community Affairs before designating a property to be used by homeless individuals to camp.

The bill would prohibit a local entity from adopting or enforcing a policy under which the entity prohibits or discourages the enforcement of any public camping ban. The Attorney General could bring an action against a locality violating that provision and a locality found in violation would be denied state grant funds for the state fiscal year following.

Based on information provided by the Comptroller of Public Accounts, the Office of the Attorney General, the Office of Court Administration, and the Department of Housing and Community Affairs, it is assumed that the costs associated with the bill could be absorbed using existing resources

Local Government Impact

A Class C misdemeanor is punishable by a fine of not more than \$500. In addition to the fine, punishment can include up to 180 days of deferred disposition. Costs associated with enforcement and prosecution could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal impact.

According to the Office of Court Administration, no significant fiscal impact to local courts is anticipated.

According to the Office of Attorney General, the bill would allow the agency to seek injunctive relief and recover reasonable expenses that were incurred in obtaining relief including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition costs against local entities who violate the bill. The local entity found to be in violation of the bill would be forced to provide or pay for legal representation and any expenses awarded by the court, which could be very costly. A local entity that violates the bill could also be denied state grant funds.

Source Agencies: 212 Office of Court Admin, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 332 Dept Housing-Comm Affairs

LBB Staff: JMc, AF, CMA, ANE, SMAT

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

March 24, 2021

TO: Honorable Chris Paddie, Chair, House Committee on State Affairs

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1925 by Capriglione (Relating to prohibitions on camping in a public place; creating a criminal offense.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code to create a Class C misdemeanor offense of intentionally or knowingly camping in a public place without consent. The bill would prohibit a local entity from adopting or enforcing a policy under which the entity prohibits or discourages the enforcement of any public camping ban.

Based on information provided by the Comptroller of Public Accounts, the Office of the Attorney General, and the Office of Court Administration, no significant fiscal impact to the State is anticipated.

Local Government Impact

According to the Texas Municipal League, no fiscal implication to cities is anticipated.

A Class C misdemeanor is punishable by a fine of not more than \$500. In addition to the fine, punishment can include up to 180 days of deferred disposition. Costs associated with enforcement and prosecution could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal impact.

Source Agencies: 212 Office of Court Admin, 302 Office of the Attorney General, 304 Comptroller of Public Accounts

LBB Staff: JMc, SMAT, CMA, ANE

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT
87TH LEGISLATIVE REGULAR SESSION

April 12, 2021

TO: Honorable Chris Paddie, Chair, House Committee on State Affairs

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1925 by Capriglione (Relating to prohibitions on camping in a public place; creating a criminal offense.), **As Introduced**

The provisions of the bill addressed by this analysis would amend the Penal Code as it relates to prohibitions on camping in a public place. Under the provisions of the bill, intentionally or knowingly camps in a public place without the consent of the officer or agency having the legal duty or authority to manage the public place would be punishable as a Class C misdemeanor.

A Class C misdemeanor is punishable by a fine not to exceed \$500 (up to 180 days of deferred disposition and no confinement). This analysis assumes the provisions of the bill would not result in a significant impact on the demand for state correctional resources.

Source

Agencies:

LBB Staff: JMc, SMAT, LM