

House Bill 1925
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

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

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

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

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

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

- (1) cooking;
- (2) making a fire;
- (3) storing personal belongings for an extended period;
- (4) digging; or
- (5) sleeping.

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

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

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(3) purposes permitted by a beach access plan that has been approved under Section 61.015, Natural Resources Code, and the camping occurs in a manner that complies with the plan; or
(4) purposes related to providing emergency shelter during a disaster declared under Section 418.014, Government Code, or a local disaster declared under Section 418.108 of that code.
(e) An offense under this section is a Class C misdemeanor.
(f) This section does not preempt an ordinance, order, rule, or other regulation adopted by a state agency or political subdivision relating to prohibiting camping in a public place or affect the authority of a state agency or political subdivision to adopt or enforce an ordinance, order, rule, or other regulation relating to prohibiting camping in a public place if the ordinance, order, rule, or other regulation:
(1) is compatible with and equal to or more stringent than the offense prescribed by this section; or
(2) relates to an issue not specifically addressed by this section.
(g) Except as provided by Subsection (h), before or at the time a peace officer arrests or issues a citation to a person for an offense under this section, the peace officer must make a reasonable effort to:
(1) advise the person of an alternative place at which the person may lawfully camp; and
(2) contact, if reasonable and appropriate, an appropriate official of the political subdivision in which the public place is located, or an appropriate nonprofit organization operating within that political subdivision, and request the official or organization to provide the person with:
(A) information regarding the prevention of human

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(1) is compatible with and equal to or more stringent than the offense prescribed by this section; or
(2) relates to an issue not specifically addressed by this section.
(g) Except as provided by Subsection (h), before or at the time a peace officer issues a citation to a person for an offense under this section, the peace officer must make a reasonable effort to: [FA2]
(1) advise the person of an alternative place at which the person may lawfully camp; and
(2) contact, if reasonable and appropriate, an appropriate official of the political subdivision in which the public place is located, or an appropriate nonprofit organization operating within that political subdivision, and request the official or organization to provide the person with:
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trafficking; or
(B) any other services that would reduce the likelihood of the person suspected of committing the offense continuing to camp in the public place.
(h) Subsection (g) does not apply if the peace officer determines there is an imminent threat to the health or safety of any person to the extent that compliance with that subsection is impracticable.
(i) If the person is arrested or detained solely for an offense under this section, a peace officer enforcing this section shall ensure that all of the person's personal property not designated as contraband under other law is preserved by:
(1) permitting the person to remove all the property from the public place at the time of the person's departure; or
(2) taking custody of the property and allowing the person to retrieve the property after the person is released from custody.
(j) A fee may not be charged for the storage or release of property under Subsection (i)(2).

SECTION 2. Chapter 2306, Government Code, is amended by adding Subchapter PP to read as follows:
SUBCHAPTER PP. PROPERTY DESIGNATED BY POLITICAL SUBDIVISION FOR CAMPING BY HOMELESS INDIVIDUALS
Sec. 2306.1121. DEFINITION. In this subchapter, "camp" has the meaning assigned by Section 48.05, Penal Code.
Sec. 2306.1122. APPROVAL REQUIRED. (a) A political subdivision may not designate a property to be used by homeless individuals to camp unless the department approves a plan described by Section 2306.1123(b).
(b) Not later than the 30th day after the date the department

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trafficking; or
(B) any other services that would reduce the likelihood of the person suspected of committing the offense continuing to camp in the public place.
(h) Subsection (g) does not apply if the peace officer determines there is an imminent threat to the health or safety of any person to the extent that compliance with that subsection is impracticable.
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Sec. 2306.1122. APPROVAL REQUIRED. (a) A political subdivision may not designate a property to be used by homeless individuals to camp unless the department approves a plan described by Section 2306.1123(b).
(b) Not later than the 30th day after the date the department

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receives a plan submitted by a political subdivision under this subchapter, the department shall make a final determination regarding approval of the plan.

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

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

(1) the availability of local health care for proposed new campers, including access to Medicaid services and mental health services;

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

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

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

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

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

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

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receives a plan submitted by a political subdivision under this subchapter, the department shall make a final determination regarding approval of the plan.

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

(b) A plan submitted for approval under this subchapter must describe each of the following with respect to a proposed property: [FA1(1)]

(1) the availability of local health care for proposed new campers, including access to Medicaid services and mental health services;

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

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

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

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

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

Sec. 2306.1124. APPROVAL OF CERTAIN PROPERTY PROHIBITED. The department may not approve a plan described by Section 2306.1123(b) if the department determines that a property proposed under the plan is a public park. [FA1(2)]

SECTION 3. Same as House version.

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CHAPTER 364. ENFORCEMENT OF PUBLIC CAMPING BANS

Sec. 364.001. DEFINITIONS. In this chapter:

(1) "Local entity" means:

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

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

(C) a district attorney or criminal district attorney.

(2) "Policy" includes a formal, written rule, ordinance, order, or policy and an informal, unwritten policy.

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

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

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

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

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

(b) The attorney general may recover reasonable expenses incurred in obtaining relief under this section, including court costs, reasonable attorney's fees, investigative costs, witness

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fees, and deposition costs.

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

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

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

SECTION 4.

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

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

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

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

(b) Subchapter PP, Chapter 2306, Government Code, as added by this Act, applies to a public park, as described by Section 2306.1124, Government Code, as added by this Act, regardless of the date that the public park was first designated

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by a political subdivision to be used by homeless individuals to camp.

(c) A political subdivision that designated a property to be used by homeless individuals to camp before the effective date of this Act may apply on or after that date for approval of a plan under Subchapter PP, Chapter 2306, Government Code, as added by this Act. [FA1(3)]

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

SECTION 5. Same as House version.