

BILL ANALYSIS

C.S.H.B. 240
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that courts are uncertain regarding what evidentiary weight to assign the fact that massage services occur in violation of laws regulating massage therapy and other massage services at a place unlicensed for that purpose in a nuisance-abatement suit and that such uncertainty diminishes the efficacy of such suits in combatting human trafficking. C.S.H.B. 240 seeks to address this issue by making proof that such violative services occur at such a place prima facie evidence that the defendant in such a suit knowingly tolerated the activity and that the activity was habitual.

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. 240 amends the Civil Practice and Remedies Code to authorize a person bringing a suit to enjoin and abate a common nuisance involving massage therapy or other massage services provided in violation of Occupations Code provisions regulating massage therapy to request a landowner or landlord of the place where the nuisance is allegedly maintained to provide the contact information of the business or the owner of the business and to require the landowner or landlord to provide the requested information not later than the seventh day after the date the landowner or landlord receives the request. The bill establishes proof that massage therapy or other massage services occurred in violation of Occupations Code provisions regulating massage therapy as prima facie evidence that the defendant-business, or defendant-owner of such business, providing such services knowingly tolerated the activity and that the place in which the business provides those services is habitually used for 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. 240 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) Proof that massage therapy or other massage services occur in violation of Chapter 455, Occupations Code, at a place not licensed for that purpose under that chapter is prima facie evidence that:

- (1) the defendant knowingly tolerated the activity; and
- (2) the place is habitually used for 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

HOUSE COMMITTEE SUBSTITUTE

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

(b-1) If the nuisance that is the basis of the suit brought under Subsection (a) involves massage therapy or other massage services that are provided in violation of Chapter 455, Occupations Code, a person bringing the suit may request a landowner or landlord of the place where the nuisance is allegedly maintained to provide the contact information of the business or the owner of the business. The landowner or landlord shall provide the requested information not later than the seventh day after the date the landowner or landlord receives the request.

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 business, or an owner of a business, that provides massage therapy or other massage services in violation of Chapter 455, Occupations Code, proof that those services occurred is prima facie evidence that:

- (1) the defendant knowingly tolerated the activity; and
- (2) the place in which the business provides those services is habitually used for 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.

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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.