

BILL ANALYSIS

S.B. 1196
By: Kolkhorst
Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties contend that including certain activities conducted online among the activities regarding which a person is authorized to file a common nuisance suit would provide an additional deterrent for bad actors and sexual predators. S.B. 1196 seeks to afford such a deterrent by providing for the declaration of a common nuisance involving a computer network or web address and authorizing the attorney general to notify applicable Internet service providers, search engine operators, browsing or hosting companies, or device manufacturers on a judicial finding of nuisance based on such activities or to post such finding on the attorney general's website.

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

S.B. 1196 amends the Civil Practice and Remedies Code to provide that a person operating a web address or network of two or more computers or computer systems in connection with the following activities maintains a common nuisance: engaging in organized criminal activity as a member of a combination; prostitution, promotion of prostitution, or aggravated promotion of prostitution; compelling prostitution; sexual assault; aggravated sexual assault; continuous sexual abuse of a young child or children; massage therapy or other massage services in violation of Occupations Code provisions regulating massage therapy; employing a minor at a commercial enterprise the primary business of which is the offering of a service or the selling, renting, or exhibiting of items intended to provide sexual stimulation or sexual gratification to the customer; trafficking of persons; sexual conduct or performance by a child; or employment harmful to a child. Such provision does not apply to a provider of remote computing services or electronic communication services to the public, a provider of an interactive computer service as defined by federal law, an Internet service provider, a search engine operator, a browsing or hosting company, an operating system provider, or a device manufacturer.

S.B. 1196 authorizes an individual, the attorney general, or a district, county, or city attorney to bring a suit to declare that a person operating a web address or network of two or more computers or computer systems is maintaining a common nuisance. The bill establishes that, except for reasonable attorney's fees and costs awarded to a prevailing party, the sole remedy available on a finding that a web address or such a computer network is a common nuisance is a judicial finding issued to the attorney general. The bill authorizes the attorney general to post such a judicial finding on the attorney general's website or to notify Internet service providers, search engine operators, browsing or hosting companies, or device manufacturers on which

applications are hosted of such a judicial finding to determine if the persons notified are able to offer technical assistance to the attorney general in a manner consistent with certain federal law.

EFFECTIVE DATE

September 1, 2017.