

BILL ANALYSIS

H.B. 167
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Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

While the state may seek injunctive relief in the form of a temporary or permanent injunction to abate a common nuisance, a court is not currently authorized to issue temporary restraining orders for that purpose. There are concerns that, when a party seeks a temporary injunction to abate a common nuisance, habitual criminal activity may continue unabated at the property in part due to the cumbersome and time-consuming process of seeking a nuisance action. H.B. 167 seeks to address these concerns and provide a more effective way to abate a common nuisance by allowing a court to issue a temporary restraining order without a formal hearing when a person seeking the order shows that a place is maintained in a manner that is a common nuisance or about to become a common nuisance.

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

H.B. 167 amends the Civil Practice and Remedies Code to specify that the forms of injunctive relief that a court may issue in a suit to abate a common nuisance are temporary restraining orders, temporary injunctions, or permanent injunctions and to clarify that the civil contempt penalties for violating an injunctive order in such a suit apply to a violation of those restraining orders and injunctions. The bill authorizes a court to issue a temporary restraining order without a formal hearing in such a suit only if the person seeking the temporary restraining order shows in an ex parte hearing that a place is maintained in a manner that is a common nuisance or about to become a common nuisance. The temporary restraining order may not last for a period of more than 14 days and is not either of the following:

- an injunctive order for the purposes of statutory provisions relating to the execution of bond and a suit on that bond; or
- a determination by the court that a person is maintaining a common nuisance for the purposes of statutory provisions relating to the appointment of a receiver.

H.B. 167 replaces the requirement that a municipality create a nuisance abatement fund as a separate account in the municipality's treasury with an authorization to do so.

EFFECTIVE DATE

September 1, 2021.