

BILL ANALYSIS

Senate Research Center

S.B. 1196
By: Kolkhorst
Criminal Justice
6/20/2017
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current state law defines a common nuisance as a place maintained by a person to which other persons habitually go to engage in a variety of prohibited activities, including human trafficking, sexual abuse of children and other sex crimes involving children, and prostitution. Local and state authorities may bring suit and request a judicial order to enjoin the activity in order to abate the nuisance.

It is well known that much of the activity involving illegal sex trafficking of children, prostitution, and other related sex crimes occurs online. Law enforcement and prosecutors face many challenges in investigating and ending online illegal activity involving sex crimes. In many cases they lack the tools necessary to track down criminals before they have moved on to other venues and victims. In today's world, the same illegal activities that historically occurred at physical locations—prostitution, trafficking, and sexual abuse, among others—are now facilitated online. The recent investigation of backpage.com confirmed the hurdles faced by law enforcement in tracking down online traffickers of young women and children.

S.B. 1196 amends Title 6, Chapter 125, Civil Practice and Remedies Code, to include online websites engaged in sex trafficking activity as a "place" for the purposes of allowing such websites to be declared a common nuisance under Texas law. Under S.B. 1196, a judge's sole remedy is to issue a judicial finding declaring a website a nuisance to the Office of the Attorney General (OAG). The OAG, at its discretion, may notify Internet service providers and other relevant entities of the judicial finding. The OAG may also post the judicial findings on its website. (Original Author's / Sponsor's Statement of Intent)

S.B. 1196 amends current law relating to the declaration of a common nuisance involving a computer network or web address.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 125.001, Civil Practice and Remedies Code, by adding Subdivisions (1-a) and (4), to define "computer network" and "web address."

SECTION 2. Amends Section 125.0015, Civil Practice and Remedies Code, by adding Subsections (c) and (d), as follows:

(c) Provides that a person operating a web address or computer network in connection with certain activities maintains a common nuisance.

(d) Provides that Subsection (c) does not apply to certain entities.

SECTION 3. Amends Subchapter A, Chapter 125, Civil Practice and Remedies Code, by adding Section 125.0025, as follows:

Sec. 125.0025. SUIT TO DECLARE CERTAIN COMMON NUISANCES. (a) Authorizes a suit to declare that a person operating a web address or computer network is maintaining a common nuisance to be brought by an individual, by the Texas attorney general (attorney general), or by a district, county, or city attorney.

(b) Provides that, except as provided by Section 125.003(d) (relating to determining the amount of attorney's fees in a common and public nuisances action), on a finding that a web address or computer network is a common nuisance, the sole remedy available is a judicial finding issued to the attorney general.

(c) Authorizes the attorney general to:

(1) notify Internet service providers, search engine operators, browsing or hosting companies, or device manufacturers on which applications are hosted of the judicial finding issued to the attorney general to determine if the persons notified are able to offer technical assistance to the attorney general in a manner consistent with 47 U.S.C. Section 230; or

(2) post the judicial finding issued to the attorney general on the attorney general's Internet website.

SECTION 4. Amends the heading to Section 125.002, Civil Practice and Remedies Code, to read as follows:

Sec. 125.002. SUIT TO ABATE CERTAIN COMMON NUISANCES; BOND.

SECTION 5. Amends Sections 125.002(a), (g), and (h), Civil Practice and Remedies Code, as follows:

(a) Authorizes a suit to enjoin and abate a common nuisance described by Section 125.0015(a) (relating to defining "common nuisance") or (b) (relating to a person maintaining a common nuisance if the person maintains a residential property to which persons go to commit certain acts) to be brought by an individual, by the attorney general, or by a district, county, or city attorney.

(g) Authorizes the petitioner to file, in an action brought under this chapter (Common and Public Nuisances), other than an action brought under Section 125.0025, a notice of lis pendens and a certified copy of an order of the court in the office of the county clerk in each county in which the land is located.

(h) Changes a reference to Section 125.0015 to Subsection (a).

SECTION 6. Effective date: September 1, 2017.