

BILL ANALYSIS

Senate Research Center
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S.B. 987
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Local Government
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 987 establishes a statewide ban on camping in public places. Currently there is no statewide restriction on camping in public places. It is dependent on local governments to set standards for camping in public, some of which may lack the authority to set bans in unincorporated areas. The lack of a statewide ban results in an inconsistent patchwork of policies across the state.

In communities where only minimal rules or standards exist, public encampments have led to a rise in property crimes and open drug use, and present a health hazard. These camps are also detrimental to economic development and business activities and place a strain on local law enforcement. Moreover, allowing people to camp in public places provides an incentive for them to remain unhoused rather than get the support services they need and permanent housing.

S.B. 987 would create a statewide camping ban and set minimum standards while allowing local governments to establish more stringent standards. There is an exception to the ban for authorized camping in state parks. Local governments that receive state funds must certify to the state that they are enforcing the ban.

As proposed, S.B. 987 amends current law relating to prohibitions on camping in a public place and creates a criminal offense.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Comptroller of Public Accounts of the State of Texas in SECTION 2 (Section 364.004, Local Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 48, Penal Code, by adding Section 48.05, as follows:

Sec. 48.05. PROHIBITED CAMPING. (a) Defines "camp" and "shelter."

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

(c) Authorizes the actor's intent or knowledge to be established through evidence of activities associated with sustaining a living accommodation that are conducted in a public place, including cooking, making a fire, storing personal belongings for an extended period, digging, or sleeping.

(d) Provides that consent given by an officer or agency of a political subdivision is not effective for purposes of Subsection (b).

(e) Provides that, for purposes of Subsection (b), a designation made by a state officer or agency that an area owned and controlled by a political subdivision is authorized to be used for camping constitutes consent to camping on that property. Authorizes a state officer or agency to designate an area as described by

this subsection only if that designation is proposed to the officer or agency by the applicable political subdivision.

(f) Provides that an offense under this section is a Class C misdemeanor.

(g) Provides that 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 is compatible with and equal to or more stringent than the offense prescribed by this section or relates to an issue not specifically addressed by this section.

SECTION 2. Amends Subtitle C, Title 11, Local Government Code, by adding Chapter 364, as follows:

CHAPTER 364. ENFORCEMENT OF PUBLIC CAMPING BANS

Sec. 364.001. DEFINITIONS. Defines "local entity," "policy," and "public camping ban."

Sec. 364.002. POLICY ON CAMPING BANS. (a) Prohibits a local entity from adopting or enforcing a policy under which the entity prohibits or discourages the enforcement of any public camping ban.

(b) Prohibits a local entity, in compliance with Subsection (a), from prohibiting or discouraging 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.

Sec. 364.003. INJUNCTIVE RELIEF. (a) Authorizes the attorney general to 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) Authorizes the attorney general to recover reasonable expenses incurred in obtaining relief under this section, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition costs.

Sec. 364.004. DENIAL OF STATE GRANT FUNDS. (a) Provides that a local entity is prohibited from receiving state grant funds, and state grant funds for the local entity are required to 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) Requires the Comptroller of Public Accounts of the State of Texas to adopt rules to implement this section uniformly among the state agencies from which state grant funds are distributed to a municipality or county.

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

SECTION 3. Effective date: September 1, 2021.