

## **BILL ANALYSIS**

C.S.H.B. 2359  
By: Ortega  
County Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties contend that some vacant lots or buildings may be used for criminal activities or pose fire hazards and that there is insufficient authority to effectively confront these problems. C.S.H.B. 2359 seeks to address this issue by amending common nuisance provisions.

### **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. 2359 amends the Civil Practice and Remedies Code with regard to the provision establishing maintenance of a common nuisance as a person's maintenance of a place to which persons habitually go for certain purposes and that person's knowing tolerance of the activity and failure to make reasonable attempts to abate the activity to include the following additional purposes: criminal trespass, disorderly conduct, arson, criminal mischief that causes a pecuniary loss of \$500 or more, and a graffiti offense in violation of applicable Penal Code provisions. The bill expands the common nuisance purpose consisting of delivery, possession, manufacture, or use of a controlled substance in violation of the Texas Controlled Substance Act to include delivery, possession, manufacture, or use of a substance or other item in violation of that act.

C.S.H.B. 2359 includes a court's determination in any judicial proceeding relating to a suit to abate certain common nuisances that a person is maintaining a vacant lot or a vacant or abandoned building that is a common nuisance among the circumstances in which the court may, on its own motion or on the motion of any party, order the appointment of a receiver to manage the property or render any other order allowed by law as necessary to abate the nuisance.

### **EFFECTIVE DATE**

September 1, 2017.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 2359 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

SECTION 1. Section 125.0015(a), Civil Practice and Remedies Code, is amended

SECTION 2. Section 125.002, Civil Practice and Remedies Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) Notwithstanding Subsection (a), a suit to enjoin or abate a common nuisance that is brought by a county attorney of a county with a population of 800,000 or more and located on the international border may be brought in the name of the county.

SECTION 3. Section 125.046(a), Civil Practice and Remedies Code, is amended

SECTION 4. Section 125.047(a)(2), Civil Practice and Remedies Code, is amended to read as follows:

(2) "Nuisance abatement" means an activity taken by a municipality or county to reduce the occurrences of a common or public nuisance.

SECTION 5. Sections 125.047(b), (c), and (d), Civil Practice and Remedies Code, are amended to read as follows:

- (b) This section applies only to:
  - (1) a municipality with a population of 1.5 million or more; or
  - (2) a county with a population of 800,000 or more and located on the international border.
- (c) A municipality or county shall create a fund as a separate account in the treasury of the municipality or county.
- (d) The fund consists of:
  - (1) money awarded the municipality or county in an action under this chapter;
  - (2) money awarded the municipality or county under a settlement to an action under this chapter;
  - (3) fines resulting from code enforcement citations issued by the municipality or county for conduct defined as a common or public nuisance under this chapter;
  - (4) bonds forfeited to the municipality or county under this chapter; and
  - (5) donations or grants made to the municipality or county for the purpose of

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

No equivalent provision.

SECTION 2. Same as introduced version.

No equivalent provision.

No equivalent provision.

nuisance abatement.

SECTION 6. This Act takes effect September 1, 2017.

SECTION 3. Same as introduced version.