

BILL ANALYSIS

C.S.H.B. 2552
By: Thompson, Senfronia
Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that certain establishments claiming to offer massage therapy or massage services are actually fronts for prostitution-related activity, that this activity is closely connected with human trafficking, and that the state's options for addressing these issues should be expanded. C.S.H.B. 2552 seeks to provide for this expansion.

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. 2552 amends the Business & Commerce Code to include among the acts that constitute false, misleading, or deceptive acts or practices under the Deceptive Trade Practices-Consumer Protection Act owning, operating, maintaining, or advertising a massage establishment that is not appropriately licensed, is not in compliance with the applicable Occupations Code licensing or other requirements regarding massage therapy, or is not in compliance with an applicable local ordinance relating to the licensing or regulation of massage establishments.

C.S.H.B. 2552 amends the Civil Practice and Remedies Code to establish that, for the purposes of a suit to abate a common nuisance, proof in the form of a person's arrest or the testimony of a law enforcement agent that certain prostitution-related activity is committed at a place licensed as a massage establishment or advertised as offering massage therapy or massage services is prima facie evidence that the defendant knowingly tolerated the activity. The bill establishes that proof that an activity involving the provision of massage therapy or other massage services in violation of applicable state law is committed at a place maintained by the defendant is prima facie evidence that the defendant knowingly tolerated the activity and did not make a reasonable attempt to abate the activity. The bill establishes that evidence of a previous suit filed to abate certain common nuisances that resulted in a judgment against a landowner with respect to an activity constituting a common nuisance at the landowner's property is admissible in a subsequent common nuisance suit to demonstrate that the landowner knowingly tolerated the activity and did not make a reasonable attempt to abate the activity.

C.S.H.B. 2552 amends the Government Code to include prostitution and promotion of prostitution among the offenses for which the bureau of identification and records within the administrative division of the Department of Public Safety is required to collect certain information and create a statistical breakdown.

C.S.H.B. 2552 amends the Penal Code to expand the conduct that constitutes the offense of promotion of prostitution to include knowingly providing a person or premises for prostitution purposes.

C.S.H.B. 2552 amends the Property Code to establish that a commercial tenant's right of possession terminates and that a landlord has a right to recover possession of leased premises if the tenant is using the premises or allowing the premises to be used for the purposes of prostitution, promotion of prostitution, aggravated promotion of prostitution, compelling prostitution, or trafficking of persons. The bill authorizes a landlord who reasonably believes a tenant is using the leased premises or allowing the leased premises to be used for such a purpose to file a forcible detainer suit seeking possession of the premises and unpaid rent, including rent for any period of occupancy after the tenant's right of possession terminates. The bill expressly does not require the landlord, for purposes of such a suit, to give a notice of proposed eviction or a notice of termination before giving notice to vacate or to give the tenant more than three days' notice to vacate before filing the suit. The bill establishes that a pending suit brought by the attorney general or a district, county, or city attorney alleging that a common nuisance is being maintained on the leased premises with respect to the prostitution-related or trafficking-related activity is prima facie evidence that the tenant's right of possession has terminated and the landlord has a right to recover possession of the premises. The bill establishes that a final, nonappealable determination by a court that a common nuisance is being maintained on the leased premises with respect to such criminal activity creates an irrebuttable presumption that the tenant's right of possession has terminated and the landlord has a right to recover possession of the premises.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2552 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	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Section 17.46(b), Business & Commerce Code, as amended by Chapters 1023 (H.B. 1265) and 1080 (H.B. 2573), Acts of the 84th Legislature, Regular Session, 2015, is reenacted and amended.	SECTION 1. Same as introduced version.
SECTION 2. Section 125.004, Civil Practice and Remedies Code, is amended.	SECTION 2. Same as introduced version.
SECTION 3. Section 411.042(b), Government Code, is amended.	SECTION 3. Same as introduced version.
SECTION 4. Section 169.004(c), Health and Safety Code, is amended to read as follows: (c) A first offender prostitution prevention program established under this chapter shall: (1) notify the criminal justice division of the governor's office before or on implementation	No equivalent provision.

of the program; and

(2) submit to the division an annual report that concerns [provide information regarding] the performance of the program and includes:

(A) the number of participants in the program;

(B) a sample or overview of the curriculum;

(C) information regarding the program administrators;

(D) a statement of the program's effectiveness for the most recent state fiscal year; and

(E) any other information requested by the division [to the division on request].

SECTION 5. Section 43.03, Penal Code, is amended.

SECTION 4. Same as introduced version.

SECTION 6. Chapter 93, Property Code, is amended.

SECTION 5. Same as introduced version.

SECTION 7. Section 17.46(b), Business & Commerce Code, as amended by this Act, applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrued before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 6. Same as introduced version.

SECTION 8. Section 43.03, Penal Code, as amended by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 7. Same as introduced version.

SECTION 9. Section 93.013, Property Code, as added by this Act, applies only to a lease entered into or renewed on or after the effective date of this Act. A lease entered into or renewed before the effective date of this Act is governed by the law applicable to the lease immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 8. Same as introduced version.

SECTION 10. To the extent of any conflict, this Act prevails over another Act of the 85th

SECTION 9. Same as introduced version.

Legislature, Regular Session, 2017, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 11. This Act takes effect September 1, 2017.

SECTION 10. Same as introduced version.