

SUBJECT: Prohibiting camping in a public place, creating a criminal offense

COMMITTEE: State Affairs — favorable, without amendment

VOTE: *After recommitted:*

9 ayes — Paddie, Harless, Hunter, P. King, Metcalf, Raymond, Shaheen, Slawson, Smithee

3 nays — Hernandez, Deshotel, Howard

1 absent — Lucio

WITNESSES: *March 25 public hearing:*

For — Judge Glock, Cicero Action; Bill Brice, Downtown Austin Alliance; Kenny Wilson, Haven for Hope; Joell McNew, Safe Horns; Matt Mackowiak, Save Austin Now; Michele Steebe, Texas Public Policy Foundation; Scott Blalock, White Lodging Services/JW Marriott; and eight individuals; (*Registered, but did not testify:* Lee Kleinman, City of Dallas; Michelle Davis, Convention of States; Frederick Frazier, Dallas Police Association/State FOP; James Parnell, Dallas Police Association; Mindy Ellmer, Haven For Hope; Ray Hunt, Houston Police Officers' Union; Brian Hawthorne, Sheriffs Association of Texas; Tom Maddox, Sheriffs Association of Texas; Mia McCord, Texas Conservative Coalition; Mark Terry, Texas Elementary Principals and Supervisors Association; Donald Garner, Texas Faith & Freedom Coalition; Justin Bragiel, Texas Hotel & Lodging Association; Johnathan Dallas Reed, Texas Municipal Police Association; Lance Lively, Texas Package Stores Association; Kelsey Streufert, Texas Restaurant Association; Jason Vaughn, Texas Young Republicans; Shelia Franklin and Fran Rhodes, True Texas Project; Doug Davis and Tom Spilman, Wholesale Beer Distributors of Texas; Chad Wilbanks, Wilbanks Group, Inc.; and 42 individuals)

Against — Gregorio Casar, City Council Member; Dianna Grey, City of Austin; Karen Munoz, LatinoJustice PRLDEF; Danielle Reichman, Little Petal Alliance; Emily Gerrick, Texas Fair Defense Project; Sarah Reyes,

The Texas Criminal Justice Coalition; and nine individuals; (*Registered, but did not testify*: Lauren Johnson and Matt Simpson, ACLU of Texas; Chas Moore, Austin Justice Coalition; Angelica Cogliano, Austin Lawyers Guild; Clifford Sparks, City of Dallas; Jonathan Lewis, Every Texan; Selena Steward, First Baptist Church Austin; Willy Hyatt, Housethehomeless.org; Patricia Zavala, Jolt Action; Jorge Renaud, LatinoJustice; Britt Ellis, Little Petal Alliance; Bill Kelly, Mayor's Office, City of Houston; Matthew Lovitt, National Alliance on Mental Illness (NAMI) Texas; Maggie Luna, Statewide Leadership Council; Carisa Lopez and Suseth Munoz, Texas Freedom Network; Cate Graziani, Texas Harm Reduction Alliance; Eric Samuels, Texas Homeless Network; Abigail Avila and Cerena Haefs, Texas Rising; Stephanie Gharakhanian, Workers Defense Action Fund; and 22 individuals)

DIGEST: HB 1925 would make it a criminal offense for a person to intentionally or knowingly camp in a public place. The bill would prohibit a local entity from prohibiting or discouraging the enforcement of any public camping ban.

Criminal conduct. HB 1925 would make it a class C misdemeanor (maximum fine of \$500) for a person to intentionally or knowingly camp in a public place without the consent of the officer or agency with legal duty or authority to manage the place. The bill would define "camp" as residing temporarily in a place, with shelter. The bill would define "shelter" to include a tent, tarpaulin, lean-to, sleeping bag, bedroll, blankets, or any form of shelter, other than clothing, designed to protect a person from weather conditions that threatened personal health and safety.

An actor's intent or knowledge could be established through evidence of activities conducted in a public place that were associated with sustaining a living accommodation, including cooking, making a fire, storing personal belongings for an extended period, digging, or sleeping.

Consent to camp. The bill would establish that consent given by an officer or agency of a political subdivision would not be effective for purposes of the prohibited conduct. A designation made by a state officer or agency

that an area owned or controlled by a political subdivision could be used for camping could constitute consent to camping on that property. The bill would authorize a state officer or agency to make such a designation only if that designation was proposed to the officer or agency by the applicable political subdivision.

The bill would 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 such an ordinance that was compatible with and equal to or more stringent than the offense prescribed by the bill or related to an issue not specifically addressed by the bill.

Enforcement. HB 1925 would prohibit a local entity from adopting or enforcing a policy that prohibited or discouraged the enforcement of any public camping ban. A local entity could not prohibit or discourage a peace officer or prosecuting attorney who was employed by or under the direction or control of the entity from enforcing a public camping ban. The bill would define "local entity" as:

- the governing body of a municipality or county;
- an officer or employee of or a division, department, or other body that was part of a municipality or county, including a sheriff, municipal police department, municipal attorney, or county attorney; and
- a district attorney or criminal district attorney.

The bill would define "policy" to include a formal, written rule, ordinance, order, or policy and an informal, unwritten policy. It would define "public camping ban" to mean a law, rule, ordinance, order, or other regulation that prohibited camping in a public place.

Injunctive relief. The attorney general could bring an action in a district court in Travis County or another applicable county to enjoin a violation of the bill's prohibitions on local policies and enforcement of a public camping ban. The attorney general could recover reasonable expenses

incurred in obtaining relief, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition costs.

Denial of state grants. The bill would prohibit a local entity that violated bill's prohibitions on policies and enforcement of a public camping ban from receiving state grant funds and require that state grant funds be denied for the state fiscal year following the year in which a final judicial determination was made in an action for injunctive relief brought by the attorney general. State grant funds could not be denied to a local entity that had not violated the bill's prohibitions, regardless of whether the entity was a part of another entity that was in violation.

The comptroller would have to adopt rules to implement the prohibition on state grant funds uniformly among state agencies that distributed state grants funds to a municipality or county.

The bill would take effect September 1, 2021

SUPPORTERS
SAY:

HB 1925 would address the growing problem of homeless campsites being located along public rights-of-way and under highways and in public parks and greenbelts, where the camps present a safety and health hazard to those living there as well as to the surrounding community. The bill would make camping on public land without permission from the appropriate state agency a class C misdemeanor as a necessary limitation on local jurisdictions that have refused to ensure the safety of their residents.

Certain local policies allowing public camping likely have incentivized individuals from other parts of Texas and even other states to relocate to cities that do not enforce a public camping ban. The proliferation of these tent sites has been especially detrimental in downtown areas, where they often are accompanied by an increase in crime, open drug use, and health and sanitation hazards. The bill would help individuals and business owners who are unduly subjected to violent or hazardous activity linked to the rise in public camping.

It is not humane to allow people to remain in a tent, especially during extreme weather. During the severe winter storm in February doctors at a downtown Austin hospital treated dozens of people with frostbite, including some who required amputations.

While some say a ban on public camping would do nothing more than force people experiencing homelessness into less visible areas, the bill could spur local governments to do more to help people connect with shelter and services to help them integrate back into society.

CRITICS
SAY:

HB 1925 would criminalize homelessness by perpetuating a cycle where people are given tickets and possibly arrested for camping in a public place. Individuals could be assessed fines that they cannot afford to pay and accumulate criminal records that make it more difficult for them to get housing and employment.

The rising cost of living in urban areas and economic disruptions caused by the pandemic have perpetuated the cycle of homelessness. Costs associated with enforcing a camping ban would be better spent on interventions to help people find shelter and an income.

The bill would preempt the decisions of local elected officials who are tackling the complex issue of helping individuals experiencing homelessness finding transitional housing and other services, including mental health services. Instead of giving cities more time to address the issue, the bill would force people experiencing homelessness back into remote areas where it is more difficult to connect them with services.