

BILL ANALYSIS

Senate Research Center

H.B. 1925
By: Capriglione et al. (Buckingham)
Local Government
5/11/2021
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas does not have a statewide ban 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 inconsistent policies towards camping across the state. Some areas strictly enforce bans, while others allow camping all over public spaces. The lack of a ban incentivizes people from other states with camping bans to come to Texas and camp in public places in cities which allow camping in public. A stateside camping ban would set a minimum standard while allowing local governments to establish more stringent standards.

H.B. 1925 creates an offense of a class C misdemeanor if a person intentionally or knowingly camps in a public place without the consent of the legal authority that manages the public place. The bill also prohibits local entities from adopting or enforcing a policy that prohibits or discourages enforcement of a public camping ban. H.B. 1925 does include an exception to the ban for authorized camping in state parks.

H.B. 1925 amends current law relating to prohibitions on camping in a public place and to a political subdivision's designation of property for camping by homeless individuals 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 3 (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 effective 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), unless given to authorize the person to camp for:

(1) recreational purposes;

(2) purposes of sheltering homeless individuals, if the property on which the camping occurs is subject to a plan approved under Subchapter PP, Chapter 2306 (Texas Department of Housing and Community Affairs), Government Code, and the camping occurs in a manner that complies with the plan;

(3) purposes permitted by a beach access plan that has been approved under Section 61.015 (Beach Access and Use Plans), Natural Resources Code, and the camping occurs in a manner that complies with the plan; or

(4) purposes related to providing emergency shelter during a disaster declared under Section 418.014 (Declaration of State of Disaster), Government Code, or a local disaster declared under Section 418.108 (Declaration of Local Disaster) of that code.

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

(f) 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.

(g) Requires a peace officer, except as provided by Subsection (h), before or at the time a peace officer arrests or issues a citation to a person for an offense under this section, to make a reasonable effort to:

(1) advise the person of an alternative place at which the person is authorized to lawfully camp; and

(2) contact, if reasonable and appropriate, an appropriate official of the political subdivision in which the public place is located, or an appropriate nonprofit organization operating within that political subdivision, and request the official or organization to provide the person with:

(A) information regarding the prevention of human trafficking; or

(B) any other services that would reduce the likelihood of the person suspected of committing the offense continuing to camp in the public place.

(h) Provides that Subsection (g) does not apply if the peace officer determines there is an imminent threat to the health or safety of any person to the extent that compliance with that subsection is impracticable.

(i) Requires a peace officer enforcing this section, if the person is arrested or detained solely for an offense under this section, to ensure that all of the person's personal property not designated as contraband under other law is preserved by:

(1) permitting the person to remove all the property from the public place at the time of the person's departure; or

(2) taking custody of the property and allowing the person to retrieve the property after the person is released from custody.

(j) Prohibits a fee from being charged for the storage or release of property under Subsection (i)(2).

SECTION 2. Amends Chapter 2306, Government Code, by adding Subchapter PP, as follows:

SUBCHAPTER PP. PROPERTY DESIGNATED BY POLITICAL SUBDIVISION FOR
CAMPING BY HOMELESS INDIVIDUALS

Sec. 2306.1121. DEFINITION. Defines "camp."

Sec. 2306.1122. APPROVAL REQUIRED. (a) Prohibits a political subdivision from designating a property to be used by homeless individuals to camp unless the Texas Department of Housing and Community Affairs (TDHCA) approves a plan described by Section 2306.1123(b).

(b) Requires TDHCA, not later than the 30th day after the date TDHCA receives a plan submitted by a political subdivision under this subchapter, to make a final determination regarding approval of the plan.

Sec. 2306.1123. PLAN REQUIREMENTS. (a) Defines "proposed new campers" to mean homeless individuals the applicant intends to allow to camp at the property.

(b) Requires that a plan required by Section 2306.1122 describe each of the following with respect to a proposed property:

(1) the availability of local health care for proposed new campers, including access to Medicaid services and mental health services;

(2) the availability of indigent services for proposed new campers;

(3) the availability of reasonably affordable public transportation for proposed new campers;

(4) local law enforcement resources in the area; and

(5) the steps the applicant has taken to coordinate with the local mental health authority to provide for any proposed new campers.

(c) Requires an applicant to respond to reasonable requests for additional information made by TDHCA regarding the proposed property or plan.

SECTION 3. 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.

(c) Provides that this section does not prohibit a policy that encourages diversion or a provision of services in lieu of citation or arrest.

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 4. Provides that Subchapter PP, Chapter 2306, Government Code, as added by this Act, applies only to the designation and use of property described by that subchapter that first begins on or after the effective date of this Act. Provides that the designation and use of property described by Subchapter PP, Chapter 2306, Government Code, as added by this Act, that first began before the effective date of this Act is governed by the law in effect when the designation and use first began, and the former law is continued in effect for that purpose.

SECTION 5. Effective date: September 1, 2021.