

CIVIL PRACTICE AND REMEDIES CODE

TITLE 6. MISCELLANEOUS PROVISIONS

CHAPTER 125. COMMON AND PUBLIC NUISANCES

SUBCHAPTER A. SUIT TO ABATE CERTAIN COMMON NUISANCES

Sec. 125.001. DEFINITIONS. In this chapter:

(1) "Common nuisance" is a nuisance described by Section [125.0015](#).

(1-a) "Computer network" means the interconnection of two or more computers or computer systems by satellite, microwave, line, or other communication medium with the capability to transmit information between the computers.

(2) "Public nuisance" is a nuisance described by Section [125.062](#) or [125.063](#).

(3) "Multiunit residential property" means improved real property with at least three dwelling units, including an apartment building, condominium, hotel, or motel. The term does not include a single-family home or duplex.

(4) "Web address" means a website operating on the Internet.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 14, Sec. 284(42), eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 857, Sec. 2, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 968, Sec. 1, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 14.03, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 318, Sec. 25, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 663, Sec. 2, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1181, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1161, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1202, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1246 (H.B. [1690](#)), Sec. 1, eff. September 1, 2005.

Acts 2017, 85th Leg., R.S., Ch. 596 (S.B. [1196](#)), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 858 (H.B. [2552](#)), Sec. 2, eff. September 1, 2017.

Sec. 125.0015. COMMON NUISANCE. (a) A person who maintains a place to which persons habitually go for the following purposes and who knowingly tolerates the activity and furthermore fails to make reasonable attempts to abate the activity maintains a common nuisance:

- (1) discharge of a firearm in a public place as prohibited by the Penal Code;
- (2) reckless discharge of a firearm as prohibited by the Penal Code;
- (3) engaging in organized criminal activity as a member of a combination as prohibited by the Penal Code;
- (4) delivery, possession, manufacture, or use of a substance or other item in violation of Chapter 481, Health and Safety Code;
- (5) gambling, gambling promotion, or communicating gambling information as prohibited by the Penal Code;
- (6) prostitution as described by Section 43.02, Penal Code, solicitation of prostitution as described by Section 43.021, Penal Code, promotion of prostitution as described by Section 43.03, Penal Code, or aggravated promotion of prostitution as described by Section 43.04, Penal Code;
- (7) compelling prostitution as prohibited by the Penal Code;
- (8) commercial manufacture, commercial distribution, or commercial exhibition of obscene material as prohibited by the Penal Code;
- (9) aggravated assault as described by Section 22.02, Penal Code;
- (10) sexual assault as described by Section 22.011, Penal Code;
- (11) aggravated sexual assault as described by Section 22.021, Penal Code;
- (12) robbery as described by Section 29.02, Penal Code;
- (13) aggravated robbery as described by Section 29.03, Penal Code;
- (14) unlawfully carrying a weapon as described by Section 46.02, Penal Code;
- (15) murder as described by Section 19.02, Penal Code;
- (16) capital murder as described by Section 19.03, Penal Code;
- (17) continuous sexual abuse of young child or disabled individual as described by Section 21.02, Penal Code;
- (18) massage therapy or other massage services in violation of Chapter 455, Occupations Code;
- (19) employing or entering into a contract for the performance of work or the provision of a service with an individual younger than 21 years of age for work or services performed at a sexually oriented business as defined by Section 243.002, Local Government Code;
- (20) trafficking of persons as described by Section 20A.02, Penal Code;
- (21) sexual conduct or performance by a child as described by Section 43.25, Penal Code;
- (22) employment harmful to a child as described by Section 43.251, Penal Code;

(23) criminal trespass as described by Section 30.05, Penal Code;

(24) disorderly conduct as described by Section 42.01, Penal Code;

(25) arson as described by Section 28.02, Penal Code;

(26) criminal mischief as described by Section 28.03, Penal Code, that causes a pecuniary loss of \$500 or more;

(27) a graffiti offense in violation of Section 28.08, Penal Code; or

(28) permitting an individual younger than 18 years of age to enter the premises of a sexually oriented business as defined by Section 243.002, Local Government Code.

(b) A person maintains a common nuisance if the person maintains a multiunit residential property to which persons habitually go to commit acts listed in Subsection (a) and knowingly tolerates the acts and furthermore fails to make reasonable attempts to abate the acts.

(c) A person operating a web address or computer network in connection with an activity described by Subsection (a) (3), (6), (7), (10), (11), (17), (18), (19), (20), (21), or (22) maintains a common nuisance.

(d) Subsection (c) does not apply to:

(1) a provider of remote computing services or electronic communication services to the public;

(2) a provider of an interactive computer service as defined by 47 U.S.C. Section 230;

(3) an Internet service provider;

(4) a search engine operator;

(5) a browsing or hosting company;

(6) an operating system provider; or

(7) a device manufacturer.

(e) This section does not apply to an activity exempted, authorized, or otherwise lawful activity regulated by federal law.

Added by Acts 2003, 78th Leg., ch. 1202, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1246 (H.B. 1690), Sec. 2, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 593 (H.B. 8), Sec. 3.04, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1399 (H.B. 2644), Sec. 6, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 5.004, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1 (S.B. 24), Sec. 3.02, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 687 (H.B. 289), Sec. 1, eff. September 1,

2011.

Acts 2017, 85th Leg., R.S., Ch. 596 (S.B. [1196](#)), Sec. 2, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 775 (H.B. [2359](#)), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 858 (H.B. [2552](#)), Sec. 3, eff. September 1, 2017.

Acts 2021, 87th Leg., R.S., Ch. 79 (S.B. [315](#)), Sec. 5, eff. May 24, 2021.

Acts 2021, 87th Leg., R.S., Ch. 221 (H.B. [375](#)), Sec. 2.05, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. [1540](#)), Sec. 33, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 942 (S.B. [766](#)), Sec. 6, eff. September 1, 2021.

Text of section as added by Acts 2017, 85th Leg., R.S., Ch. 858 (H.B. [2552](#)),
Sec. 4

For text of section as added by Acts 2017, 85th Leg., R.S., Ch. 1135 (H.B. [240](#)),
Sec. 1, see other Sec. 125.0017.

Sec. 125.0017. NOTICE BY LAW ENFORCEMENT OF CERTAIN ACTIVITIES. If a law enforcement agency has reason to believe an activity described by Section [125.0015](#)(a)(6), (7), or (18) has occurred at property leased to a person operating a massage establishment as defined by Section [455.001](#), Occupations Code, the law enforcement agency may provide written notice by certified mail to each person maintaining the property of the alleged activity.

Added by Acts 2017, 85th Leg., R.S., Ch. 858 (H.B. [2552](#)), Sec. 4, eff. September 1, 2017.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. [1540](#)), Sec. 5, eff. September 1, 2021.

Sec. 125.002. SUIT TO ABATE CERTAIN COMMON NUISANCES; BOND. (a) A suit to enjoin and abate a common nuisance described by Section [125.0015](#)(a) or (b) may be brought by an individual, by the attorney general, or by a district, county, or city attorney. The suit must be brought in the county in which it is alleged to exist against the person who is maintaining or about to maintain the nuisance. The suit must be brought in the name of the state if brought by the attorney general or a district or county attorney, in the name of the city if brought by a city attorney, or in the name of the individual if brought by a

private citizen. Verification of the petition or proof of personal injury by the acts complained of need not be shown. For purposes of this subsection, personal injury may include economic or monetary loss.

(b) A person may bring a suit under Subsection (a) against any person who maintains, owns, uses, or is a party to the use of a place for purposes constituting a nuisance under this subchapter and may bring an action in rem against the place itself. A council of owners, as defined by Section 81.002, Property Code, or a unit owners' association organized under Section 82.101, Property Code, may be sued under this subsection if the council or association maintains, owns, uses, or is a party to the use of the common areas of the council's or association's condominium for purposes constituting a nuisance.

(c) Service of any order, notice, process, motion, or ruling of the court on the attorney of record of a cause pending under this subchapter is sufficient service of the party represented by an attorney.

(d) A person who violates a temporary or permanent injunctive order under this subchapter is subject to the following sentences for civil contempt:

- (1) a fine of not less than \$1,000 or more than \$10,000;
- (2) confinement in jail for a term of not less than 10 or more than 30 days; or
- (3) both fine and confinement.

(e) If judgment is in favor of the petitioner, the court shall grant an injunction ordering the defendant to abate the nuisance and enjoining the defendant from maintaining or participating in the nuisance and may include in its order reasonable requirements to prevent the use or maintenance of the place as a nuisance. If the petitioner brings an action in rem, the judgment is a judgment in rem against the property as well as a judgment against the defendant. The judgment must order that the place where the nuisance exists be closed for one year after the date of judgment.

(f) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1023, Sec. 3, eff. June 15, 2007.

(f-1) If the defendant required to execute the bond is a hotel, motel, or similar establishment that rents overnight lodging to the public and the alleged common nuisance is under Section 125.0015(a)(6) or (7), the bond must also be conditioned that the defendant will, in each of the defendant's lodging units on the premises that are the subject of the suit, post in a conspicuous place near the room rate information required to be posted under Section 2155.001, Occupations Code, a sign that includes:

- (1) an operating toll-free telephone number of a nationally recognized information and referral hotline for victims of human trafficking; and
- (2) the contact information for reporting suspicious activity to the

Department of Public Safety.

(g) In an action brought under this chapter, other than an action brought under Section 125.0025, the petitioner may file a notice of lis pendens and a certified copy of an order of the court in the office of the county clerk in each county in which the land is located. The notice of lis pendens must conform to the requirements of Section 12.007, Property Code, and constitutes notice as provided by Section 13.004, Property Code. A certified copy of an order of the court filed in the office of the county clerk constitutes notice of the terms of the order and is binding on subsequent purchasers and lienholders.

(h) A person who may bring a suit under Subsection (a) shall consider, among other factors, whether the property owner, the owner's authorized representative, or the operator or occupant of the business, dwelling, or other place where the criminal acts occurred:

(1) promptly notifies the appropriate governmental entity or the entity's law enforcement agency of the occurrence of criminal acts on the property; and

(2) cooperates with the governmental entity's law enforcement investigation of criminal acts occurring at the property.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 959, Sec. 2, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 14, Sec. 284(42), eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 1202, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1246 (H.B. 1690), Sec. 3, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 16.03, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 849 (H.B. 1121), Sec. 6, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 990 (S.B. 1288), Sec. 1, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1023 (H.B. 1551), Sec. 1, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1023 (H.B. 1551), Sec. 3, eff. June 15, 2007.

Acts 2017, 85th Leg., R.S., Ch. 596 (S.B. 1196), Sec. 4, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 596 (S.B. 1196), Sec. 5, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 858 (H.B. 2552), Sec. 5, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 858 (H.B. 2552), Sec. 6, eff. September 1, 2017.

Acts 2021, 87th Leg., R.S., Ch. 280 (H.B. 3721), Sec. 3, eff. September 1, 2021.

Sec. 125.0025. SUIT TO DECLARE CERTAIN COMMON NUISANCES. (a) A suit to declare that a person operating a web address or computer network is maintaining a common nuisance may be brought by an individual, by the attorney general, or by a district, county, or city attorney.

(b) Except as provided by Section 125.005, on a finding that a web address or computer network is a common nuisance, the sole remedy available is a judicial finding issued to the attorney general.

(c) The attorney general may:

(1) notify Internet service providers, search engine operators, browsing or hosting companies, or device manufacturers on which applications are hosted of the judicial finding issued to the attorney general under Subsection (b) to determine if the persons notified are able to offer technical assistance to the attorney general in a manner consistent with 47 U.S.C. Section 230; or

(2) post the judicial finding issued to the attorney general under Subsection (b) on the attorney general's Internet website.

Added by Acts 2017, 85th Leg., R.S., Ch. 596 (S.B. 1196), Sec. 3, eff. September 1, 2017.

Added by Acts 2017, 85th Leg., R.S., Ch. 858 (H.B. 2552), Sec. 7, eff. September 1, 2017.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. 1540), Sec. 6, eff. September 1, 2021.

Sec. 125.003. SUIT ON BOND. (a) If a condition of a bond filed or an injunctive order entered under this subchapter is violated, the district, county, or city attorney of the county in which the property is located or the attorney general shall sue on the bond in the name of the state. In the event the attorney general originates the suit, the whole sum shall be forfeited as a penalty to the state. In the event the suit is originated by any office other than the attorney general, the whole sum shall be forfeited as a penalty to the originating entity. On violation of any condition of the bond or of the injunctive order and subsequent to forfeiture of the bond, the place where the nuisance exists shall be ordered closed for one year from the date of the order of bond forfeiture.

(b) The party bringing the suit may recover reasonable expenses incurred

in prosecuting the suits authorized in Subsection (a) including but not limited to investigative costs, court costs, reasonable attorney's fees, witness fees, and deposition fees.

(c) A person may not continue the enjoined activity pending appeal or trial on the merits of an injunctive order entered in a suit brought under this subchapter. Not later than the 90th day after the date of the injunctive order, the appropriate court of appeals shall hear and decide an appeal taken by a party enjoined under this subchapter. If an appeal is not taken by a party temporarily enjoined under this article, the parties are entitled to a full trial on the merits not later than the 90th day after the date of the temporary injunctive order.

(d) Repealed by Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. 1540), Sec. 62(2), eff. September 1, 2021.

(e) Nothing herein is intended to allow a suit to enjoin and abate a common nuisance to be brought against any enterprise whose sole business is that of a bookstore or movie theater.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 959, Sec. 3, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 822, Sec. 1, eff. Sept. 1, 1993; Acts 2003, 78th Leg., ch. 1202, Sec. 3, eff. Sept. 1, 2003.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. 1540), Sec. 62(2), eff. September 1, 2021.

Sec. 125.004. EVIDENCE. (a) Proof that an activity described by Section 125.0015 is frequently committed at the place involved or that the place is frequently used for an activity described by Section 125.0015 is prima facie evidence that the defendant knowingly tolerated the activity.

(a-1) Proof in the form of a person's arrest or the testimony of a law enforcement agent that an activity described by Section 125.0015(a)(6) or (7) is committed at a place licensed as a massage establishment under Chapter 455, Occupations Code, or advertised as offering massage therapy or massage services, after notice was provided to the defendant in accordance with Section 125.0017, is prima facie evidence that the defendant:

- (1) knowingly tolerated the activity; and
- (2) did not make a reasonable attempt to abate the activity.

(a-2) Proof that an activity described by Section 125.0015(a)(18) is committed at a place maintained by the defendant, after notice was provided to the defendant in accordance with Section 125.0017, is prima facie evidence that the defendant:

- (1) knowingly tolerated the activity; and
- (2) did not make a reasonable attempt to abate the activity.

(a-3) For purposes of Subsections (a-1) and (a-2), notice is considered to be provided to the defendant the earlier of:

- (1) seven days after the postmark date of the notice provided under Section 125.0017; or
- (2) the date the defendant actually received notice under Section 125.0017.

(b) Evidence that persons have been arrested for or convicted of offenses for an activity described by Section 125.0015 in the place involved is admissible to show knowledge on the part of the defendant with respect to the act that occurred. The originals or certified copies of the papers and judgments of those arrests or convictions are admissible in the suit for injunction, and oral evidence is admissible to show that the offense for which a person was arrested or convicted was committed at the place involved.

(c) Evidence of the general reputation of the place involved is admissible to show the existence of the nuisance.

(d) Notwithstanding Subsection (a), (a-1), or (a-2), evidence that the defendant, the defendant's authorized representative, or another person acting at the direction of the defendant or the defendant's authorized representative requested law enforcement or emergency assistance with respect to an activity at the place where the common nuisance is allegedly maintained is not admissible for the purpose of showing the defendant tolerated the activity or failed to make reasonable attempts to abate the activity alleged to constitute the nuisance but may be admitted for other purposes, such as showing that a crime listed in Section 125.0015 occurred. Evidence that the defendant refused to cooperate with law enforcement or emergency services with respect to the activity is admissible. The posting of a sign prohibiting the activity alleged is not conclusive evidence that the owner did not tolerate the activity.

(e) Evidence of a previous suit filed under this chapter that resulted in a judgment against a landowner with respect to an activity described by Section 125.0015 at the landowner's property is admissible in a subsequent suit filed under this chapter to demonstrate that the landowner:

- (1) knowingly tolerated the activity; and
- (2) did not make a reasonable attempt to abate the activity.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 959, Sec. 4, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 14, Sec. 284(42), eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 857, Sec. 3, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 968, Sec. 2, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 14.04 to 14.06, eff. Sept. 1, 1995; Acts

1995, 74th Leg., ch. 318, Sec. 26, 27, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 663, Sec. 3, 4, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1181, Sec. 2, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1202, Sec. 4, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1246 (H.B. 1690), Sec. 4, eff. September 1, 2005.

Acts 2017, 85th Leg., R.S., Ch. 858 (H.B. 2552), Sec. 8, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1135 (H.B. 240), Sec. 2, eff. September 1, 2017.

Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. 1540), Sec. 7, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. 1540), Sec. 8, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. 1540), Sec. 62(3), eff. September 1, 2021.

Sec. 125.005. ATTORNEY'S FEES AND COSTS IN ACTION UNDER CHAPTER. In an action brought under this chapter, the court may award a prevailing party reasonable attorney's fees in addition to costs incurred in bringing the action. In determining the amount of attorney's fees, the court shall consider:

- (1) the time and labor involved;
- (2) the novelty and difficulty of the questions;
- (3) the expertise, reputation, and ability of the attorney; and
- (4) any other factor considered relevant by the court.

Added by Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. 1540), Sec. 9, eff. September 1, 2021.

SUBCHAPTER C. ADDITIONAL NUISANCE REMEDIES

Sec. 125.042. REQUEST FOR MEETING. (a) The voters of an election precinct in which a common nuisance is alleged to exist or is alleged to be likely to be created, or the voters in an adjacent election precinct, may request the district attorney, city attorney, or county attorney having geographical jurisdiction of the place that is the subject of the voters' complaints to authorize a meeting at which interested persons may state their complaints about the matter. To be valid to begin proceedings under this section, the written request must be signed by at least:

- (1) 10 percent of the registered voters of the election precinct in which the common nuisance is alleged to exist or is alleged to be likely to be

created; or

(2) 20 percent of the voters of the adjacent election precinct.

(b) On receiving a written request for a meeting from the required number of persons, the district attorney, city attorney, or county attorney may appoint a person to conduct the meeting at a location as near as practical to the place that is the subject of the complaints.

Added by Acts 1987, 70th Leg., ch. 959, Sec. 7, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 1202, Sec. 5, eff. Sept. 1, 2003.

Sec. 125.043. NOTICE. The district attorney, city attorney, or county attorney receiving the request may:

(1) post notice of the purpose, time, and place of the meeting at either the county courthouse of the county or the city hall of the city in which the place that is the subject of the complaints is located and publish the notice in a newspaper of general circulation published in that county or city; and

(2) serve the notice, by personal service, to the owner and the operator of the place.

Added by Acts 1987, 70th Leg., ch. 959, Sec. 7, eff. Sept. 1, 1987.

Sec. 125.044. FINDINGS. (a) After the meeting, the person appointed to conduct the meeting shall report the findings to the district attorney, city attorney, or county attorney who appointed the person. The district attorney, city attorney, or county attorney, on finding by the attorney that a common nuisance exists or is likely to be created, may initiate appropriate available proceedings against the persons owning or operating the place at which the common nuisance exists or is likely to be created.

(b) In a proceeding begun under Subsection (a):

(1) proof that acts creating a common nuisance are frequently committed at the place is prima facie evidence that the owner and the operator knowingly tolerated the acts;

(2) evidence that persons have been arrested for or convicted of offenses involving acts at the place that create a common nuisance is admissible to show knowledge on the part of the owner and the operator with respect to the acts that occurred; and

(3) notwithstanding Subdivision (1), evidence that the defendant, the defendant's authorized representative, or another person acting at the direction of the defendant or the defendant's authorized representative requested law enforcement or emergency assistance with respect to an activity at the place

where the common nuisance is allegedly maintained is not admissible for the purpose of showing the defendant tolerated the activity or failed to make reasonable attempts to abate the activity alleged to constitute the nuisance but may be admitted for other purposes, such as showing that a crime listed in Section 125.0015 occurred. Evidence that the defendant refused to cooperate with law enforcement or emergency services with respect to the activity is admissible.

(b-1) The posting of a sign prohibiting the activity alleged is not conclusive evidence that the owner did not tolerate the activity.

(c) The originals or certified copies of the papers and judgments of the arrests or convictions described by Subdivision (2) of Subsection (b) are admissible in a suit for an injunction, and oral evidence is admissible to show that the offense for which a person was arrested or convicted was committed at the place involved.

Added by Acts 1987, 70th Leg., ch. 959, Sec. 7, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 1202, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1246 (H.B. 1690), Sec. 5, eff. September 1, 2005.

Sec. 125.045. REMEDIES.

(a) If, after notice and hearing on a request by a petitioner for a temporary injunction, a court determines that the petitioner is likely to succeed on the merits in a suit brought under Section 125.002, the court:

(1) may include in its order reasonable requirements to prevent the use or maintenance of the place as a nuisance; and

(2) shall require that the defendant execute a bond.

(a-1) The bond must:

(1) be payable to the state at the county seat of the county in which the place is located;

(2) be in the amount set by the court, but not less than \$5,000 or more than \$10,000;

(3) have sufficient sureties approved by the court; and

(4) be conditioned that the defendant will not knowingly maintain a common nuisance to exist at the place.

(a-2) If the defendant required to execute the bond is a hotel, motel, or similar establishment that rents overnight lodging to the public and the alleged common nuisance is under Section 125.0015(a)(6) or (7), the bond must also be conditioned that the defendant will, in each of the defendant's lodging units on the premises that are the subject of the suit, post in a conspicuous place near the room rate information required to be posted under Section 2155.001,

Occupations Code, an operating toll-free telephone number of a nationally recognized information and referral hotline for victims of human trafficking.

(b) If, after an entry of a temporary or permanent injunction, a court determines that a condition of the injunctive order is violated, the court may:

- (1) order a political subdivision to discontinue the furnishing of utility services to the place at which the nuisance exists;
- (2) prohibit the furnishing of utility service to the place by any public utility holding a franchise to use the streets and alleys of the political subdivision;
- (3) revoke the certificate of occupancy of the place;
- (4) prohibit the use of city streets, alleys, and other public ways for access to the place during the existence of the nuisance or in furtherance of the nuisance;
- (5) limit the hours of operation of the place, to the extent that the hours of operation are not otherwise specified by law;
- (6) order a landlord to terminate a tenant's lease if:
 - (A) the landlord and the tenant are parties to the suit; and
 - (B) the tenant has violated a condition of the injunctive order;

or

(7) order any other legal remedy available under the laws of the state.

(c) If a condition of a bond filed or an injunctive order entered under this subchapter is violated, the district, county, or city attorney of the county in which the property is located or the attorney general may sue on the bond in the name of the state. In the event the attorney general originates the suit, the whole sum shall be forfeited as a penalty to the state. In the event the suit is originated by any office other than the attorney general, the whole sum shall be forfeited as a penalty to the originating entity.

Added by Acts 1987, 70th Leg., ch. 959, Sec. 7, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 1202, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. [11](#)), Sec. 16.04, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 849 (H.B. [1121](#)), Sec. 7, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 990 (S.B. [1288](#)), Sec. 2, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1023 (H.B. [1551](#)), Sec. 2, eff. June 15, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. [1303](#)), Sec. 27.001(1), eff.

September 1, 2011.

Sec. 125.046. ADDITIONAL REMEDIES; RECEIVER. (a) If, in any judicial proceeding under Subchapter A, a court determines that a person is maintaining a vacant lot, vacant or abandoned building, or multiunit residential property that is a common nuisance, 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.

(b) A receiver appointed under this section may not be appointed for a period longer than one year.

(c) The court shall determine the management duties of the receiver, the amount to be paid the receiver, the method of payment, and the payment periods.

(d) A receiver appointed under this section shall continue to manage the property during the pendency of any appeal relating to the nuisance or the appointment of the receiver.

(e) A receiver appointed by the court may:

- (1) take control of the property;
- (2) collect rents due on the property;
- (3) make or have made any repairs necessary to bring the property into compliance with minimum standards in local ordinances;
- (4) make payments necessary for the maintenance or restoration of utilities to the properties;
- (5) purchase materials necessary to accomplish repairs;
- (6) renew existing rental contracts and leases;
- (7) enter into new rental contracts and leases;
- (8) affirm, renew, or enter into a new contract providing for insurance coverage on the property; and

(9) exercise all other authority that an owner of the property would have except for the authority to sell the property.

(f) Expenditures of monies by the receiver in excess of \$10,000 under Subdivisions (3) and (5) of Subsection (e) shall require prior approval of the court.

(g) On the completion of the receivership, the receiver shall file with the court a full accounting of all costs and expenses incurred in the repairs, including reasonable costs for labor and subdivision, and all income received from the property.

Added by Acts 1995, 74th Leg., ch. 818, Sec. 2, eff. Aug. 28, 1995. Amended by Acts 2003, 78th Leg., ch. 1202, Sec. 7, eff. Sept. 1, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 775 (H.B. [2359](#)), Sec. 2, eff. September 1,

2017.

Sec. 125.047. NUISANCE ABATEMENT FUND. (a) In this section:

(1) "Fund" means a nuisance abatement fund.

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

(b) This section applies only to a municipality with a population of 1.5 million or more.

(c) A municipality shall create a fund as a separate account in the treasury of the municipality.

(d) The fund consists of:

(1) money awarded the municipality in an action under this chapter;

(2) money awarded the municipality under a settlement to an action under this chapter;

(3) fines resulting from code enforcement citations issued by the municipality for conduct defined as a common or public nuisance under this chapter;

(4) bonds forfeited to the municipality under this chapter; and

(5) donations or grants made to the municipality for the purpose of nuisance abatement.

(e) The money in the fund may be used only for the purpose of ongoing nuisance abatement. That purpose includes:

(1) regular and overtime compensation for nuisance abatement or enforcement personnel; and

(2) hiring additional personnel for nuisance abatement as needed.

Added by Acts 2003, 78th Leg., ch. 1202, Sec. 8, eff. Sept. 1, 2003.

SUBCHAPTER D. MEMBERSHIP IN CRIMINAL STREET GANG

Sec. 125.061. DEFINITIONS. In this subchapter:

(1) "Combination" and "criminal street gang" have the meanings assigned by Section [71.01](#), Penal Code.

(2) "Continuously or regularly" means at least five times in a period of not more than 12 months.

(3) "Gang activity" means the following types of conduct:

(A) organized criminal activity as described by Section [71.02](#), Penal Code;

(B) terroristic threat as described by Section [22.07](#), Penal Code;

(C) coercing, soliciting, or inducing gang membership as described by Section [71.022](#)(a) or (a-1), Penal Code;

- (D) criminal trespass as described by Section 30.05, Penal Code;
- (E) disorderly conduct as described by Section 42.01, Penal Code;
- (F) criminal mischief as described by Section 28.03, Penal Code, that causes a pecuniary loss of \$500 or more;
- (G) a graffiti offense in violation of Section 28.08, Penal Code;
- (H) a weapons offense in violation of Chapter 46, Penal Code; or
- (I) unlawful possession of a substance or other item in violation of Chapter 481, Health and Safety Code.

Added by Acts 1993, 73rd Leg., ch. 968, Sec. 3, eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 14.10, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 318, Sec. 31, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 1202, Sec. 9, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 472 (H.B. 68), Sec. 1, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 5.002, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 976 (H.B. 1622), Sec. 1, eff. September 1, 2011.

Sec. 125.062. PUBLIC NUISANCE; COMBINATION. A combination or criminal street gang that continuously or regularly associates in gang activities is a public nuisance.

Added by Acts 1993, 73rd Leg., ch. 968, Sec. 3, eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 14.11, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 318, Sec. 32, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 1202, Sec. 9, eff. Sept. 1, 2003.

Sec. 125.063. PUBLIC NUISANCE; USE OF PLACE. The habitual use of a place by a combination or criminal street gang for engaging in gang activity is a public nuisance.

Added by Acts 1993, 73rd Leg., ch. 968, Sec. 3, eff. Aug. 30, 1993. Amended by Acts 2003, 78th Leg., ch. 1202, Sec. 9, eff. Sept. 1, 2003.

Sec. 125.064. SUIT TO ABATE NUISANCE. (a) A district, county, or city attorney, the attorney general, or a resident of the state may sue to enjoin a public nuisance under this subchapter.

(b) Any person who habitually associates with others to engage in gang activity as a member of a combination or criminal street gang may be made a defendant in the suit. Any person who owns or is responsible for maintaining a

place that is habitually used for engaging in gang activity may be made a defendant in the suit.

(c) If the suit is brought by the state, the petition does not require verification.

(d) If the suit is brought by a resident, the resident is not required to show personal injury.

Added by Acts 1993, 73rd Leg., ch. 968, Sec. 3, eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 14.12, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 318, Sec. 33, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 1202, Sec. 10, eff. Sept. 1, 2003.

Sec. 125.065. COURT ORDER. (a) If the court finds that a combination or criminal street gang constitutes a public nuisance, the court may enter an order:

- (1) enjoining a defendant in the suit from engaging in the gang activities of the combination or gang; and
- (2) imposing other reasonable requirements to prevent the combination or gang from engaging in future gang activities.

(b) If the court finds that a place is habitually used in a manner that constitutes a public nuisance, the court may include in its order reasonable requirements to prevent the use of the place for gang activity.

Added by Acts 1993, 73rd Leg., ch. 968, Sec. 3, eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 14.13, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 318, Sec. 34, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 1202, Sec. 11, eff. Sept. 1, 2003.

Sec. 125.066. VIOLATION OF COURT ORDER. A person who violates a temporary or permanent injunctive order under this subchapter is subject to the following sentences for civil contempt:

- (1) a fine of not less than \$1,000 nor more than \$10,000;
- (2) confinement in jail for a term of not less than 10 nor more than 30 days; or
- (3) both fine and confinement.

Added by Acts 1993, 73rd Leg., ch. 968, Sec. 3, eff. Aug. 30, 1993.

Sec. 125.067. CONTINUATION OF ACTIVITIES PENDING TRIAL OR APPEAL; APPEAL. (a) A person may not continue the enjoined activity pending trial or appeal on the merits of an injunctive order in a suit brought under this subchapter.

(b) Not later than the 90th day after the date of the injunctive order, an

appropriate court of appeals shall hear and decide an appeal taken by a person enjoined under this subchapter.

(c) If an appeal is not taken by a person temporarily enjoined under this subchapter, the person is entitled to a trial on the merits not later than the 90th day after the date of the temporary injunctive order, unless otherwise ordered by the court.

Added by Acts 1993, 73rd Leg., ch. 968, Sec. 3, eff. Aug. 30, 1993.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 976 (H.B. 1622), Sec. 2, eff. September 1, 2011.

Sec. 125.0675. INJUNCTION FOR SPECIFIED PERIOD. In addition to any other order that may be issued under this subchapter or other law, a court of appeals or a trial court acting under Section 125.067(b) or (c) may issue an injunctive order under this subchapter stating that the injunction remains in effect during the course of the trial or until lifted by the court.

Added by Acts 2003, 78th Leg., ch. 1202, Sec. 12, eff. Sept. 1, 2003.

Sec. 125.069. USE OF PLACE; EVIDENCE. In an action brought under this subchapter, proof that gang activity by a member of a combination or a criminal street gang is frequently committed at a place or proof that a place is frequently used for engaging in gang activity by a member of a combination or a criminal street gang is prima facie evidence that the proprietor knowingly permitted the act, unless the act constitutes conspiring to commit gang activity.

Added by Acts 1993, 73rd Leg., ch. 968, Sec. 3, eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 14.14, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 318, Sec. 35, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 1202, Sec. 13, eff. Sept. 1, 2003.

Sec. 125.070. CIVIL ACTION FOR VIOLATION OF INJUNCTION. (a) In this section, "governmental entity" means a political subdivision of this state, including any city, county, school district, junior college district, levee improvement district, drainage district, irrigation district, water improvement district, water control and improvement district, water control and preservation district, freshwater supply district, navigation district, conservation and reclamation district, soil conservation district, communication district, public health district, and river authority.

(b) A criminal street gang or a member of a criminal street gang is liable

to the state or a governmental entity injured by the violation of a temporary or permanent injunctive order under this subchapter.

(c) In an action brought against a member of a criminal street gang, the plaintiff must show that the member violated the temporary or permanent injunctive order.

(d) A district, county, or city attorney or the attorney general may sue for money damages on behalf of the state or a governmental entity. If the state or a governmental entity prevails in a suit under this section, the state or governmental entity may recover:

(1) actual damages;

(2) a civil penalty in an amount not to exceed \$20,000 for each violation; and

(3) court costs and attorney's fees in accordance with Section [125.005](#).

(e) The property of the criminal street gang or a member of the criminal street gang may be seized in execution on a judgment under this section. Property may not be seized under this subsection if the owner or interest holder of the property proves by a preponderance of the evidence that the owner or interest holder was not a member of the criminal street gang and did not violate the temporary or permanent injunctive order. The owner or interest holder of property that is in the possession of a criminal street gang or a member of the criminal street gang and that is subject to execution under this subsection must show that the property:

(1) was stolen from the owner or interest holder; or

(2) was used or intended to be used without the effective consent of the owner or interest holder by the criminal street gang or a member of the criminal street gang.

(f) The attorney general shall deposit money received under this section for damages or as a civil penalty in the neighborhood and community recovery fund held by the attorney general outside the state treasury. Money in the fund is held by the attorney general in trust for the benefit of the community or neighborhood harmed by the violation of a temporary or permanent injunctive order. Money in the fund may be used only for the benefit of the community or neighborhood harmed by the violation of the injunctive order. Interest earned on money in the fund shall be credited to the fund. The attorney general shall account for money in the fund so that money held for the benefit of a community or neighborhood, and interest earned on that money, are not commingled with money in the fund held for the benefit of a different community or neighborhood.

(g) A district, county, or city attorney who brings suit on behalf of a governmental entity shall deposit money received for damages or as a civil

penalty in an account to be held in trust for the benefit of the community or neighborhood harmed by the violation of a temporary or permanent injunctive order. Money in the account may be used only for the benefit of the community or neighborhood harmed by the violation of the injunctive order. Interest earned on money in the account shall be credited to the account. The district, county, or city attorney shall account for money in the account so that money held for the benefit of a community or neighborhood, and interest earned on that money, are not commingled with money in the account held for the benefit of a different community or neighborhood.

(h) An action under this section brought by the state or a governmental entity does not waive sovereign or governmental immunity for any purpose.

Added by Acts 2009, 81st Leg., R.S., Ch. 1130 (H.B. [2086](#)), Sec. 10, eff. September 1, 2009.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. [1540](#)), Sec. 10, eff. September 1, 2021.