

SUBJECT: Limiting nighttime access to San Antonio neighborhoods

COMMITTEE: Urban Affairs — committee substitute recommended

VOTE: 7 ayes — Hill, Bailey, Burnam, Garcia, Hodge, Shields, Wohlgemuth
2 nays — Clark, Ehrhardt

WITNESSES: For — Cheryl E. Focht, Deerfield Homeowners Association; Robert Palmerton, Auto Gate Austin; Charles R. Porter, Jr.; Mark Vojvodich; Charlotte Wolf
Against — Frank F. Turner, City of Plano and Texas Municipal League

DIGEST: CSHB 730 would provide a process for groups of homeowners to limit access to a street or alley abutting their properties between the hours of 9 p.m. and 6 a.m. The bill's population brackets would apply only to San Antonio.

A street or alley would be eligible for limited access if at least 90 percent of the abutting lots were single-family residences. Seventy-five percent of the homeowners would have to sign a petition requesting the limited access.

Within 90 days of receiving a proper petition, the governing body would have to allow access to be limited by appropriate means, including establishing a gate or similar structure, unless it held a public hearing and adopted an ordinance or resolution declaring the street or alley to be a major thoroughfare. To be designated a major thoroughfare, the roadway would have to meet two criteria out of a set list that included posted speed limits in excess of 30 miles per hour, at least one traffic control signal, more than two lanes for motorized traffic, and the proximity of a school, governmental building, place of worship, or commercial lot.

Prior to access being limited, a plan would have to be filed with the governing body providing means of ensuring that neighborhood residents, emergency and utility vehicles, and certain employees of governmental entities would have access to the street at all times. The plan also would

also have to ensure access for other approved persons and provide 24-hour contacts.

The homeowners association or the property owners with abutting lots would be liable for the cost of providing and maintaining the means of limiting access. The municipality would remain responsible for maintaining the limited access roadway; a utility servicing the property abutting the street or alley would have to maintain service to the property. Neither the municipality nor the utility could request reimbursement from the homeowners association or the property owners for those maintenance activities.

A structure limiting access to or from a state highway would have to be approved by the Department of Transportation.

CSHB 730 would take immediate effect if finally approved by a two-thirds record vote of the membership in each house.

**SUPPORTERS
SAY:**

CSHB 730 would help homeowners improve the quality of life in their neighborhoods by limiting access to their streets at night and thereby decreasing crime, uninvited traffic, and solicitation during those hours. Many residential areas are experiencing increasingly serious crimes of vandalism, burglary, muggings, drive-by shootings and rape. Municipal police have not been able to effectively address these problems, and many neighborhoods have had to hire private security. This bill would offer neighborhoods another effective tool needed to combat evening crimes.

The bill would also require the city to be more responsive to the needs of its residents. Currently, neighborhoods requesting limited access for some streets are only offered the option of privatizing the streets and utility poles if they want to install a limited access gate. In effect, this is not an option at all because of the prohibitive costs involved. A neighborhood should be able to protect itself by limiting access to some streets at night without having to purchase and completely take over maintenance of those streets. The bill would allow limited access only between 9 p.m. and 6 a.m., so the streets would remain open to the public during the time periods during which the majority of legitimate public use occurs.

The city would have veto power to deny a neighborhood's petition to limit access to a street if the street met the requirements of a major thoroughfare. The restrictive character of these criteria would ensure that only true neighborhood streets would qualify.

CSHB 730 would give neighborhoods that were not originally platted as gated communities the same right to security and limited access enjoyed by those neighborhoods that were originally platted in that manner.

**OPPONENTS
SAY:**

The real effect of CSHB 730 would be to allow wealthy neighborhoods to gate their streets, shut themselves off from the rest of the community, and transfer crime to other neighborhoods that do not have the resources to gate their streets. This is not an appropriate or fair solution to crime problems being experienced by a whole community. There are other, less exclusive, options, such as neighborhood watches, that could be used without dividing the community and transferring crime from one neighborhood to another.

This bill would allow public streets built and maintained with public tax money to be shut off to the members of the public. Neighborhoods should not be allowed to take public streets for the sole use of their residents and invited guests for even a limited time duration. Furthermore, rights and interests of up to 25 percent of the homeowners in a neighborhood could be ignored; only 75 percent of homeowners would have to agree before limiting access to a street. In a small neighborhood, just a few families could sway the vote.

The bill would not allow the city any discretion regarding limiting access on its own streets unless the street qualified as a major thoroughfare.

**OTHER
OPPONENTS
SAY:**

The hours that street access could be limited should be set at the local level rather than in state law. The bill should also not be limited to just one city; if this proposal is a good idea, it should be allowed in all Texas cities.

NOTES:

The committee substitute added the population bracket and provisions regarding major thoroughfares, state highways, 75-percent approval requirement for petitions, and emergency service access.