

By: Uresti

H.B. No. 2538

A BILL TO BE ENTITLED

AN ACT

relating to activity of a criminal street gang that constitutes a public nuisance.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 125.061, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 125.061. DEFINITIONS. In this subchapter:

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

(2) "Continuously or regularly" means occurring five or more times in a period of not more than six months.

(3) "Gang activities" means conduct:

(A) described by:

(i) Section 71.02, Penal Code (organized criminal activity);

(ii) Section 22.07, Penal Code (terroristic threat);

(iii) Section 22.015, Penal Code (coercing, soliciting, or inducing gang membership);

(iv) Section 30.05, Penal Code (criminal trespass); or

(v) Section 42.01, Penal Code (disorderly conduct);

1 (B) described by Section 28.03, Penal Code
2 (criminal mischief), and causing pecuniary loss of \$500 or more;

3 (C) described by Section 28.08, Penal Code
4 (graffiti), and:

5 (i) causing pecuniary loss of \$500 or more;
6 or

7 (ii) occurring on a school, an institution
8 of higher learning, a place of worship or human burial, a public
9 monument, or a community center that provides medical, social, or
10 educational programs;

11 (D) that is an offense under Chapter 46, Penal
12 Code (weapons); or

13 (E) that is the unlawful possession of a
14 substance or item the possession of which is an offense under
15 Chapter 481, Health and Safety Code.

16 SECTION 2. Section 125.062, Civil Practice and Remedies
17 Code, is amended to read as follows:

18 Sec. 125.062. PUBLIC NUISANCE; COMBINATION. A combination
19 or criminal street gang that continuously or regularly associates
20 in gang [~~organized criminal~~] activities [~~as described by Section~~
21 ~~71.02, Penal Code,~~] is a public nuisance.

22 SECTION 3. Section 125.063, Civil Practice and Remedies
23 Code, is amended to read as follows:

24 Sec. 125.063. PUBLIC NUISANCE; USE OF PLACE. The habitual
25 use of a place by a combination or criminal street gang for engaging
26 in gang [~~organized criminal~~] activity [~~as described by Section~~
27 ~~71.02, Penal Code,~~] is a public nuisance.

1 SECTION 4. Section 125.064(b), Civil Practice and Remedies
2 Code, is amended to read as follows:

3 (b) Any person who habitually associates with others to
4 engage in gang [~~organized criminal~~] activity as a member of a
5 combination or criminal street gang may be made a defendant in the
6 suit. Any person who owns or is responsible for maintaining a place
7 that is habitually used for engaging in gang [~~organized criminal~~]
8 activity [~~as described by Section 71.02, Penal Code,~~] may be made a
9 defendant in the suit.

10 SECTION 5. Section 125.065, Civil Practice and Remedies
11 Code, is amended to read as follows:

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

15 (1) enjoining a defendant in the suit from engaging in
16 the gang [~~organized criminal~~] activities of the combination or
17 gang; and

18 (2) imposing other reasonable requirements to prevent
19 the combination or gang from engaging in future gang activities.

20 (b) If the court finds that a place is habitually used in a
21 manner that constitutes a public nuisance, the court may include in
22 its order reasonable requirements to prevent the use of the place
23 for gang [~~organized criminal~~] activity.

24 SECTION 6. Section 125.069, Civil Practice and Remedies
25 Code, is amended to read as follows:

26 Sec. 125.069. USE OF PLACE; EVIDENCE. In an action brought
27 under this subchapter, proof that gang [~~organized criminal~~]

1 activity by a member of a combination or a criminal street gang [~~as~~
2 ~~described by Section 71.02, Penal Code,~~] is frequently committed at
3 a place or proof that a place is frequently used for engaging in
4 gang [~~organized criminal~~] activity by a member of a combination or a
5 criminal street gang [~~as described by Section 71.02, Penal Code,~~]
6 is prima facie evidence that the proprietor knowingly permitted the
7 act, unless[~~7~~] the act constitutes conspiring to commit gang
8 activity [~~an offense as described by Section 71.02~~].

9 SECTION 7. (a) This Act takes effect September 1, 2003.

10 (b) The change in law made by this Act applies only to a
11 cause of action that accrues on or after the effective date of this
12 Act. A cause of action that accrues before the effective date of
13 this Act is governed by the law in effect immediately before the
14 effective date of this Act, and that law is continued in effect for
15 that purpose.