

BILL ANALYSIS

Senate Research Center
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S.B. 551
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Criminal activity conducted by street gangs has wide-ranging effects on local communities, from causing fear and unrest among citizens, to creating fiscal costs for governments and individuals, to vandalism and acts of violence.

When an individual commits a criminal act against another, the injured party is generally entitled to pursue a civil cause of action against the criminal actor separately from any criminal charges that may be brought.

Creating new causes of action will provide an avenue for those directly affected by gangs to recover their losses, and will provide a tool for communities and governments to reclaim areas tarnished by the presence of gangs. First, a criminal street gang or a member of a criminal street gang may be liable to the parent of a child because of the child's participation and membership in the gang. Second, a criminal street gang or member of a criminal street gang may be liable to a governmental entity for costs associated with additional policing efforts, for costs associated with other additional services required to be provided to citizens, and for tax losses resulting from a reduction in property values because of gang activity. Finally, a criminal street gang or a member of a criminal street gang may be liable to a neighborhood or community based on a nuisance cause of action.

As proposed, S.B. 551 creates civil causes of action for those affected by gang activity.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 4, Civil Practice and Remedies Code, by adding Chapter 100B, as follows:

CHAPTER 100B. CRIMINAL STREET GANG LIABILITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 100B.001. DEFINITIONS. Defines "child," "criminal street gang," "continuously or regularly," "gang activity," "governmental entity," and "parent."

[Reserves Sections 100B.002-100B.050 for expansion.]

SUBCHAPTER B. LIABILITY TO PARENT

Sec. 100B.051. LIABILITY. Provides that a criminal street gang or a member of a criminal street gang is liable to the parent of a child for damages arising from the criminal street gang's or a member of the criminal street gang's recruitment or inducement of the child to become a member of the criminal street gang.

Sec. 100B.052. DAMAGES. (a) Authorizes a plaintiff who prevails in a suit under this chapter to recover economic and noneconomic damages, including damages for loss of

companionship of and society with the child and mental anguish, even if an injury other than mental anguish is not shown.

(b) Authorizes a plaintiff who prevails in a suit under this chapter to recover exemplary damages and court costs and reasonable attorney's fees, in addition to an award under Subsection (a).

[Reserves Sections 100B.053-100B.100 for expansion.]

SUBCHAPTER C. LIABILITY TO GOVERNMENTAL ENTITY

Sec. 100B.101. LIABILITY. Provides that a criminal street gang or a member of a criminal street gang is liable to a governmental entity for damages arising from activities of a criminal street gang, including the cost of policing property owned by the governmental entity, the cost of governmental services provided as a result of the criminal street gang activity, and the amount by which the value of property owned by the governmental entity or the entity's revenue from ad valorem taxes on property in the entity's jurisdiction or any other taxes collected in the entity's jurisdiction is reduced.

Sec. 100B.102. DAMAGES. (a) Authorizes a governmental entity that prevails in a suit under this chapter to recover economic damages.

(b) Authorizes a governmental entity that prevails in a suit under this chapter to recover exemplary damages and court costs and reasonable attorney's fees in addition to an award under Subsection (a).

[Reserves Sections 100B.103-100B.150 for expansion.]

SUBCHAPTER D. LIABILITY TO NEIGHBORHOOD OR COMMUNITY

Sec. 100B.151. LIABILITY. Provides that a criminal street gang or a member of a criminal street gang is liable to a neighborhood or community injured by a public nuisance under Subchapter E, Chapter 100B, arising out of gang activity engaged in by the gang.

Sec. 100B.152. DAMAGES. Authorizes a district, county, or city attorney, the attorney general, or a resident of the state to sue for money damages on behalf of a neighborhood or community injured by a public nuisance under Subchapter E, Chapter 100B.

[Reserves Sections 100B.153-100B.200 for expansion.]

SUBCHAPTER E. EXECUTION ON JUDGMENT

Sec. 100B.201. LEVY ON PROPERTY OF GANG OR MEMBER. Authorizes the property of the criminal street gang or a member of the street gang to be seized in execution on a judgment under this section.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2009.