

BILL ANALYSIS

Senate Research Center

C.S.S.B. 551
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State Affairs
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Committee Report (Substituted)

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.

C.S.S.B. 551 amends current law relating to civil liability for criminal street gang activity that violates a court-ordered injunction.

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 Subchapter D, Chapter 125, Civil Practice and Remedies Code, by adding Section 125.070, as follows:

Sec. 125.070. CIVIL ACTION FOR VIOLATION OF INJUNCTION. (a) Defines "governmental entity."

(b) Provides that 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) Requires the plaintiff, in an action brought against a member of a criminal street gang, to show that the member violated the temporary or permanent injunctive order.

(d) Authorizes a district, county, or city attorney or the attorney general to sue for money damages on behalf of the state or a governmental entity. Authorizes the state or governmental entity, if the state or governmental entity prevails in a suit under this section, to recover actual damages, a civil penalty in an amount not to exceed \$20,000 for each violation, and court costs and attorney's fees.

(e) 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.

(f) Requires the attorney general to 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. Provides that 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. Authorizes money in the fund to be used only for the benefit of the community or neighborhood harmed by the violation of the injunctive order. Requires that interest earned on money in the fund be credited to the fund. Requires the attorney general to 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) Requires a district, county, or city attorney who brings suit on behalf of a governmental entity to 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. Authorizes money in the account to be used only for the benefit of the community or neighborhood harmed by the violation of the injunctive order. Requires that interest earned on money in the account be credited to the account. Requires the district, county, or city attorney to 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) Provides that an action under this section brought by the state or a governmental entity does not waive sovereign or governmental immunity for any purpose.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2009.