

BILL ANALYSIS

Senate Research Center
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S.B. 937
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The involvement of young people in criminal street gangs is unacceptable, and reducing youth participation in gangs should be one of the highest priorities in the fight against gang activity. There are many ways to address this problem, including penalizing gang members for soliciting young people to join gangs.

Use of the Internet by gang members to promote their gangs and recruit young members is a relatively new, effective, and dangerous tool used by gangs.

Gangs sometimes recruit new members by threatening or injuring a family member of the individual being recruited. Under current law, this type of threat or injury must be prosecuted as an offense separate from any offense related to solicitation of gang membership.

As proposed, S.B. 937 amends Chapter 33 (Computer Crimes), Penal Code, to create an offense for gang use of the Internet to benefit from, promote, or further the interests of a gang and also creates an offense for the use of the Internet to intimidate or harass another person or to advertise the presence of a criminal street gang in a certain geographic location. This bill also amends Section 22.015, Penal Code, to provide that it is an offense to solicit gang membership by threatening or injuring a family member of the minor being recruited by a gang and provides that the penalty for this offense would be a state jail felony, which is the same as that for threatening or injuring the minor directly.

S.B. 937 amends Section 15.031 (Criminal Solicitation of a Minor), Penal Code, to provide that the penalty for the solicitation offense is the same as the penalty for the crime the minor is being solicited to commit and that the increased penalty would only apply when the person soliciting the minor is a gang member and the solicitation is an effort to further the criminal activity of the gang or to avoid detection as a member of a gang. This bill also amends Section 71 (Organized Crime), Penal Code, to create an offense for causing or encouraging a minor to participate in certain criminal activity that is committed by a gang.

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 Section 15.031(e), Penal Code, as follows:

(e) Provides that an offense under this section is one category lower than the solicited offense, except that an offense under this section is the same category as the solicited offense if it is shown on the trial of the offense that an actor was at the time of the offense a member of a criminal street gang, as defined by Section 71.01 (Definitions) and committed the offense with the intent to further the criminal activities of the criminal street gang or avoid detection as a member of a criminal street gang.

SECTION 2. Amends Section 22.015(a), Penal Code, by adding Subdivision (3), to define "family."

SECTION 3. Amends Section 22.015(b), Penal Code, to provide that a person commits an offense if, with the intent to coerce, induce, or solicit a child to actively participate in the activities of a criminal street gang, the person threatens the child or a member of the child's family with imminent bodily injury or causes bodily injury to the child or a member of the child's family.

SECTION 4. Amends Chapter 33, Penal Code, by adding Section 33.06, as follows:

Sec. 33.06. ONLINE PROMOTION OF A CRIMINAL STREET GANG. (a) Defines "criminal street gang."

(b) Provides that a person commits an offense if, with the intent to benefit, to promote, or to further the interests of a criminal street gang or to increase the person's standing, position, or status in the criminal street gang, the person uses the Internet, including distributing, selling, transmitting, or posting on the Internet an audio, video, or still representation of a person engaged in criminal activity, to intimidate or harass another person or advertise the presence of the criminal street gang in a specific geographic location.

(c) Provides that an offense under this section is a state jail felony.

SECTION 5. Amends Chapter 71, Penal Code, by adding Section 71.024, as follows:

Sec. 71.024. CAUSING OR ENCOURAGING CHILD TO PARTICIPATE IN GANG-RELATED CRIMINAL ACTIVITY. (a) Defines "child."

(b) Provides that a person commits an offense if the person intentionally, knowingly, or recklessly, by act or omission, causes or encourages a child to participate in any criminal activity that is committed by a criminal street gang and is punishable as a Class A misdemeanor or a felony.

(c) Provides that an offense under this section is a felony of the third degree if the offense is committed intentionally or knowingly. Provides that an offense under this section is a Class A misdemeanor if the offense is committed recklessly.

(d) Authorizes the actor, if conduct, including an omission, constituting an offense under this section also constitutes an offense under another section of this code, to be prosecuted under either section or under both sections.

SECTION 6. Makes application of this Act prospective.

SECTION 7. Effective date: September 1, 2009.