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S.B. No. 11

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the prevention, investigation, prosecution, and
3 punishment for certain gang-related and other criminal offenses and
4 to the consequences and costs of engaging in certain activities of a
5 criminal street gang or certain other criminal activity; providing
6 penalties.

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

8 ARTICLE 1. CRIMINAL PENALTIES RELATED TO ORGANIZED CRIMINAL
9 ACTIVITY AND CRIMINAL STREET GANGS; GANG PREVENTION EFFORTS

10 SECTION 1.01. Subsection (e), Section 15.031, Penal Code,
11 is amended to read as follows:

12 (e) An offense under this section is one category lower than
13 the solicited offense, except that an offense under this section is
14 the same category as the solicited offense if it is shown on the
15 trial of the offense that the actor:

16 (1) was at the time of the offense 17 years of age or
17 older and a member of a criminal street gang, as defined by Section
18 71.01; and

19 (2) committed the offense with the intent to:

20 (A) further the criminal activities of the
21 criminal street gang; or

22 (B) avoid detection as a member of a criminal
23 street gang.

24 SECTION 1.02. Subsection (a), Section 22.015, Penal Code,

1 is amended by adding Subdivision (3) to read as follows:

2 (3) "Family" has the meaning assigned by Section
3 71.003, Family Code.

4 SECTION 1.03. Subsection (b), Section 22.015, Penal Code,
5 is amended to read as follows:

6 (b) A person commits an offense if, with intent to coerce,
7 induce, or solicit a child to actively participate in the
8 activities of a criminal street gang, the person:

9 (1) threatens the child or a member of the child's
10 family with imminent bodily injury; or

11 (2) causes bodily injury to the child or a member of
12 the child's family.

13 SECTION 1.04. Chapter 33, Penal Code, is amended by adding
14 Section 33.06 to read as follows:

15 Sec. 33.06. ONLINE HARASSMENT TO FURTHER INTERESTS OF
16 CRIMINAL STREET GANG. (a) In this section:

17 (1) "Commercial social networking site" means any
18 business, organization, or other similar entity operating a website
19 that permits persons to become registered users for the purpose of
20 establishing personal relationships with other users through
21 direct or real-time communication with other users or the creation
22 of web pages or profiles available to the public or to other users.
23 The term does not include an electronic mail program.

24 (2) "Criminal street gang" has the meaning assigned by
25 Section 71.01.

26 (3) "Electronic communication" means the transmission
27 of a sign, signal, writing, image, sound, text, or other data

1 through the use of an electronic device, including a telephone,
2 cellular telephone, text messaging device, personal data
3 assistant, computer, or wireless communications device.

4 (b) A person commits an offense if the person sends an
5 electronic communication or posts a message on an electronic
6 message board or commercial social networking site with the intent
7 to:

8 (1) abuse, intimidate, harass, alarm, or threaten
9 another person; and

10 (2) benefit, promote, or further the interests of a
11 criminal street gang.

12 (c) An offense under this section is a Class B misdemeanor,
13 except that the offense is a Class A misdemeanor if the actor has
14 previously been convicted of an offense under this section.

15 SECTION 1.05. Subsection (a), Section 71.02, Penal Code, is
16 amended to read as follows:

17 (a) A person commits an offense if, with the intent to
18 establish, maintain, or participate in a combination or in the
19 profits of a combination or as a member of a criminal street gang,
20 the person ~~he~~ commits or conspires to commit one or more of the
21 following:

22 (1) murder, capital murder, arson, aggravated
23 robbery, robbery, burglary, theft, aggravated kidnapping,
24 kidnapping, aggravated assault, aggravated sexual assault, sexual
25 assault, forgery, deadly conduct, assault punishable as a Class A
26 misdemeanor, burglary of a motor vehicle, or unauthorized use of a
27 motor vehicle;

- 1 (2) any gambling offense punishable as a Class A
2 misdemeanor;
- 3 (3) promotion of prostitution, aggravated promotion
4 of prostitution, or compelling prostitution;
- 5 (4) unlawful manufacture, transportation, repair, or
6 sale of firearms or prohibited weapons;
- 7 (5) unlawful manufacture, delivery, dispensation, or
8 distribution of a controlled substance or dangerous drug, or
9 unlawful possession of a controlled substance or dangerous drug
10 through forgery, fraud, misrepresentation, or deception;
- 11 (6) any unlawful wholesale promotion or possession of
12 any obscene material or obscene device with the intent to wholesale
13 promote the same;
- 14 (7) any offense under Subchapter B, Chapter 43,
15 depicting or involving conduct by or directed toward a child
16 younger than 18 years of age;
- 17 (8) any felony offense under Chapter 32;
- 18 (9) any offense under Chapter 36;
- 19 (10) any offense under Chapter 34 or 35;
- 20 (11) any offense under Section 37.11(a);
- 21 (12) any offense under Chapter 20A; [~~or~~]
- 22 (13) any offense under Section 37.10;
- 23 (14) any offense under Section 28.08; or
- 24 (15) any offense under Section 46.06(a)(1) or 46.14.

25 SECTION 1.06. Chapter 71, Penal Code, is amended by adding
26 Sections 71.023, 71.028, and 71.029 to read as follows:

27 Sec. 71.023. DIRECTING ACTIVITIES OF CERTAIN CRIMINAL

1 STREET GANGS. (a) A person commits an offense if the person
2 knowingly initiates, organizes, plans, finances, directs, manages,
3 or supervises a criminal street gang or members of a criminal street
4 gang with the intent to benefit, promote, or further the interests
5 of the criminal street gang or to increase the person's standing,
6 position, or status in the criminal street gang.

7 (b) An offense under this section is a felony of the first
8 degree.

9 (c) Notwithstanding Section 71.01, in this section,
10 "criminal street gang" means:

11 (1) an organization that:

12 (A) has more than 10 members whose names are
13 included in an intelligence database under Chapter 61, Code of
14 Criminal Procedure;

15 (B) has a hierarchical structure that has been
16 documented in an intelligence database under Chapter 61, Code of
17 Criminal Procedure;

18 (C) engages in profit-sharing among two or more
19 members of the organization; and

20 (D) in one or more regions of this state served by
21 different regional councils of government, continuously or
22 regularly engages in conduct:

23 (i) that constitutes an offense listed in
24 Section 3g(a)(1), Article 42.12, Code of Criminal Procedure;

25 (ii) in which it is alleged that a deadly
26 weapon is used or exhibited during the commission of or immediate
27 flight from the commission of any felony offense; or

1 (iii) that is punishable as a felony of the
2 first or second degree under Chapter 481, Health and Safety Code; or

3 (2) an organization that, in collaboration with an
4 organization described by Subdivision (1), engages in conduct or
5 commits an offense or conspires to engage in conduct or commit an
6 offense described by Subdivision (1)(D).

7 Sec. 71.028. GANG-FREE ZONES. (a) In this section:

8 (1) "Institution of higher education," "playground,"
9 "premises," "school," "video arcade facility," and "youth center"
10 have the meanings assigned by Section 481.134, Health and Safety
11 Code.

12 (2) "Shopping mall" means an enclosed public walkway
13 or hall area that connects retail, service, or professional
14 establishments.

15 (b) Except as provided by Subsection (c), the punishment
16 prescribed for an offense under Section 71.02 is increased to the
17 punishment prescribed for the next highest category of offense if
18 the actor is 17 years of age or older and it is shown beyond a
19 reasonable doubt on the trial of the offense that the actor
20 committed the offense at a location that was:

21 (1) in, on, or within 1,000 feet of any:

22 (A) real property that is owned, rented, or
23 leased by a school or school board;

24 (B) premises owned, rented, or leased by an
25 institution of higher education;

26 (C) shopping mall;

27 (D) movie theater;

- 1 (E) premises of a public or private youth center;
- 2 or
- 3 (F) playground;
- 4 (2) in, on, or within 300 feet of the premises of a
- 5 public swimming pool or video arcade facility; or
- 6 (3) on a school bus.

7 (c) The punishment prescribed for an offense under Section
8 71.02 may not be increased under this section if the offense is
9 punishable under Section 71.02 as a felony of the first degree.

10 Sec. 71.029. MAPS AS EVIDENCE OF LOCATION OR AREA. (a) In
11 a prosecution of an offense for which punishment is increased under
12 Section 71.028, a map produced or reproduced by a municipal or
13 county engineer for the purpose of showing the location and
14 boundaries of gang-free zones is admissible in evidence and is
15 prima facie evidence of the location or boundaries of those zones if
16 the governing body of the municipality or county adopts a
17 resolution or ordinance approving the map as an official finding
18 and record of the location or boundaries of those zones.

19 (b) A municipal or county engineer may, on request of the
20 governing body of the municipality or county, revise a map that has
21 been approved by the governing body of the municipality or county as
22 provided by Subsection (a).

23 (c) A municipal or county engineer shall file the original
24 or a copy of every approved or revised map approved as provided by
25 Subsection (a) with the county clerk of each county in which the
26 zone is located.

27 (d) This section does not prevent the prosecution from:

1 (1) introducing or relying on any other evidence or
2 testimony to establish any element of an offense for which
3 punishment is increased under Section 71.028; or

4 (2) using or introducing any other map or diagram
5 otherwise admissible under the Texas Rules of Evidence.

6 SECTION 1.07. Subchapter D, Chapter 37, Education Code, is
7 amended by adding Section 37.110 to read as follows:

8 Sec. 37.110. INFORMATION REGARDING GANG-FREE ZONES. The
9 superintendent of each public school district and the administrator
10 of each private elementary or secondary school located in the
11 public school district shall ensure that the student handbook for
12 each campus in the public school district includes information on
13 gang-free zones and the consequences of engaging in organized
14 criminal activity within those zones.

15 SECTION 1.08. Subchapter Z, Chapter 51, Education Code, is
16 amended by adding Section 51.973 to read as follows:

17 Sec. 51.973. INFORMATION REGARDING GANG-FREE ZONES. The
18 governing board of each institution of higher education shall
19 ensure that any student handbook or similar publication for the
20 institution includes information on gang-free zones and the
21 consequences of engaging in organized criminal activity within
22 those zones.

23 SECTION 1.09. Subchapter C, Chapter 42, Human Resources
24 Code, is amended by adding Section 42.064 to read as follows:

25 Sec. 42.064. INFORMATION REGARDING GANG-FREE ZONES. Each
26 day-care center shall, in accordance with rules adopted by the
27 executive commissioner, distribute to parents and guardians of

1 children who attend the center information on gang-free zones and
2 the consequences of engaging in organized criminal activity within
3 those zones.

4 SECTION 1.10. Section 37.110, Education Code, as added by
5 this Act, applies beginning with the public school district's
6 2009-2010 school year.

7 SECTION 1.11. Section 51.973, Education Code, as added by
8 this Act, applies beginning with the 2009 fall semester.

9 SECTION 1.12. Subsection (e), Section 15.031, Subsection
10 (b), Section 22.015, and Subsection (a), Section 71.02, Penal Code,
11 as amended by this Act, and Section 71.028, Penal Code, as added by
12 this Act, apply only to an offense committed on or after the
13 effective date of this Act. An offense committed before the
14 effective date of this Act is covered by the law in effect when the
15 offense was committed, and the former law is continued in effect for
16 that purpose. For purposes of this section, an offense was
17 committed before the effective date of this Act if any element of
18 the offense occurred before that date.

19 ARTICLE 2. CIVIL CONSEQUENCES AND LIABILITY

20 SECTION 2.01. Subchapter D, Chapter 125, Civil Practice and
21 Remedies Code, is amended by adding Section 125.070 to read as
22 follows:

23 Sec. 125.070. CIVIL ACTION FOR VIOLATION OF INJUNCTION.

24 (a) In this section, "governmental entity" means a political
25 subdivision of this state, including any city, county, school
26 district, junior college district, levee improvement district,
27 drainage district, irrigation district, water improvement

1 district, water control and improvement district, water control and
2 preservation district, freshwater supply district, navigation
3 district, conservation and reclamation district, soil conservation
4 district, communication district, public health district, and
5 river authority.

6 (b) A criminal street gang or a member of a criminal street
7 gang is liable to the state or a governmental entity injured by the
8 violation of a temporary or permanent injunctive order under this
9 subchapter.

10 (c) In an action brought against a member of a criminal
11 street gang, the plaintiff must show that the member violated the
12 temporary or permanent injunctive order.

13 (d) A district, county, or city attorney or the attorney
14 general may sue for money damages on behalf of the state or a
15 governmental entity. If the state or a governmental entity
16 prevails in a suit under this section, the state or governmental
17 entity may recover:

- 18 (1) actual damages;
19 (2) a civil penalty in an amount not to exceed \$20,000
20 for each violation; and
21 (3) court costs and attorney's fees.

22 (e) The property of the criminal street gang or a member of
23 the street gang may be seized in execution on a judgment under this
24 section.

25 (f) The attorney general shall deposit money received under
26 this section for damages or as a civil penalty in the neighborhood
27 and community recovery fund held by the attorney general outside

1 the state treasury. Money in the fund is held by the attorney
2 general in trust for the benefit of the community or neighborhood
3 harmed by the violation of a temporary or permanent injunctive
4 order. Money in the fund may be used only for the benefit of the
5 community or neighborhood harmed by the violation of the injunctive
6 order. Interest earned on money in the fund shall be credited to
7 the fund. The attorney general shall account for money in the fund
8 so that money held for the benefit of a community or neighborhood,
9 and interest earned on that money, are not commingled with money in
10 the fund held for the benefit of a different community or
11 neighborhood.

12 (g) A district, county, or city attorney who brings suit on
13 behalf of a governmental entity shall deposit money received for
14 damages or as a civil penalty in an account to be held in trust for
15 the benefit of the community or neighborhood harmed by the
16 violation of a temporary or permanent injunctive order. Money in
17 the account may be used only for the benefit of the community or
18 neighborhood harmed by the violation of the injunctive order.
19 Interest earned on money in the account shall be credited to the
20 account. The district, county, or city attorney shall account for
21 money in the account so that money held for the benefit of a
22 community or neighborhood, and interest earned on that money, are
23 not commingled with money in the account held for the benefit of a
24 different community or neighborhood.

25 (h) An action under this section brought by the state or a
26 governmental entity does not waive sovereign or governmental
27 immunity for any purpose.

1 SECTION 2.02. Subdivision (2), Article 59.01, Code of
2 Criminal Procedure, as amended by Chapters 127 (S.B. 1694), 822
3 (H.B. 73), and 885 (H.B. 2278), Acts of the 80th Legislature,
4 Regular Session, 2007, is reenacted and amended to read as follows:

5 (2) "Contraband" means property of any nature,
6 including real, personal, tangible, or intangible, that is:

7 (A) used in the commission of:

8 (i) any first or second degree felony under
9 the Penal Code;

10 (ii) any felony under Section 15.031(b),
11 20.05, 21.11, 38.04, Subchapter B of Chapter 43, or Chapter 29, 30,
12 31, 32, 33, 33A, or 35, Penal Code;

13 (iii) any felony under The Securities Act
14 (Article 581-1 et seq., Vernon's Texas Civil Statutes); or

15 (iv) any offense under Chapter 49, Penal
16 Code, that is punishable as a felony of the third degree or state
17 jail felony, if the defendant has been previously convicted three
18 times of an offense under that chapter;

19 (B) used or intended to be used in the commission
20 of:

21 (i) any felony under Chapter 481, Health
22 and Safety Code (Texas Controlled Substances Act);

23 (ii) any felony under Chapter 483, Health
24 and Safety Code;

25 (iii) a felony under Chapter 153, Finance
26 Code;

27 (iv) any felony under Chapter 34, Penal

1 Code;

2 (v) a Class A misdemeanor under Subchapter
3 B, Chapter 365, Health and Safety Code, if the defendant has been
4 previously convicted twice of an offense under that subchapter;

5 (vi) any felony under Chapter 152, Finance
6 Code;

7 (vii) any felony under Chapter 32, Human
8 Resources Code, or Chapter 31, 32, 35A, or 37, Penal Code, that
9 involves the state Medicaid program;

10 (viii) a Class B misdemeanor under Chapter
11 522, Business & Commerce Code; ~~[or]~~

12 (ix) a Class A misdemeanor under Section
13 35.153, Business & Commerce Code;

14 (x) any offense under Chapter 71, Penal
15 Code; or

16 (xi) any offense under Section 46.06(a)(1)
17 or 46.14, Penal Code;

18 (C) the proceeds gained from the commission of a
19 felony listed in Paragraph (A) or (B) of this subdivision, a
20 misdemeanor listed in Paragraph (B)(viii), (x), or (xi) of this
21 subdivision, or a crime of violence;

22 (D) acquired with proceeds gained from the
23 commission of a felony listed in Paragraph (A) or (B) of this
24 subdivision, a misdemeanor listed in Paragraph (B)(viii), (x), or
25 (xi) of this subdivision, or a crime of violence; or

26 (E) used to facilitate or intended to be used to
27 facilitate the commission of a felony under Section 15.031 or

1 43.25, Penal Code.

2 SECTION 2.03. Chapter 59, Code of Criminal Procedure, is
3 amended by adding Article 59.011 to read as follows:

4 Art. 59.011. ELECTION OF FORFEITURE PROCEEDING. If
5 property described by Article 59.01(2)(B)(x) or (xi) is subject to
6 forfeiture under this chapter and Article 18.18, the attorney
7 representing the state may proceed under either this chapter or
8 that article.

9 SECTION 2.04. Section 125.070, Civil Practice and Remedies
10 Code, as added by this Act, applies only to a cause of action that
11 accrues on or after the effective date of this Act. A cause of
12 action that accrued before the effective date of this Act is
13 governed by the law in effect immediately before the effective date
14 of this Act, and that law is continued in effect for that purpose.

15 SECTION 2.05. Subdivision (2), Article 59.01, Code of
16 Criminal Procedure, as amended by this Act, and Article 59.011,
17 Code of Criminal Procedure, as added by this Act, apply only to the
18 forfeiture of property used in the commission of an offense
19 committed on or after the effective date of this Act. Forfeiture of
20 property used in the commission of an offense committed before the
21 effective date of this Act is governed by the law in effect when the
22 offense was committed, and the former law is continued in effect for
23 that purpose. For purposes of this section, an offense was
24 committed before the effective date of this Act if any element of
25 the offense occurred before that date.

26 ARTICLE 3. POST-CONVICTION AND POST-ADJUDICATION PROVISIONS

27 SECTION 3.01. Article 42.01, Code of Criminal Procedure, is

1 amended by adding Section 9 to read as follows:

2 Sec. 9. In addition to the information described by Section
3 1, the judgment should reflect affirmative findings entered
4 pursuant to Article 42.0197.

5 SECTION 3.02. Chapter 42, Code of Criminal Procedure, is
6 amended by adding Article 42.0197 to read as follows:

7 Art. 42.0197. FINDING REGARDING GANG-RELATED CONDUCT. In
8 the trial of an offense, on the motion of the attorney representing
9 the state the judge shall make an affirmative finding of fact and
10 enter the affirmative finding in the judgment in the case if the
11 judge determines that the applicable conduct was engaged in as part
12 of the activities of a criminal street gang as defined by Section
13 71.01, Penal Code.

14 SECTION 3.03. Subsection (a), Section 11, Article 42.12,
15 Code of Criminal Procedure, is amended to read as follows:

16 (a) The judge of the court having jurisdiction of the case
17 shall determine the conditions of community supervision and may, at
18 any time[7] during the period of community supervision, alter or
19 modify the conditions. The judge may impose any reasonable
20 condition that is designed to protect or restore the community,
21 protect or restore the victim, or punish, rehabilitate, or reform
22 the defendant. Conditions of community supervision may include,
23 but shall not be limited to, the conditions that the defendant
24 shall:

25 (1) Commit no offense against the laws of this State or
26 of any other State or of the United States;

27 (2) Avoid injurious or vicious habits;

1 (3) Avoid persons or places of disreputable or harmful
2 character, including any person, other than a family member of the
3 defendant, who is an active member of a criminal street gang;

4 (4) Report to the supervision officer as directed by
5 the judge or supervision officer and obey all rules and regulations
6 of the community supervision and corrections department;

7 (5) Permit the supervision officer to visit the
8 defendant at the defendant's home or elsewhere;

9 (6) Work faithfully at suitable employment as far as
10 possible;

11 (7) Remain within a specified place;

12 (8) Pay the defendant's fine, if one is [~~be~~] assessed,
13 and all court costs whether a fine is [~~be~~] assessed or not, in one or
14 several sums;

15 (9) Support the defendant's dependents;

16 (10) Participate, for a time specified by the judge,
17 in any community-based program, including a community-service work
18 program under Section 16 of this article;

19 (11) Reimburse the county in which the prosecution was
20 instituted for compensation paid to appointed counsel for defending
21 the defendant in the case, if counsel was appointed, or if the
22 defendant was represented by a county-paid public defender, in an
23 amount that would have been paid to an appointed attorney had the
24 county not had a public defender;

25 (12) Remain under custodial supervision in a community
26 corrections facility, obey all rules and regulations of the [~~such~~]
27 facility, and pay a percentage of the defendant's income to the

1 facility for room and board;

2 (13) Pay a percentage of the defendant's income to the
3 defendant's dependents for their support while under custodial
4 supervision in a community corrections facility;

5 (14) Submit to testing for alcohol or controlled
6 substances;

7 (15) Attend counseling sessions for substance abusers
8 or participate in substance abuse treatment services in a program
9 or facility approved or licensed by the Texas Commission on Alcohol
10 and Drug Abuse;

11 (16) With the consent of the victim of a misdemeanor
12 offense or of any offense under Title 7, Penal Code, participate in
13 victim-defendant mediation;

14 (17) Submit to electronic monitoring;

15 (18) Reimburse the compensation to victims of crime
16 fund for any amounts paid from that fund to or on behalf of a victim,
17 as defined by Article 56.32, of the defendant's offense or if no
18 reimbursement is required, make one payment to the compensation to
19 victims of crime fund in an amount not to exceed \$50 if the offense
20 is a misdemeanor or not to exceed \$100 if the offense is a felony;

21 (19) Reimburse a law enforcement agency for the
22 analysis, storage, or disposal of raw materials, controlled
23 substances, chemical precursors, drug paraphernalia, or other
24 materials seized in connection with the offense;

25 (20) Pay all or part of the reasonable and necessary
26 costs incurred by the victim for psychological counseling made
27 necessary by the offense or for counseling and education relating

1 to acquired immune deficiency syndrome or human immunodeficiency
2 virus made necessary by the offense;

3 (21) Make one payment in an amount not to exceed \$50 to
4 a crime stoppers organization as defined by Section 414.001,
5 Government Code, and as certified by the Crime Stoppers Advisory
6 Council;

7 (22) Submit a DNA sample to the Department of Public
8 Safety under Subchapter G, Chapter 411, Government Code, for the
9 purpose of creating a DNA record of the defendant;

10 (23) In any manner required by the judge, provide
11 public notice of the offense for which the defendant was placed on
12 community supervision in the county in which the offense was
13 committed; and

14 (24) Reimburse the county in which the prosecution was
15 instituted for compensation paid to any interpreter in the case.

16 SECTION 3.04. Article 42.12, Code of Criminal Procedure, is
17 amended by adding Section 13E to read as follows:

18 Sec. 13E. ELECTRONIC MONITORING OF CERTAIN MEMBERS OF
19 CRIMINAL STREET GANG WHO ARE PLACED ON COMMUNITY SUPERVISION.

20 (a) This section applies only to a defendant who:

21 (1) is identified as a member of a criminal street gang
22 in an intelligence database established under Chapter 61; and

23 (2) has two or more times been previously convicted
24 of, or received a grant of deferred adjudication community
25 supervision or another functionally equivalent form of community
26 supervision or probation for, a felony offense under the laws of
27 this state, another state, or the United States.

1 (b) A court granting community supervision to a defendant
2 described by Subsection (a) may, on the defendant's conviction of a
3 felony offense, require as a condition of community supervision
4 that the defendant submit to tracking under an electronic
5 monitoring service or other appropriate technological service
6 designed to track a person's location.

7 SECTION 3.05. Chapter 54, Family Code, is amended by adding
8 Section 54.0491 to read as follows:

9 Sec. 54.0491. GANG-RELATED CONDUCT. (a) In this section:

10 (1) "Criminal street gang" has the meaning assigned by
11 Section 71.01, Penal Code.

12 (2) "Gang-related conduct" means conduct that
13 violates a penal law of the grade of Class B misdemeanor or higher
14 and in which a child engages with the intent to:

15 (A) further the criminal activities of a criminal
16 street gang of which the child is a member;

17 (B) gain membership in a criminal street gang; or

18 (C) avoid detection as a member of a criminal
19 street gang.

20 (b) A juvenile court, in a disposition hearing under Section
21 54.04 regarding a child who has been adjudicated to have engaged in
22 delinquent conduct that is also gang-related conduct, shall order
23 the child to participate in a criminal street gang intervention
24 program that is appropriate for the child based on the child's level
25 of involvement in the criminal activities of a criminal street
26 gang. The intervention program:

27 (1) must include at least 12 hours of instruction; and

1 (2) may include voluntary tattoo removal.

2 (c) If a child required to attend a criminal street gang
3 intervention program is committed to the Texas Youth Commission as
4 a result of the gang-related conduct, the child must complete the
5 intervention program before being discharged from the custody of or
6 released under supervision by the commission.

7 SECTION 3.06. Subchapter G, Chapter 508, Government Code,
8 is amended by adding Section 508.227 to read as follows:

9 Sec. 508.227. ELECTRONIC MONITORING OF CERTAIN MEMBERS OF
10 CRIMINAL STREET GANG. (a) This section applies only to a releasee
11 who:

12 (1) is identified as a member of a criminal street gang
13 in an intelligence database established under Chapter 61, Code of
14 Criminal Procedure; and

15 (2) has three or more times been convicted of, or
16 received a grant of deferred adjudication community supervision or
17 another functionally equivalent form of community supervision or
18 probation for, a felony offense under the laws of this state,
19 another state, or the United States.

20 (b) A parole panel may require as a condition of release on
21 parole or to mandatory supervision that a releasee described by
22 Subsection (a) submit to tracking under an electronic monitoring
23 service or other appropriate technological service designed to
24 track a person's location.

25 SECTION 3.07. Section 3.03, Penal Code, is amended by
26 amending Subsection (b) and adding Subsection (b-1) to read as
27 follows:

1 (b) If the accused is found guilty of more than one offense
2 arising out of the same criminal episode, the sentences may run
3 concurrently or consecutively if each sentence is for a conviction
4 of:

5 (1) an offense:

6 (A) under Section 49.07 or 49.08, regardless of
7 whether the accused is convicted of violations of the same section
8 more than once or is convicted of violations of both sections; or

9 (B) for which a plea agreement was reached in a
10 case in which the accused was charged with more than one offense
11 listed in Paragraph (A), regardless of whether the accused is
12 charged with violations of the same section more than once or is
13 charged with violations of both sections;

14 (2) an offense:

15 (A) under Section 33.021 or an offense under
16 Section 21.02, 21.11, 22.011, 22.021, 25.02, or 43.25 committed
17 against a victim younger than 17 years of age at the time of the
18 commission of the offense regardless of whether the accused is
19 convicted of violations of the same section more than once or is
20 convicted of violations of more than one section; or

21 (B) for which a plea agreement was reached in a
22 case in which the accused was charged with more than one offense
23 listed in Paragraph (A) committed against a victim younger than 17
24 years of age at the time of the commission of the offense regardless
25 of whether the accused is charged with violations of the same
26 section more than once or is charged with violations of more than
27 one section; [~~or~~]

1 (3) an offense:

2 (A) under Section 21.15 or 43.26, regardless of
3 whether the accused is convicted of violations of the same section
4 more than once or is convicted of violations of both sections; or

5 (B) for which a plea agreement was reached in a
6 case in which the accused was charged with more than one offense
7 listed in Paragraph (A), regardless of whether the accused is
8 charged with violations of the same section more than once or is
9 charged with violations of both sections; or

10 (4) an offense for which the judgment in the case
11 contains an affirmative finding under Article 42.0197, Code of
12 Criminal Procedure.

13 (b-1) Subsection (b)(4) does not apply to a defendant whose
14 case was transferred to the court under Section 54.02, Family Code.

15 SECTION 3.08. Section 9, Article 42.01, Code of Criminal
16 Procedure, and Article 42.0197, Code of Criminal Procedure, as
17 added by this Act, apply only to a judgment of conviction entered on
18 or after the effective date of this Act.

19 SECTION 3.09. Subsection (a), Section 11, Article 42.12,
20 Code of Criminal Procedure, as amended by this Act, and Section 13E,
21 Article 42.12, Code of Criminal Procedure, as added by this Act,
22 apply only to a person who is placed on community supervision for an
23 offense committed on or after the effective date of this Act. A
24 person who is placed on community supervision for an offense
25 committed before the effective date of this Act is governed by the
26 law in effect on the date the offense was committed, and the former
27 law is continued in effect for that purpose. For purposes of this

1 section, an offense was committed before the effective date of this
2 Act if any element of the offense occurred before that date.

3 SECTION 3.10. Section 54.0491, Family Code, as added by
4 this Act, applies only to conduct that violates a penal law of this
5 state and that occurs on or after the effective date of this Act.
6 Conduct that violates a penal law of this state and that occurs
7 before the effective date of this Act is covered by the law in
8 effect at the time the conduct occurred, and the former law is
9 continued in effect for that purpose. For purposes of this section,
10 conduct occurs before the effective date of this Act if each element
11 of the violation occurred before that date.

12 SECTION 3.11. Section 508.227, Government Code, as added by
13 this Act, applies only to a person released on parole or to
14 mandatory supervision for an offense committed on or after the
15 effective date of this Act. A person released on parole or to
16 mandatory supervision for an offense committed before the effective
17 date of this Act is governed by the law in effect on the date the
18 offense was committed, and the former law is continued in effect for
19 that purpose. For purposes of this section, an offense was
20 committed before the effective date of this Act if any element of
21 the offense occurred before that date.

22 SECTION 3.12. Subsection (b), Section 3.03, Penal Code, as
23 amended by this Act, applies only to an offense committed on or
24 after the effective date of this Act. An offense committed before
25 the effective date of this Act is covered by the law in effect when
26 the offense was committed, and the former law is continued in effect
27 for that purpose. For purposes of this section, an offense was

1 committed before the effective date of this Act if any element of
2 the offense occurred before that date.

3 ARTICLE 4. GRAFFITI

4 SECTION 4.01. Subchapter C, Chapter 101, Civil Practice and
5 Remedies Code, is amended by adding Section 101.067 to read as
6 follows:

7 Sec. 101.067. GRAFFITI REMOVAL. This chapter does not
8 apply to a claim for property damage caused by the removal of
9 graffiti under Section 250.007, Local Government Code.

10 SECTION 4.02. Subsections (a) and (c), Article 102.0171,
11 Code of Criminal Procedure, are amended to read as follows:

12 (a) A defendant convicted of an offense under Section 28.08,
13 Penal Code, in a county court, county court at law, or district
14 court shall pay a [~~50~~] juvenile delinquency prevention and
15 graffiti eradication fee as a cost of court. The amount of the fee
16 under this section must be not less than \$50 or more than \$500. In
17 setting the amount of the fee, the court shall increase the fee
18 based on the amount of pecuniary loss in the case and the number of
19 times the defendant has been previously convicted of an offense
20 under Section 28.08, Penal Code.

21 (c) The clerks of the respective courts shall collect the
22 costs and pay them to the county treasurer or to any other official
23 who discharges the duties commonly delegated to the county
24 treasurer for deposit in a fund to be known as the county juvenile
25 delinquency prevention fund. A fund designated by this subsection
26 may be used only to:

27 (1) repair damage caused by the commission of offenses

1 under Section 28.08, Penal Code;

2 (2) provide educational and intervention programs and
3 materials, including printed educational materials for
4 distribution to primary and secondary school students, designed to
5 prevent individuals from committing offenses under Section 28.08,
6 Penal Code;

7 (3) provide to the public rewards for identifying and
8 aiding in the apprehension and prosecution of offenders who commit
9 offenses under Section 28.08, Penal Code;

10 (4) provide funding for teen recognition and teen
11 recreation programs;

12 (5) provide funding for local teen court programs;

13 (6) provide funding for the local juvenile probation
14 department; ~~and~~

15 (7) provide educational and intervention programs
16 designed to prevent juveniles from engaging in delinquent conduct;
17 and

18 (8) provide funding for community art programs.

19 SECTION 4.03. Subsection (a), Section 54.0461, Family Code,
20 is amended to read as follows:

21 (a) If a child is adjudicated as having engaged in
22 delinquent conduct that violates Section 28.08, Penal Code, the
23 juvenile court shall order the child, parent, or other person
24 responsible for the child's support to pay to the court a [~~\$50~~
25 juvenile delinquency prevention fee as a cost of court. The amount
26 of the fee under this section must be not less than \$50 or more than
27 \$500. In setting the amount of the fee, the court shall increase

1 the fee based on the amount of pecuniary loss resulting from the
2 conduct and the number of times the child has been previously
3 adjudicated as having engaged in delinquent conduct violating
4 Section 28.08, Penal Code.

5 SECTION 4.04. Section 102.041, Government Code, as amended
6 by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular
7 Session, 2007, is amended to read as follows:

8 Sec. 102.041. ADDITIONAL COURT COSTS ON CONVICTION IN
9 DISTRICT COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a
10 district court shall collect fees and costs under the Code of
11 Criminal Procedure on conviction of a defendant as follows:

12 (1) a jury fee (Art. 102.004, Code of Criminal
13 Procedure) . . . \$20;

14 (2) a fee for clerk of the court services (Art.
15 102.005, Code of Criminal Procedure) . . . \$40;

16 (3) a records management and preservation services fee
17 (Art. 102.005, Code of Criminal Procedure) . . . \$25;

18 (4) a security fee on a felony offense (Art. 102.017,
19 Code of Criminal Procedure) . . . \$5;

20 (5) a security fee on a misdemeanor offense (Art.
21 102.017, Code of Criminal Procedure) . . . \$3; and

22 (6) a juvenile delinquency prevention and graffiti
23 eradication fee (Art. 102.0171, Code of Criminal Procedure) . . .
24 not less than \$50 or more than \$500 [~~\$5~~].

25 SECTION 4.05. Section 102.061, Government Code, as amended
26 by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular
27 Session, 2007, is amended to read as follows:

1 Sec. 102.061. ADDITIONAL COURT COSTS ON CONVICTION IN
2 STATUTORY COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a
3 statutory county court shall collect fees and costs under the Code
4 of Criminal Procedure on conviction of a defendant as follows:

5 (1) a jury fee (Art. 102.004, Code of Criminal
6 Procedure) . . . \$20;

7 (2) a fee for services of the clerk of the court (Art.
8 102.005, Code of Criminal Procedure) . . . \$40;

9 (3) a records management and preservation services fee
10 (Art. 102.005, Code of Criminal Procedure) . . . \$25;

11 (4) a security fee on a misdemeanor offense (Art.
12 102.017, Code of Criminal Procedure) . . . \$3;

13 (5) a juvenile delinquency prevention and graffiti
14 eradication fee (Art. 102.0171, Code of Criminal Procedure) . . .
15 not less than \$50 or more than \$500 [~~\$5~~]; and

16 (6) a juvenile case manager fee (Art. 102.0174, Code
17 of Criminal Procedure) . . . not to exceed \$5.

18 SECTION 4.06. Section 102.081, Government Code, as amended
19 by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular
20 Session, 2007, is amended to read as follows:

21 Sec. 102.081. ADDITIONAL COURT COSTS ON CONVICTION IN
22 COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a county
23 court shall collect fees and costs under the Code of Criminal
24 Procedure on conviction of a defendant as follows:

25 (1) a jury fee (Art. 102.004, Code of Criminal
26 Procedure) . . . \$20;

27 (2) a fee for clerk of the court services (Art.

1 102.005, Code of Criminal Procedure) . . . \$40;

2 (3) a records management and preservation services fee
3 (Art. 102.005, Code of Criminal Procedure) . . . \$25;

4 (4) a security fee on a misdemeanor offense (Art.
5 102.017, Code of Criminal Procedure) . . . \$3;

6 (5) a juvenile delinquency prevention and graffiti
7 eradication fee (Art. 102.0171, Code of Criminal Procedure) . . .
8 not less than \$50 or more than \$500 [~~\$5~~]; and

9 (6) a juvenile case manager fee (Art. 102.0174, Code
10 of Criminal Procedure) . . . not to exceed \$5.

11 SECTION 4.07. Section 103.0212, Government Code, is amended
12 to read as follows:

13 Sec. 103.0212. ADDITIONAL FEES AND COSTS IN CRIMINAL OR
14 CIVIL CASES: FAMILY CODE. An accused or defendant, or a party to a
15 civil suit, as applicable, shall pay the following fees and costs
16 under the Family Code if ordered by the court or otherwise required:

17 (1) in family matters:

18 (A) issuing writ of withholding (Sec. 8.262,
19 Family Code) . . . \$15;

20 (B) filing copy of writ of withholding to
21 subsequent employer (Sec. 8.267, Family Code) . . . \$15;

22 (C) issuing and delivering modified writ of
23 withholding or notice of termination (Sec. 8.302, Family Code)
24 . . . \$15;

25 (D) issuing and delivering notice of termination
26 of withholding (Sec. 8.303, Family Code) . . . \$15;

27 (E) issuance of change of name certificate (Sec.

- 1 45.106, Family Code) . . . \$10;
- 2 (F) protective order fee (Sec. 81.003, Family
3 Code) . . . \$16;
- 4 (G) filing suit requesting adoption of child
5 (Sec. 108.006, Family Code) . . . \$15;
- 6 (H) filing fees for suits affecting parent-child
7 relationship (Sec. 110.002, Family Code):
- 8 (i) suit or motion for modification (Sec.
9 110.002, Family Code) . . . \$15;
- 10 (ii) motion for enforcement (Sec. 110.002,
11 Family Code) . . . \$15;
- 12 (iii) notice of application for judicial
13 writ of withholding (Sec. 110.002, Family Code) . . . \$15;
- 14 (iv) motion to transfer (Sec. 110.002,
15 Family Code) . . . \$15;
- 16 (v) petition for license suspension (Sec.
17 110.002, Family Code) . . . \$15;
- 18 (vi) motion to revoke a stay of license
19 suspension (Sec. 110.002, Family Code) . . . \$15; and
- 20 (vii) motion for contempt (Sec. 110.002,
21 Family Code) . . . \$15;
- 22 (I) order or writ of income withholding to be
23 delivered to employer (Sec. 110.004, Family Code) . . . not to
24 exceed \$15;
- 25 (J) filing fee for transferred case (Sec.
26 110.005, Family Code) . . . \$45;
- 27 (K) filing a writ of withholding (Sec. 158.319,

1 Family Code) . . . \$15;

2 (L) filing a request for modified writ of
3 withholding or notice of termination (Sec. 158.403, Family Code)
4 . . . not to exceed \$15;

5 (M) filing an administrative writ to employer
6 (Sec. 158.503, Family Code) . . . not to exceed \$15; and

7 (N) genetic testing fees in relation to a child
8 born to a gestational mother (Sec. 160.762, Family Code) . . . as
9 assessed by the court; and

10 (2) in juvenile court:

11 (A) fee schedule for deferred prosecution
12 services (Sec. 53.03, Family Code) . . . maximum fee of \$15 a month;

13 (B) a request fee for a teen court program
14 ~~[administration fee]~~ (Sec. 54.032, Family Code) . . . \$20, if the
15 court ordering the fee is located in the Texas-Louisiana border
16 region, but otherwise not to exceed \$10;

17 (C) court costs for juvenile probation diversion
18 fund (Sec. 54.0411, Family Code) . . . \$20;

19 (D) a juvenile delinquency prevention fee (Sec.
20 54.0461, Family Code) . . . not less than \$50 or more than \$500
21 ~~[\$5]; [and]~~

22 (E) a court fee for child's probationary period
23 (Sec. 54.061, Family Code) . . . not to exceed \$15 a month; and

24 (F) a fee to cover costs of required duties of
25 teen court (Sec. 54.032, Family Code) . . . \$20, if the court
26 ordering the fee is located in the Texas-Louisiana border region,
27 but otherwise not to exceed \$10.

1 SECTION 4.08. Subsection (a), Section 485.018, Health and
2 Safety Code, is amended to read as follows:

3 (a) A political subdivision or an agency of this state may
4 not enact an ordinance or rule that requires a business
5 establishment to display an abusable volatile chemical, other than
6 aerosol paint, in a manner that makes the chemical accessible to
7 patrons of the business only with the assistance of personnel of the
8 business.

9 SECTION 4.09. Chapter 250, Local Government Code, is
10 amended by adding Sections 250.006 and 250.007 to read as follows:

11 Sec. 250.006. SURCHARGE ON SALE OF AEROSOL PAINT. (a) A
12 county by order or a municipality by ordinance may require a person
13 who sells aerosol paint to impose a surcharge not to exceed \$1 on
14 each sale of aerosol paint.

15 (b) Money collected under this section may be used only for
16 purposes related to graffiti abatement.

17 Sec. 250.007. GRAFFITI REMOVAL. (a) Except as provided by
18 Subsection (g), a county by order or a municipality by ordinance may
19 require the owner of property within the jurisdiction of the county
20 or municipality to remove graffiti from the owner's property on
21 receipt of notice from the county or municipality.

22 (b) The order or ordinance must require a property owner to
23 remove the graffiti on or before the 10th day after the date the
24 property owner receives notice under Subsection (a), except that if
25 the property owner requests the county or municipality, as
26 applicable, to remove the graffiti or if the property owner fails to
27 remove the graffiti on or before the 10th day after the date of

1 receipt of the notice, the county or municipality may remove the
2 graffiti and charge the expenses of removal to the property owner in
3 accordance with a fee schedule adopted by the county or
4 municipality.

5 (c) The notice required by Subsection (a) must be given:

6 (1) personally to the owner in writing;

7 (2) by letter sent by certified mail, addressed to the
8 property owner at the property owner's address as contained in the
9 records of the appraisal district in which the property is located;
10 or

11 (3) if service cannot be obtained under Subdivision
12 (1) or (2):

13 (A) by publication at least once in a newspaper
14 of general circulation in the county or municipality;

15 (B) by posting the notice on or near the front
16 door of each building on the property to which the notice relates;
17 or

18 (C) by posting the notice on a placard attached
19 to a stake driven into the ground on the property to which the
20 notice relates.

21 (d) The county or municipality may assess expenses incurred
22 under Subsection (b) against the property on which the work is
23 performed to remove the graffiti.

24 (e) To obtain a lien against the property for expenses
25 incurred under Subsection (b), the governing body of the county or
26 municipality must file a statement of expenses with the county
27 clerk. The statement of expenses must contain:

- 1 (1) the name of the property owner, if known;
2 (2) the legal description of the property; and
3 (3) the amount of expenses incurred under Subsection
4 (b).

5 (f) A lien described by Subsection (e) attaches to the
6 property on the date on which the statement of expenses is filed in
7 the real property records of the county in which the property is
8 located and is subordinate to:

- 9 (1) any previously recorded lien; and
10 (2) the rights of a purchaser or lender for value who
11 acquires an interest in the property subject to the lien before the
12 statement of expenses is filed as described by Subsection (e).

13 (g) An order or ordinance described by this section must
14 include an exception from the requirement that an owner of property
15 remove graffiti from the owner's property if:

- 16 (1) the graffiti is located on transportation
17 infrastructure; and
18 (2) the removal of the graffiti would create a hazard
19 for the person performing the removal.

20 SECTION 4.10. Chapter 30, Penal Code, is amended by adding
21 Section 30.021 to read as follows:

22 Sec. 30.021. BURGLARY OF BUILDING TO CREATE GRAFFITI.

23 (a) A person commits an offense if, without the effective consent
24 of the owner, the person:

- 25 (1) enters a building, or any portion of a building,
26 not then open to the public, with the intent to commit an offense
27 under Section 28.08;

1 (2) remains concealed, with the intent to commit an
2 offense under Section 28.08, in a building; or

3 (3) enters a building and commits or attempts to
4 commit an offense under Section 28.08.

5 (b) For purposes of this section, "enter" has the meaning
6 assigned by Section 30.02.

7 (c) An offense under this section is a state jail felony.

8 SECTION 4.11. Section 101.067, Civil Practice and Remedies
9 Code, as added by this Act, applies only to a cause of action that
10 accrues on or after the effective date of this Act. A cause of
11 action that accrued before the effective date of this Act is
12 governed by the law in effect immediately before the effective date
13 of this Act, and that law is continued in effect for that purpose.

14 SECTION 4.12. Subsections (a) and (c), Article 102.0171,
15 Code of Criminal Procedure, and Sections 102.041, 102.061, and
16 102.081, Government Code, as amended by this Act, apply only to an
17 offense committed on or after the effective date of this Act. An
18 offense committed before the effective date of this Act is covered
19 by the law in effect when the offense was committed, and the former
20 law is continued in effect for that purpose. For purposes of this
21 section, an offense was committed before the effective date of this
22 Act if any element of the offense occurred before that date.

23 SECTION 4.13. Subsection (a), Section 54.0461, Family Code,
24 and Section 103.0212, Government Code, as amended by this Act,
25 apply only to conduct that violates a penal law of this state and
26 that occurs on or after the effective date of this Act. Conduct
27 that violates a penal law of this state and that occurs before the

1 effective date of this Act is covered by the law in effect at the
2 time the conduct occurred, and the former law is continued in effect
3 for that purpose. For purposes of this section, conduct occurs
4 before the effective date of this Act if each element of the
5 violation occurred before that date.

6 ARTICLE 5. USE OF FALSE OR FICTITIOUS IDENTITY OR IDENTIFYING
7 DOCUMENTS

8 SECTION 5.01. Section 37.10, Penal Code, is amended by
9 adding Subsection (j) to read as follows:

10 (j) It is not a defense to prosecution under Subsection
11 (a)(2) that the record, document, or thing made, presented, or used
12 displays or contains the statement "NOT A GOVERNMENT DOCUMENT" or
13 another substantially similar statement intended to alert a person
14 to the falsity of the record, document, or thing, unless the record,
15 document, or thing displays the statement diagonally printed
16 clearly and indelibly on both the front and back of the record,
17 document, or thing in solid red capital letters at least one-fourth
18 inch in height.

19 SECTION 5.02. Section 521.454, Transportation Code, is
20 amended by adding Subsection (d) to read as follows:

21 (d) If conduct constituting an offense under this section
22 also constitutes an offense under another law, the actor may be
23 prosecuted under this section, the other law, or both.

24 SECTION 5.03. Section 521.455, Transportation Code, is
25 amended by adding Subsection (c) to read as follows:

26 (c) If conduct constituting an offense under this section
27 also constitutes an offense under another law, the actor may be

1 prosecuted under this section, the other law, or both.

2 SECTION 5.04. Section 521.456, Transportation Code, is
3 amended by adding Subsection (e) to read as follows:

4 (e) If conduct constituting an offense under this section
5 also constitutes an offense under another law, the actor may be
6 prosecuted under this section, the other law, or both.

7 SECTION 5.05. Subsection (j), Section 37.10, Penal Code,
8 and Subsection (d), Section 521.454, Subsection (c), Section
9 521.455, and Subsection (e), Section 521.456, Transportation Code,
10 as added by this Act, apply only to an offense committed on or after
11 the effective date of this Act. An offense committed before the
12 effective date of this Act is covered by the law in effect when the
13 offense was committed, and the former law is continued in effect for
14 that purpose. For purposes of this section, an offense was
15 committed before the effective date of this Act if any element of
16 the offense occurred before that date.

17 ARTICLE 6. PENAL PROVISIONS RELATED TO FIREARMS

18 SECTION 6.01. Chapter 46, Penal Code, is amended by adding
19 Section 46.14 to read as follows:

20 Sec. 46.14. FIREARM SMUGGLING. (a) A person commits an
21 offense if the person knowingly engages in the business of
22 transporting or transferring a firearm that the person knows was
23 acquired in violation of the laws of any state or of the United
24 States. For purposes of this subsection, a person is considered to
25 engage in the business of transporting or transferring a firearm if
26 the person engages in that conduct:

27 (1) on more than one occasion; or

1 (2) for profit or any other form of remuneration.

2 (b) An offense under this section is a felony of the third
3 degree, unless it is shown on the trial of the offense that the
4 offense was committed with respect to three or more firearms in a
5 single criminal episode, in which event the offense is a felony of
6 the second degree.

7 (c) This section does not apply to a peace officer who is
8 engaged in the actual discharge of an official duty.

9 (d) If conduct that constitutes an offense under this
10 section also constitutes an offense under any other law, the actor
11 may be prosecuted under this section, the other law, or both.

12 ARTICLE 7. INTELLIGENCE DATABASES

13 SECTION 7.01. Article 61.02, Code of Criminal Procedure, is
14 amended by amending Subsection (c) and adding Subsections (d) and
15 (e) to read as follows:

16 (c) Criminal information collected under this chapter
17 relating to a criminal street gang must:

18 (1) be relevant to the identification of an
19 organization that is reasonably suspected of involvement in
20 criminal activity; and

21 (2) consist of:

22 (A) a judgment under any law that includes, as a
23 finding or as an element of a criminal offense, participation in a
24 criminal street gang;

25 (B) a self-admission by the individual of
26 criminal street gang membership that is made during a judicial
27 proceeding; or

1 (C) except as provided by Subsection (d), any two
2 of the following:

3 (i) a self-admission by the individual of
4 criminal street gang membership that is not made during a judicial
5 proceeding, including the use of the Internet or other electronic
6 format or medium to post photographs or other documentation
7 identifying the individual as a member of a criminal street gang;

8 (ii) an identification of the individual as
9 a criminal street gang member by a reliable informant or other
10 individual;

11 (iii) a corroborated identification of the
12 individual as a criminal street gang member by an informant or other
13 individual of unknown reliability;

14 (iv) evidence that the individual frequents
15 a documented area of a criminal street gang and associates with
16 known criminal street gang members;

17 (v) evidence that the individual uses, in
18 more than an incidental manner, criminal street gang dress, hand
19 signals, tattoos, or symbols, including expressions of letters,
20 numbers, words, or marks, regardless of how or the means by [~~the~~
21 ~~format or medium in~~] which the symbols are displayed, that are
22 associated with a criminal street gang that operates in an area
23 frequented by the individual and described by Subparagraph (iv);
24 [~~or~~]

25 (vi) evidence that the individual has been
26 arrested or taken into custody with known criminal street gang
27 members for an offense or conduct consistent with criminal street

1 gang activity;

2 (vii) evidence that the individual has
3 visited a known criminal street gang member, other than a family
4 member of the individual, while the gang member is confined in or
5 committed to a penal institution; or

6 (viii) evidence of the individual's use of
7 technology, including the Internet, to recruit new criminal street
8 gang members.

9 (d) Evidence described by Subsections (c)(2)(C)(iv) and
10 (vii) is not sufficient to create the eligibility of a person's
11 information to be included in an intelligence database described by
12 this chapter unless the evidence is combined with information
13 described by another subparagraph of Subsection (c)(2)(C).

14 (e) In this article:

15 (1) "Family member" means a person related to another
16 person within the third degree by consanguinity or affinity, as
17 described by Subchapter B, Chapter 573, Government Code, except
18 that the term does not include a person who is considered to be
19 related to another person by affinity only as described by Section
20 573.024(b), Government Code.

21 (2) "Penal institution" means a confinement facility
22 operated by or under a contract with any division of the Texas
23 Department of Criminal Justice, a confinement facility operated by
24 or under contract with the Texas Youth Commission, or a juvenile
25 secure pre-adjudication or post-adjudication facility operated by
26 or under a local juvenile probation department, or a county jail.

27 SECTION 7.02. Subsection (b), Article 61.06, Code of

1 Criminal Procedure, is amended to read as follows:

2 (b) Subject to Subsection (c), information collected under
3 this chapter relating to a criminal street gang must be removed from
4 an intelligence database established under Article 61.02 and the
5 intelligence database maintained by the department under Article
6 61.03 after five [~~three~~] years if:

7 (1) the information relates to the investigation or
8 prosecution of criminal activity engaged in by an individual other
9 than a child; and

10 (2) the individual who is the subject of the
11 information has not been arrested for criminal activity reported to
12 the department under Chapter 60.

13 SECTION 7.03. Subsection (c), Article 61.06, Code of
14 Criminal Procedure, as amended by Chapters 258 (S.B. 11), 263 (S.B.
15 103), and 1308 (S.B. 909), Acts of the 80th Legislature, Regular
16 Session, 2007, is reenacted and amended to read as follows:

17 (c) In determining whether information is required to be
18 removed from an intelligence database under Subsection (b), the
19 five-year [~~three-year~~] period does not include any period during
20 which the individual who is the subject of the information is:

21 (1) confined in a correctional facility operated by or
22 under contract with the Texas Department of Criminal Justice;

23 (2) committed to a secure correctional facility
24 operated by or under contract with the Texas Youth Commission, as
25 defined by Section 51.02, Family Code; or

26 (3) confined in a county jail or confined in or
27 committed to a facility operated by a juvenile board in lieu of

1 being confined in a correctional facility operated by or under
2 contract with the Texas Department of Criminal Justice or being
3 committed to a secure correctional facility operated by or under
4 contract with the Texas Youth Commission.

5 SECTION 7.04. Article 61.06, Code of Criminal Procedure, as
6 amended by this Act, applies to any applicable information
7 maintained in an intelligence database under Chapter 61 of that
8 code on or after the effective date of this Act.

9 ARTICLE 8. LICENSE SUSPENSION

10 SECTION 8.01. Subsection (a), Section 521.343,
11 Transportation Code, is amended to read as follows:

12 (a) Except as provided by Sections 521.342(b), 521.344(a),
13 (b), (d), (e), (f), (g), (h), and (i), 521.345, 521.346, 521.3465,
14 [~~and~~ 521.351, and 521.352, a suspension under this subchapter is
15 for one year.

16 SECTION 8.02. Subchapter O, Chapter 521, Transportation
17 Code, is amended by adding Section 521.352 to read as follows:

18 Sec. 521.352. SUSPENSION OR PROHIBITION FOR CERTAIN
19 ORGANIZED CRIME OFFENSES. (a) A person's license is automatically
20 suspended on conviction of the person for an offense under Chapter
21 71, Penal Code.

22 (b) The department may not issue a driver's license to a
23 person convicted of an offense specified in Subsection (a) who, on
24 the date of the conviction, did not hold a license.

25 (c) The period of license suspension or prohibition under
26 this section begins on a date set by the court that is not earlier
27 than the date of conviction or later than the 30th day after the

1 date of conviction. The period of license suspension or
2 prohibition under this section expires on the first anniversary of
3 the date the suspension or prohibition began.

4 SECTION 8.03. Section 521.457, Transportation Code, is
5 amended by amending Subsection (e) and adding Subsection (f-2) to
6 read as follows:

7 (e) Except as provided by Subsections (f), ~~[and]~~ (f-1), and
8 (f-2), an offense under this section is a Class C misdemeanor.

9 (f-2) If it is shown on the trial of an offense under this
10 section that the person operated a motor vehicle on a highway during
11 a period that the person's driver's license was suspended under
12 Section 521.352 or the person was prohibited from obtaining a
13 driver's license under that section, the offense is a Class A
14 misdemeanor.

15 SECTION 8.04. (a) The change in law made by this article
16 applies only to an offense committed on or after the effective date
17 of this Act.

18 (b) An offense committed before the effective date of this
19 Act is covered by the law in effect when the offense was committed,
20 and the former law is continued in effect for that purpose. For
21 purposes of this subsection, an offense was committed before the
22 effective date of this Act if any element of the offense was
23 committed before that date.

24 ARTICLE 9. MISCELLANEOUS PROVISIONS

25 SECTION 9.01. Article 18.20, Code of Criminal Procedure, is
26 amended by adding Section 9A to read as follows:

27 Sec. 9A. INTERCEPTION ORDER FOR COMMUNICATION BY SPECIFIED

1 PERSON. (a) The requirements of Sections 8(a)(2)(B) and 9(b)(2)
2 relating to the specification of the facilities from which or the
3 place where a communication is to be intercepted do not apply if:

4 (1) in the case of an application for an order
5 authorizing the interception of an oral communication:

6 (A) the application contains a full and complete
7 statement as to why the specification is not practical and
8 identifies the person committing or believed to be committing the
9 offense and whose communications are to be intercepted; and

10 (B) a judge of competent jurisdiction finds that
11 the specification is not practical; and

12 (2) in the case of an application for an order
13 authorizing the interception of a wire or electronic communication:

14 (A) the application identifies the person
15 committing or believed to be committing the offense and whose
16 communications are to be intercepted;

17 (B) a judge of competent jurisdiction finds that
18 the applicant has made an adequate showing of probable cause to
19 believe that the actions of the person identified in the
20 application could have the effect of thwarting interception from a
21 specified facility; and

22 (C) the authority to intercept a wire or
23 electronic communication under the order is limited to a period in
24 which it is reasonable to presume that the person identified in the
25 application will be reasonably proximate to the interception
26 device.

27 (b) A person implementing an order authorizing the

1 interception of an oral communication that, in accordance with this
2 section, does not specify the facility from which or the place where
3 a communication is to be intercepted may begin interception only
4 after the person ascertains the place where the communication is to
5 be intercepted.

6 (c) A provider of wire or electronic communications that
7 receives an order authorizing the interception of a wire or
8 electronic communication that, in accordance with this section,
9 does not specify the facility from which or the place where a
10 communication is to be intercepted may move the court to modify or
11 quash the order on the ground that the provider's assistance with
12 respect to the interception cannot be performed in a timely or
13 reasonable fashion. On notice to the state, the court shall decide
14 the motion expeditiously.

15 SECTION 9.02. Subchapter A, Chapter 411, Government Code,
16 is amended by adding Section 411.0207 to read as follows:

17 Sec. 411.0207. PUBLIC CORRUPTION UNIT. (a) In this
18 section, "organized criminal activity" means conduct that
19 constitutes an offense under Section 71.02, Penal Code.

20 (b) A public corruption unit is created within the
21 department to investigate and assist in the management of
22 allegations of participation in organized criminal activity by:

23 (1) an individual elected, appointed, or employed to
24 serve as a peace officer for a governmental entity of this state
25 under Article 2.12, Code of Criminal Procedure; or

26 (2) a federal law enforcement officer while performing
27 duties in this state.

1 (c) The unit shall:

2 (1) assist district attorneys and county attorneys in
3 the investigation and prosecution of allegations described by
4 Subsection (b);

5 (2) if requested by the agency, assist a state or local
6 law enforcement agency with the investigation of such allegations
7 against law enforcement officers in the agency;

8 (3) assist the United States Department of Justice or
9 any other appropriate federal department or agency in the
10 investigation and prosecution of allegations described by
11 Subsection (b);

12 (4) if requested by the agency, assist a federal law
13 enforcement agency with the investigation of such allegations
14 against law enforcement officers in the agency;

15 (5) serve as a clearinghouse for information relating
16 to the investigation and prosecution of allegations described by
17 Subsection (b); and

18 (6) report to the highest-ranking officer of the Texas
19 Rangers division of the department.

20 (d) On written approval of the director or of the chair of
21 the commission, the highest-ranking officer of the Texas Rangers
22 division of the department may initiate an investigation of an
23 allegation of participation in organized criminal activity by a law
24 enforcement officer described by Subsection (b)(1). Written
25 approval under this subsection must be based on cause.

26 (e) To the extent allowed by law, a state or local law
27 enforcement agency shall cooperate with the public corruption unit

1 by providing information requested by the unit as necessary to
2 carry out the purposes of this section. Information described by
3 this subsection is excepted from required disclosure under Chapter
4 552 in the manner provided by Section 552.108.

5 SECTION 9.03. Section 421.082, Government Code, is amended
6 by adding Subsections (e), (f), and (g) to read as follows:

7 (e) The center shall annually submit to the governor and the
8 legislature a report regarding criminal street gangs and
9 gang-related crime. The report must include:

10 (1) an evaluation of the threat that criminal street
11 gangs and gang-related crime pose to communities in this state that
12 are at or near the international border between this state and the
13 United Mexican States;

14 (2) an evaluation of the threat that criminal street
15 gangs and gang-related crime occurring at or near the border pose to
16 other areas of this state;

17 (3) identification of any law enforcement strategies
18 in this state or another jurisdiction that have been effective in
19 preventing the growth or proliferation of criminal street gangs or
20 gang-related crime; and

21 (4) recommendations on actions that may be taken to:

22 (A) prevent criminal street gangs from
23 committing human trafficking offenses;

24 (B) reduce criminal street gang violence
25 throughout this state, with specific recommendations concerning
26 reduction of criminal street gang violence at or near the border;

27 (C) prevent the growth or proliferation of

1 criminal street gangs throughout this state, with specific
2 recommendations concerning prevention of the growth or
3 proliferation of criminal street gangs at or near the border; and
4 (D) ensure that law enforcement personnel
5 receive the necessary training and education to effectively deal
6 with the problems created by criminal street gangs and gang-related
7 crime.

8 (f) On request, a criminal justice or juvenile justice
9 agency of this state shall provide to the center information
10 relating to criminal street gangs and gang-related crime.

11 (g) The report required under Subsection (e) may not contain
12 any information that:

13 (1) is considered sensitive intelligence information
14 by the agency that provided the information; or

15 (2) could jeopardize an ongoing investigation being
16 conducted by the agency that provided the information.

17 SECTION 9.04. Chapter 772, Government Code, is amended by
18 adding Section 772.007 to read as follows:

19 Sec. 772.007. TEXAS ANTI-GANG GRANT PROGRAM. (a) The
20 criminal justice division established under Section 772.006 shall
21 administer a competitive grant program to support regional,
22 multidisciplinary approaches to combat gang violence through the
23 coordination of gang prevention, intervention, and suppression
24 activities.

25 (b) The grant program administered under this section must
26 be directed toward regions of this state that have demonstrably
27 high levels of gang violence.

1 (c) The criminal justice division shall award grants to
2 qualified applicants, as determined by the division, that
3 demonstrate a comprehensive approach that balances gang
4 prevention, intervention, and suppression activities to reduce
5 gang violence.

6 (d) The criminal justice division shall include in the
7 biennial report required by Section 772.006(a)(9) detailed
8 reporting of the results and performance of the grant program
9 administered under this section.

10 (e) The criminal justice division may use any revenue
11 available for purposes of this section.

12 SECTION 9.05. Section 9A, Article 18.20, Code of Criminal
13 Procedure, as added by this Act, applies only to an application for
14 an order authorizing the interception of a wire, oral, or
15 electronic communication that is submitted on or after the
16 effective date of this Act. An application that was submitted
17 before the effective date of this Act is covered by the law in
18 effect on the date the application was submitted, and the former law
19 is continued in effect for that purpose.

20 SECTION 9.06. Not later than December 1, 2010, the
21 Department of Public Safety shall establish the public corruption
22 unit under Section 411.0207, Government Code, as added by this Act.

23 SECTION 9.07. The Texas Fusion Center shall submit the
24 first annual report regarding criminal street gangs and
25 gang-related crime to the governor and the legislature as required
26 by Subsection (e), Section 421.082, Government Code, as added by
27 this Act, not later than September 1, 2010.

1 ARTICLE 10. CONFLICT OF LAW AND EFFECTIVE DATE PROVISIONS

2 SECTION 10.01. To the extent of any conflict, this Act
3 prevails over another Act of the 81st Legislature, Regular Session,
4 2009, relating to nonsubstantive additions to and corrections in
5 enacted codes.

6 SECTION 10.02. This Act takes effect September 1, 2009,
7 except that Sections 37.110 and 51.973, Education Code, and Section
8 42.064, Human Resources Code, as added by this Act, take effect
9 immediately if this Act receives a vote of two-thirds of all the
10 members elected to each house, as provided by Section 39, Article
11 III, Texas Constitution. If this Act does not receive the vote
12 necessary for immediate effect, those sections of the Education
13 Code and Human Resources Code take effect September 1, 2009.