

1-1 By: Carona S.B. No. 11
1-2 (In the Senate - Filed March 5, 2009; March 9, 2009, read
1-3 first time and referred to Committee on Transportation and Homeland
1-4 Security; April 14, 2009, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 8, Nays 0;
1-6 April 14, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 11 By: Carona

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the prevention, investigation, prosecution, and
1-11 punishment for certain gang-related and other criminal offenses and
1-12 to the consequences and costs of engaging in certain activities of a
1-13 criminal street gang or certain other criminal activity; providing
1-14 penalties.

1-15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-16 ARTICLE 1. PENAL PROVISIONS RELATED TO ORGANIZED CRIMINAL ACTIVITY
1-17 AND CRIMINAL STREET GANGS

1-18 SECTION 1.01. Subsection (e), Section 15.031, Penal Code,
1-19 is amended to read as follows:

1-20 (e) An offense under this section is one category lower than
1-21 the solicited offense, except that an offense under this section is
1-22 the same category as the solicited offense if it is shown on the
1-23 trial of the offense that the actor:

1-24 (1) was at the time of the offense a member of a
1-25 criminal street gang, as defined by Section 71.01; and

1-26 (2) committed the offense with the intent to:

1-27 (A) further the criminal activities of the
1-28 criminal street gang; or

1-29 (B) avoid detection as a member of a criminal
1-30 street gang.

1-31 SECTION 1.02. Subsection (a), Section 22.015, Penal Code,
1-32 is amended by adding Subdivision (3) to read as follows:

1-33 (3) "Family" has the meaning assigned by Section
1-34 71.003, Family Code.

1-35 SECTION 1.03. Subsection (b), Section 22.015, Penal Code,
1-36 is amended to read as follows:

1-37 (b) A person commits an offense if, with intent to coerce,
1-38 induce, or solicit a child to actively participate in the
1-39 activities of a criminal street gang, the person:

1-40 (1) threatens the child or a member of the child's
1-41 family with imminent bodily injury; or

1-42 (2) causes bodily injury to the child or a member of
1-43 the child's family.

1-44 SECTION 1.04. Chapter 33, Penal Code, is amended by adding
1-45 Section 33.06 to read as follows:

1-46 Sec. 33.06. ONLINE HARASSMENT TO FURTHER INTERESTS OF
1-47 CRIMINAL STREET GANG. (a) In this section:

1-48 (1) "Commercial social networking site" means any
1-49 business, organization, or other similar entity operating a website
1-50 that permits persons to become registered users for the purpose of
1-51 establishing personal relationships with other users through
1-52 direct or real-time communication with other users or the creation
1-53 of web pages or profiles available to the public or to other users.
1-54 The term does not include an electronic mail program.

1-55 (2) "Criminal street gang" has the meaning assigned by
1-56 Section 71.01.

1-57 (3) "Electronic communication" means the transmission
1-58 of a sign, signal, writing, image, sound, text, or other data
1-59 through the use of an electronic device, including a telephone,
1-60 cellular telephone, text messaging device, personal data
1-61 assistant, computer, or wireless communications device.

1-62 (b) A person commits an offense if the person sends an
1-63 electronic communication or posts a message on an electronic

2-1 message board or commercial social networking site with the intent
2-2 to:

2-3 (1) abuse, intimidate, harass, alarm, or threaten
2-4 another person; and

2-5 (2) benefit, promote, or further the interests of a
2-6 criminal street gang.

2-7 (c) An offense under this section is a state jail felony.

2-8 SECTION 1.05. Subsection (a), Section 71.02, Penal Code, is
2-9 amended to read as follows:

2-10 (a) A person commits an offense if, with the intent to
2-11 establish, maintain, or participate in a combination or in the
2-12 profits of a combination or as a member of a criminal street gang,
2-13 the person [he] commits or conspires to commit one or more of the
2-14 following:

2-15 (1) murder, capital murder, arson, aggravated
2-16 robbery, robbery, burglary, theft, aggravated kidnapping,
2-17 kidnapping, aggravated assault, aggravated sexual assault, sexual
2-18 assault, forgery, deadly conduct, assault punishable as a Class A
2-19 misdemeanor, burglary of a motor vehicle, or unauthorized use of a
2-20 motor vehicle;

2-21 (2) any gambling offense punishable as a Class A
2-22 misdemeanor;

2-23 (3) promotion of prostitution, aggravated promotion
2-24 of prostitution, or compelling prostitution;

2-25 (4) unlawful manufacture, transportation, repair, or
2-26 sale of firearms or prohibited weapons;

2-27 (5) unlawful manufacture, delivery, dispensation, or
2-28 distribution of a controlled substance or dangerous drug, or
2-29 unlawful possession of a controlled substance or dangerous drug
2-30 through forgery, fraud, misrepresentation, or deception;

2-31 (6) any unlawful wholesale promotion or possession of
2-32 any obscene material or obscene device with the intent to wholesale
2-33 promote the same;

2-34 (7) any offense under Subchapter B, Chapter 43,
2-35 depicting or involving conduct by or directed toward a child
2-36 younger than 18 years of age;

2-37 (8) any felony offense under Chapter 32;

2-38 (9) any offense under Chapter 36;

2-39 (10) any offense under Chapter 34 or 35;

2-40 (11) any offense under Section 37.11(a);

2-41 (12) any offense under Chapter 20A; ~~[or]~~

2-42 (13) any offense under Section 37.10;

2-43 (14) any offense under Section 28.08; or

2-44 (15) any offense under Section 46.06(a)(1) or 46.14.

2-45 SECTION 1.06. Chapter 71, Penal Code, is amended by adding
2-46 Sections 71.023, 71.028, and 71.029 to read as follows:

2-47 Sec. 71.023. DIRECTING ACTIVITIES OF CERTAIN CRIMINAL
2-48 STREET GANGS. (a) A person commits an offense if the person

2-49 knowingly initiates, organizes, plans, finances, directs, manages,
2-50 or supervises a criminal street gang or members of a criminal street
2-51 gang with the intent to benefit, promote, or further the interests
2-52 of the criminal street gang or to increase the person's standing,
2-53 position, or status in the criminal street gang.

2-54 (b) An offense under this section is a felony of the first
2-55 degree.

2-56 (c) Notwithstanding Section 71.01, in this section,
2-57 "criminal street gang" means:

2-58 (1) an organization that:

2-59 (A) has more than 10 members whose names are
2-60 included in an intelligence database under Chapter 61, Code of
2-61 Criminal Procedure;

2-62 (B) has a hierarchical structure that has been
2-63 documented in an intelligence database under Chapter 61, Code of
2-64 Criminal Procedure;

2-65 (C) engages in profit-sharing among two or more
2-66 members of the organization; and

2-67 (D) in one or more regions of this state served by
2-68 different regional councils of government, continuously or
2-69 regularly engages in conduct:

3-1 (i) that constitutes an offense listed in
 3-2 Section 3g(a)(1), Article 42.12, Code of Criminal Procedure;
 3-3 (ii) in which it is alleged that a deadly
 3-4 weapon is used or exhibited during the commission of or immediate
 3-5 flight from the commission of any felony offense; or
 3-6 (iii) that is punishable as a felony of the
 3-7 first or second degree under Chapter 481, Health and Safety Code; or
 3-8 (2) an organization that, in collaboration with an
 3-9 organization described by Subdivision (1), engages in conduct or
 3-10 commits an offense or conspires to engage in conduct or commit an
 3-11 offense described by Subdivision (1)(D).

3-12 Sec. 71.028. GANG-FREE ZONES. (a) In this section:

3-13 (1) "Institution of higher education," "playground,"
 3-14 "premises," "school," "video arcade facility," and "youth center"
 3-15 have the meanings assigned by Section 481.134, Health and Safety
 3-16 Code.

3-17 (2) "Shopping mall" means an enclosed public walkway
 3-18 or hall area that connects retail, service, or professional
 3-19 establishments.

3-20 (b) Except as provided by Subsection (c), the punishment
 3-21 prescribed for an offense under Section 71.02 is increased to the
 3-22 punishment prescribed for the next highest category of offense if
 3-23 it is shown beyond a reasonable doubt on the trial of the offense
 3-24 that the actor committed the offense at a location that was:

- 3-25 (1) in, on, or within 1,000 feet of any:
- 3-26 (A) real property that is owned, rented, or
- 3-27 leased by a school or school board;
- 3-28 (B) premises owned, rented, or leased by an
- 3-29 institution of higher education;
- 3-30 (C) shopping mall;
- 3-31 (D) movie theater;
- 3-32 (E) premises of a public or private youth center;

3-33 or

- 3-34 (F) playground;
- 3-35 (2) in, on, or within 300 feet of the premises of a
- 3-36 public swimming pool or video arcade facility; or
- 3-37 (3) on a school bus.

3-38 (c) The punishment prescribed for an offense under Section
 3-39 71.02 may not be increased under this section if the offense is
 3-40 punishable under Section 71.02 as a felony of the first degree.

3-41 Sec. 71.029. MAPS AS EVIDENCE OF LOCATION OR AREA. (a) In
 3-42 a prosecution of an offense for which punishment is increased under
 3-43 Section 71.028, a map produced or reproduced by a municipal or
 3-44 county engineer for the purpose of showing the location and
 3-45 boundaries of gang-free zones is admissible in evidence and is
 3-46 prima facie evidence of the location or boundaries of those zones if
 3-47 the governing body of the municipality or county adopts a
 3-48 resolution or ordinance approving the map as an official finding
 3-49 and record of the location or boundaries of those zones.

3-50 (b) A municipal or county engineer may, on request of the
 3-51 governing body of the municipality or county, revise a map that has
 3-52 been approved by the governing body of the municipality or county as
 3-53 provided by Subsection (a).

3-54 (c) A municipal or county engineer shall file the original
 3-55 or a copy of every approved or revised map approved as provided by
 3-56 Subsection (a) with the county clerk of each county in which the
 3-57 zone is located.

3-58 (d) This section does not prevent the prosecution from:

- 3-59 (1) introducing or relying on any other evidence or
- 3-60 testimony to establish any element of an offense for which
- 3-61 punishment is increased under Section 71.028; or
- 3-62 (2) using or introducing any other map or diagram
- 3-63 otherwise admissible under the Texas Rules of Evidence.

3-64 SECTION 1.07. Subsection (e), Section 15.031, Subsection
 3-65 (b), Section 22.015, and Subsection (a), Section 71.02, Penal Code,
 3-66 as amended by this Act, and Section 71.028, Penal Code, as added by
 3-67 this Act, apply only to an offense committed on or after the
 3-68 effective date of this Act. An offense committed before the
 3-69 effective date of this Act is covered by the law in effect when the

4-1 offense was committed, and the former law is continued in effect for
4-2 that purpose. For purposes of this section, an offense was
4-3 committed before the effective date of this Act if any element of
4-4 the offense occurred before that date.

4-5 ARTICLE 2. CIVIL CONSEQUENCES AND LIABILITY

4-6 SECTION 2.01. Subchapter D, Chapter 125, Civil Practice and
4-7 Remedies Code, is amended by adding Section 125.070 to read as
4-8 follows:

4-9 Sec. 125.070. CIVIL ACTION FOR VIOLATION OF INJUNCTION.

4-10 (a) In this section, "governmental entity" means a political
4-11 subdivision of this state, including any city, county, school
4-12 district, junior college district, levee improvement district,
4-13 drainage district, irrigation district, water improvement
4-14 district, water control and improvement district, water control and
4-15 preservation district, freshwater supply district, navigation
4-16 district, conservation and reclamation district, soil conservation
4-17 district, communication district, public health district, and
4-18 river authority.

4-19 (b) A criminal street gang or a member of a criminal street
4-20 gang is liable to the state or a governmental entity injured by the
4-21 violation of a temporary or permanent injunctive order under this
4-22 subchapter.

4-23 (c) In an action brought against a member of a criminal
4-24 street gang, the plaintiff must show that the member violated the
4-25 temporary or permanent injunctive order.

4-26 (d) A district, county, or city attorney or the attorney
4-27 general may sue for money damages on behalf of the state or a
4-28 governmental entity. If the state or a governmental entity
4-29 prevails in a suit under this section, the state or governmental
4-30 entity may recover:

- 4-31 (1) actual damages;
4-32 (2) a civil penalty in an amount not to exceed \$20,000
4-33 for each violation; and
4-34 (3) court costs and attorney's fees.

4-35 (e) The property of the criminal street gang or a member of
4-36 the street gang may be seized in execution on a judgment under this
4-37 section.

4-38 (f) The attorney general shall deposit money received under
4-39 this section for damages or as a civil penalty in the neighborhood
4-40 and community recovery fund held by the attorney general outside
4-41 the state treasury. Money in the fund is held by the attorney
4-42 general in trust for the benefit of the community or neighborhood
4-43 harmed by the violation of a temporary or permanent injunctive
4-44 order. Money in the fund may be used only for the benefit of the
4-45 community or neighborhood harmed by the violation of the injunctive
4-46 order. Interest earned on money in the fund shall be credited to
4-47 the fund. The attorney general shall account for money in the fund
4-48 so that money held for the benefit of a community or neighborhood,
4-49 and interest earned on that money, are not commingled with money in
4-50 the fund held for the benefit of a different community or
4-51 neighborhood.

4-52 (g) A district, county, or city attorney who brings suit on
4-53 behalf of a governmental entity shall deposit money received for
4-54 damages or as a civil penalty in an account to be held in trust for
4-55 the benefit of the community or neighborhood harmed by the
4-56 violation of a temporary or permanent injunctive order. Money in
4-57 the account may be used only for the benefit of the community or
4-58 neighborhood harmed by the violation of the injunctive order.
4-59 Interest earned on money in the account shall be credited to the
4-60 account. The district, county, or city attorney shall account for
4-61 money in the account so that money held for the benefit of a
4-62 community or neighborhood, and interest earned on that money, are
4-63 not commingled with money in the account held for the benefit of a
4-64 different community or neighborhood.

4-65 (h) An action under this section brought by the state or a
4-66 governmental entity does not waive sovereign or governmental
4-67 immunity for any purpose.

4-68 SECTION 2.02. Subdivision (2), Article 59.01, Code of
4-69 Criminal Procedure, as amended by Chapters 127 (S.B. 1694), 822

5-1 (H.B. 73), and 885 (H.B. 2278), Acts of the 80th Legislature,
5-2 Regular Session, 2007, is reenacted and amended to read as follows:

5-3 (2) "Contraband" means property of any nature,
5-4 including real, personal, tangible, or intangible, that is:

5-5 (A) used in the commission of:
5-6 (i) any first or second degree felony under
5-7 the Penal Code;

5-8 (ii) any felony under Section 15.031(b),
5-9 20.05, 21.11, 38.04, Subchapter B of Chapter 43, or Chapter 29, 30,
5-10 31, 32, 33, 33A, or 35, Penal Code;

5-11 (iii) any felony under The Securities Act
5-12 (Article 581-1 et seq., Vernon's Texas Civil Statutes); or

5-13 (iv) any offense under Chapter 49, Penal
5-14 Code, that is punishable as a felony of the third degree or state
5-15 jail felony, if the defendant has been previously convicted three
5-16 times of an offense under that chapter;

5-17 (B) used or intended to be used in the commission
5-18 of:

5-19 (i) any felony under Chapter 481, Health
5-20 and Safety Code (Texas Controlled Substances Act);

5-21 (ii) any felony under Chapter 483, Health
5-22 and Safety Code;

5-23 (iii) a felony under Chapter 153, Finance
5-24 Code;

5-25 (iv) any felony under Chapter 34, Penal
5-26 Code;

5-27 (v) a Class A misdemeanor under Subchapter
5-28 B, Chapter 365, Health and Safety Code, if the defendant has been
5-29 previously convicted twice of an offense under that subchapter;

5-30 (vi) any felony under Chapter 152, Finance
5-31 Code;

5-32 (vii) any felony under Chapter 32, Human
5-33 Resources Code, or Chapter 31, 32, 35A, or 37, Penal Code, that
5-34 involves the state Medicaid program;

5-35 (viii) a Class B misdemeanor under Chapter
5-36 522, Business & Commerce Code; ~~or~~

5-37 (ix) a Class A misdemeanor under Section
5-38 35.153, Business & Commerce Code;

5-39 (x) any offense under Chapter 71, Penal
5-40 Code; or

5-41 (xi) any offense under Section 46.06(a)(1)
5-42 or 46.14, Penal Code;

5-43 (C) the proceeds gained from the commission of a
5-44 felony listed in Paragraph (A) or (B) of this subdivision, a
5-45 misdemeanor listed in Paragraph (B)(viii), (x), or (xi) of this
5-46 subdivision, or a crime of violence;

5-47 (D) acquired with proceeds gained from the
5-48 commission of a felony listed in Paragraph (A) or (B) of this
5-49 subdivision, a misdemeanor listed in Paragraph (B)(viii), (x), or
5-50 (xi) of this subdivision, or a crime of violence; or

5-51 (E) used to facilitate or intended to be used to
5-52 facilitate the commission of a felony under Section 15.031 or
5-53 43.25, Penal Code.

5-54 SECTION 2.03. Chapter 59, Code of Criminal Procedure, is
5-55 amended by adding Article 59.011 to read as follows:

5-56 Art. 59.011. ELECTION OF FORFEITURE PROCEEDING. If
5-57 property described by Article 59.01(2)(B)(x) or (xi) is subject to
5-58 forfeiture under this chapter and Article 18.18, the attorney
5-59 representing the state may proceed under either this chapter or
5-60 that article.

5-61 SECTION 2.04. Section 125.070, Civil Practice and Remedies
5-62 Code, as added by this Act, applies only to a cause of action that
5-63 accrues on or after the effective date of this Act. A cause of
5-64 action that accrued before the effective date of this Act is
5-65 governed by the law in effect immediately before the effective date
5-66 of this Act, and that law is continued in effect for that purpose.

5-67 SECTION 2.05. Subdivision (2), Article 59.01, Code of
5-68 Criminal Procedure, as amended by this Act, and Article 59.011,
5-69 Code of Criminal Procedure, as added by this Act, apply only to the

6-1 forfeiture of property used in the commission of an offense
 6-2 committed on or after the effective date of this Act. Forfeiture of
 6-3 property used in the commission of an offense committed before the
 6-4 effective date of this Act is governed by the law in effect when the
 6-5 offense was committed, and the former law is continued in effect for
 6-6 that purpose. For purposes of this section, an offense was
 6-7 committed before the effective date of this Act if any element of
 6-8 the offense occurred before that date.

6-9 ARTICLE 3. POST-CONVICTION AND POST-ADJUDICATION PROVISIONS

6-10 SECTION 3.01. Article 42.01, Code of Criminal Procedure, is
 6-11 amended by adding Section 9 to read as follows:

6-12 Sec. 9. In addition to the information described by Section
 6-13 1, the judgment should reflect affirmative findings entered
 6-14 pursuant to Article 42.0197.

6-15 SECTION 3.02. Chapter 42, Code of Criminal Procedure, is
 6-16 amended by adding Article 42.0197 to read as follows:

6-17 Art. 42.0197. FINDING REGARDING GANG-RELATED CONDUCT. In
 6-18 the trial of an offense, on the motion of the attorney representing
 6-19 the state the judge shall make an affirmative finding of fact and
 6-20 enter the affirmative finding in the judgment in the case if the
 6-21 judge determines that the applicable conduct was engaged in as part
 6-22 of the activities of a criminal street gang as defined by Section
 6-23 71.01, Penal Code.

6-24 SECTION 3.03. Subsection (a), Section 11, Article 42.12,
 6-25 Code of Criminal Procedure, is amended to read as follows:

6-26 (a) The judge of the court having jurisdiction of the case
 6-27 shall determine the conditions of community supervision and may, at
 6-28 any time[7] during the period of community supervision, alter or
 6-29 modify the conditions. The judge may impose any reasonable
 6-30 condition that is designed to protect or restore the community,
 6-31 protect or restore the victim, or punish, rehabilitate, or reform
 6-32 the defendant. Conditions of community supervision may include,
 6-33 but shall not be limited to, the conditions that the defendant
 6-34 shall:

6-35 (1) Commit no offense against the laws of this State or
 6-36 of any other State or of the United States;

6-37 (2) Avoid injurious or vicious habits;

6-38 (3) Avoid persons or places of disreputable or harmful
 6-39 character, including any person, other than a family member of the
 6-40 defendant, who is an active member of a criminal street gang;

6-41 (4) Report to the supervision officer as directed by
 6-42 the judge or supervision officer and obey all rules and regulations
 6-43 of the community supervision and corrections department;

6-44 (5) Permit the supervision officer to visit the
 6-45 defendant at the defendant's home or elsewhere;

6-46 (6) Work faithfully at suitable employment as far as
 6-47 possible;

6-48 (7) Remain within a specified place;

6-49 (8) Pay the defendant's fine, if one is ~~is~~ assessed,
 6-50 and all court costs whether a fine is ~~is~~ assessed or not, in one or
 6-51 several sums;

6-52 (9) Support the defendant's dependents;

6-53 (10) Participate, for a time specified by the judge,
 6-54 in any community-based program, including a community-service work
 6-55 program under Section 16 of this article;

6-56 (11) Reimburse the county in which the prosecution was
 6-57 instituted for compensation paid to appointed counsel for defending
 6-58 the defendant in the case, if counsel was appointed, or if the
 6-59 defendant was represented by a county-paid public defender, in an
 6-60 amount that would have been paid to an appointed attorney had the
 6-61 county not had a public defender;

6-62 (12) Remain under custodial supervision in a community
 6-63 corrections facility, obey all rules and regulations of the ~~such~~
 6-64 facility, and pay a percentage of the defendant's income to the
 6-65 facility for room and board;

6-66 (13) Pay a percentage of the defendant's income to the
 6-67 defendant's dependents for their support while under custodial
 6-68 supervision in a community corrections facility;

6-69 (14) Submit to testing for alcohol or controlled

7-1 substances;

7-2 (15) Attend counseling sessions for substance abusers

7-3 or participate in substance abuse treatment services in a program

7-4 or facility approved or licensed by the Texas Commission on Alcohol

7-5 and Drug Abuse;

7-6 (16) With the consent of the victim of a misdemeanor

7-7 offense or of any offense under Title 7, Penal Code, participate in

7-8 victim-defendant mediation;

7-9 (17) Submit to electronic monitoring;

7-10 (18) Reimburse the compensation to victims of crime

7-11 fund for any amounts paid from that fund to or on behalf of a victim,

7-12 as defined by Article 56.32, of the defendant's offense or if no

7-13 reimbursement is required, make one payment to the compensation to

7-14 victims of crime fund in an amount not to exceed \$50 if the offense

7-15 is a misdemeanor or not to exceed \$100 if the offense is a felony;

7-16 (19) Reimburse a law enforcement agency for the

7-17 analysis, storage, or disposal of raw materials, controlled

7-18 substances, chemical precursors, drug paraphernalia, or other

7-19 materials seized in connection with the offense;

7-20 (20) Pay all or part of the reasonable and necessary

7-21 costs incurred by the victim for psychological counseling made

7-22 necessary by the offense or for counseling and education relating

7-23 to acquired immune deficiency syndrome or human immunodeficiency

7-24 virus made necessary by the offense;

7-25 (21) Make one payment in an amount not to exceed \$50 to

7-26 a crime stoppers organization as defined by Section 414.001,

7-27 Government Code, and as certified by the Crime Stoppers Advisory

7-28 Council;

7-29 (22) Submit a DNA sample to the Department of Public

7-30 Safety under Subchapter G, Chapter 411, Government Code, for the

7-31 purpose of creating a DNA record of the defendant;

7-32 (23) In any manner required by the judge, provide

7-33 public notice of the offense for which the defendant was placed on

7-34 community supervision in the county in which the offense was

7-35 committed; and

7-36 (24) Reimburse the county in which the prosecution was

7-37 instituted for compensation paid to any interpreter in the case.

7-38 SECTION 3.04. Article 42.12, Code of Criminal Procedure, is

7-39 amended by adding Section 13E to read as follows:

7-40 Sec. 13E. ELECTRONIC MONITORING OF CERTAIN MEMBERS OF

7-41 CRIMINAL STREET GANG WHO ARE PLACED ON COMMUNITY SUPERVISION.

7-42 (a) This section applies only to a defendant who:

7-43 (1) is identified as a member of a criminal street gang

7-44 in an intelligence database established under Chapter 61; and

7-45 (2) has two or more times been previously convicted

7-46 of, or received a grant of deferred adjudication community

7-47 supervision or another functionally equivalent form of community

7-48 supervision or probation for, a felony offense under the laws of

7-49 this state, another state, or the United States.

7-50 (b) A court granting community supervision to a defendant

7-51 described by Subsection (a) may, on the defendant's conviction of a

7-52 felony offense, require as a condition of community supervision

7-53 that the defendant submit to tracking under an electronic

7-54 monitoring service or other appropriate technological service

7-55 designed to track a person's location.

7-56 SECTION 3.05. Chapter 54, Family Code, is amended by adding

7-57 Section 54.0491 to read as follows:

7-58 Sec. 54.0491. GANG-RELATED CONDUCT. (a) In this section:

7-59 (1) "Criminal street gang" has the meaning assigned by

7-60 Section 71.01, Penal Code.

7-61 (2) "Gang-related conduct" means conduct that

7-62 violates a penal law of the grade of Class B misdemeanor or higher

7-63 and in which a child engages with the intent to:

7-64 (A) further the criminal activities of a criminal

7-65 street gang of which the child is a member;

7-66 (B) gain membership in a criminal street gang; or

7-67 (C) avoid detection as a member of a criminal

7-68 street gang.

7-69 (b) A juvenile court, in a disposition hearing under Section

8-1 54.04 regarding a child who has been adjudicated to have engaged in
8-2 delinquent conduct that is also gang-related conduct, shall order
8-3 the child to participate in a criminal street gang intervention
8-4 program that is appropriate for the child based on the child's level
8-5 of involvement in the criminal activities of a criminal street
8-6 gang. The intervention program:

- 8-7 (1) must include at least 12 hours of instruction; and
- 8-8 (2) may include voluntary tattoo removal.

8-9 (c) If a child required to attend a criminal street gang
8-10 intervention program is committed to the Texas Youth Commission as
8-11 a result of the gang-related conduct, the child must complete the
8-12 intervention program before being discharged from the custody of or
8-13 released under supervision by the commission.

8-14 SECTION 3.06. Subchapter G, Chapter 508, Government Code,
8-15 is amended by adding Section 508.227 to read as follows:

8-16 Sec. 508.227. ELECTRONIC MONITORING OF CERTAIN MEMBERS OF
8-17 CRIMINAL STREET GANG. (a) This section applies only to a releasee
8-18 who:

8-19 (1) is identified as a member of a criminal street gang
8-20 in an intelligence database established under Chapter 61, Code of
8-21 Criminal Procedure; and

8-22 (2) has three or more times been convicted of, or
8-23 received a grant of deferred adjudication community supervision or
8-24 another functionally equivalent form of community supervision or
8-25 probation for, a felony offense under the laws of this state,
8-26 another state, or the United States.

8-27 (b) A parole panel may require as a condition of release on
8-28 parole or to mandatory supervision that a releasee described by
8-29 Subsection (a) submit to tracking under an electronic monitoring
8-30 service or other appropriate technological service designed to
8-31 track a person's location.

8-32 SECTION 3.07. Section 3.03, Penal Code, is amended by
8-33 amending Subsection (b) and adding Subsection (b-1) to read as
8-34 follows:

8-35 (b) If the accused is found guilty of more than one offense
8-36 arising out of the same criminal episode, the sentences may run
8-37 concurrently or consecutively if each sentence is for a conviction
8-38 of:

8-39 (1) an offense:
8-40 (A) under Section 49.07 or 49.08, regardless of
8-41 whether the accused is convicted of violations of the same section
8-42 more than once or is convicted of violations of both sections; or

8-43 (B) for which a plea agreement was reached in a
8-44 case in which the accused was charged with more than one offense
8-45 listed in Paragraph (A), regardless of whether the accused is
8-46 charged with violations of the same section more than once or is
8-47 charged with violations of both sections;

8-48 (2) an offense:
8-49 (A) under Section 33.021 or an offense under
8-50 Section 21.02, 21.11, 22.011, 22.021, 25.02, or 43.25 committed
8-51 against a victim younger than 17 years of age at the time of the
8-52 commission of the offense regardless of whether the accused is
8-53 convicted of violations of the same section more than once or is
8-54 convicted of violations of more than one section; or

8-55 (B) for which a plea agreement was reached in a
8-56 case in which the accused was charged with more than one offense
8-57 listed in Paragraph (A) committed against a victim younger than 17
8-58 years of age at the time of the commission of the offense regardless
8-59 of whether the accused is charged with violations of the same
8-60 section more than once or is charged with violations of more than
8-61 one section; [~~or~~]

8-62 (3) an offense:
8-63 (A) under Section 21.15 or 43.26, regardless of
8-64 whether the accused is convicted of violations of the same section
8-65 more than once or is convicted of violations of both sections; or

8-66 (B) for which a plea agreement was reached in a
8-67 case in which the accused was charged with more than one offense
8-68 listed in Paragraph (A), regardless of whether the accused is
8-69 charged with violations of the same section more than once or is

9-1 charged with violations of both sections; or
 9-2 (4) an offense for which the judgment in the case
 9-3 contains an affirmative finding under Article 42.0197, Code of
 9-4 Criminal Procedure.

9-5 (b-1) Subsection (b)(4) does not apply to a defendant whose
 9-6 case was transferred to the court under Section 54.02, Family Code.

9-7 SECTION 3.08. Section 9, Article 42.01, Code of Criminal
 9-8 Procedure, and Article 42.0197, Code of Criminal Procedure, as
 9-9 added by this Act, apply only to a judgment of conviction entered on
 9-10 or after the effective date of this Act.

9-11 SECTION 3.09. Subsection (a), Section 11, Article 42.12,
 9-12 Code of Criminal Procedure, as amended by this Act, and Section 13E,
 9-13 Article 42.12, Code of Criminal Procedure, as added by this Act,
 9-14 apply only to a person who is placed on community supervision for an
 9-15 offense committed on or after the effective date of this Act. A
 9-16 person who is placed on community supervision for an offense
 9-17 committed before the effective date of this Act is governed by the
 9-18 law in effect on the date the offense was committed, and the former
 9-19 law is continued in effect for that purpose. For purposes of this
 9-20 section, an offense was committed before the effective date of this
 9-21 Act if any element of the offense occurred before that date.

9-22 SECTION 3.10. Section 54.0491, Family Code, as added by
 9-23 this Act, applies only to conduct that violates a penal law of this
 9-24 state and that occurs on or after the effective date of this Act.
 9-25 Conduct that violates a penal law of this state and that occurs
 9-26 before the effective date of this Act is covered by the law in
 9-27 effect at the time the conduct occurred, and the former law is
 9-28 continued in effect for that purpose. For purposes of this section,
 9-29 conduct occurs before the effective date of this Act if each element
 9-30 of the violation occurred before that date.

9-31 SECTION 3.11. Section 508.227, Government Code, as added by
 9-32 this Act, applies only to a person released on parole or to
 9-33 mandatory supervision for an offense committed on or after the
 9-34 effective date of this Act. A person released on parole or to
 9-35 mandatory supervision for an offense committed before the effective
 9-36 date of this Act is governed by the law in effect on the date the
 9-37 offense was committed, and the former law is continued in effect for
 9-38 that purpose. For purposes of this section, an offense was
 9-39 committed before the effective date of this Act if any element of
 9-40 the offense occurred before that date.

9-41 SECTION 3.12. Subsection (b), Section 3.03, Penal Code, as
 9-42 amended by this Act, applies only to an offense committed on or
 9-43 after the effective date of this Act. An offense committed before
 9-44 the effective date of this Act is covered by the law in effect when
 9-45 the offense was committed, and the former law is continued in effect
 9-46 for that purpose. For purposes of this section, an offense was
 9-47 committed before the effective date of this Act if any element of
 9-48 the offense occurred before that date.

9-49 ARTICLE 4. GRAFFITI

9-50 SECTION 4.01. Subchapter C, Chapter 101, Civil Practice and
 9-51 Remedies Code, is amended by adding Section 101.067 to read as
 9-52 follows:

9-53 Sec. 101.067. GRAFFITI REMOVAL. This chapter does not
 9-54 apply to a claim for property damage caused by the removal of
 9-55 graffiti under Section 250.007, Local Government Code.

9-56 SECTION 4.02. Subsections (a) and (c), Article 102.0171,
 9-57 Code of Criminal Procedure, are amended to read as follows:

9-58 (a) A defendant convicted of an offense under Section 28.08,
 9-59 Penal Code, in a county court, county court at law, or district
 9-60 court shall pay a [~~50~~] juvenile delinquency prevention and
 9-61 graffiti eradication fee as a cost of court. The amount of the fee
 9-62 under this section must be not less than \$50 or more than \$500. In
 9-63 setting the amount of the fee, the court shall increase the fee
 9-64 based on the amount of pecuniary loss in the case and the number of
 9-65 times the defendant has been previously convicted of an offense
 9-66 under Section 28.08, Penal Code.

9-67 (c) The clerks of the respective courts shall collect the
 9-68 costs and pay them to the county treasurer or to any other official
 9-69 who discharges the duties commonly delegated to the county

10-1 treasurer for deposit in a fund to be known as the county juvenile
10-2 delinquency prevention fund. A fund designated by this subsection
10-3 may be used only to:

10-4 (1) repair damage caused by the commission of offenses
10-5 under Section 28.08, Penal Code;

10-6 (2) provide educational and intervention programs and
10-7 materials, including printed educational materials for
10-8 distribution to primary and secondary school students, designed to
10-9 prevent individuals from committing offenses under Section 28.08,
10-10 Penal Code;

10-11 (3) provide to the public rewards for identifying and
10-12 aiding in the apprehension and prosecution of offenders who commit
10-13 offenses under Section 28.08, Penal Code;

10-14 (4) provide funding for teen recognition and teen
10-15 recreation programs;

10-16 (5) provide funding for local teen court programs;

10-17 (6) provide funding for the local juvenile probation
10-18 department; ~~and~~

10-19 (7) provide educational and intervention programs
10-20 designed to prevent juveniles from engaging in delinquent conduct;
10-21 and

10-22 (8) provide funding for community art programs.

10-23 SECTION 4.03. Subsection (a), Section 54.0461, Family Code,
10-24 is amended to read as follows:

10-25 (a) If a child is adjudicated as having engaged in
10-26 delinquent conduct that violates Section 28.08, Penal Code, the
10-27 juvenile court shall order the child, parent, or other person
10-28 responsible for the child's support to pay to the court a [~~\$50~~]
10-29 juvenile delinquency prevention fee as a cost of court. The amount
10-30 of the fee under this section must be not less than \$50 or more than
10-31 \$500. In setting the amount of the fee, the court shall increase
10-32 the fee based on the amount of pecuniary loss resulting from the
10-33 conduct and the number of times the child has been previously
10-34 adjudicated as having engaged in delinquent conduct violating
10-35 Section 28.08, Penal Code.

10-36 SECTION 4.04. Section 102.041, Government Code, as amended
10-37 by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular
10-38 Session, 2007, is amended to read as follows:

10-39 Sec. 102.041. ADDITIONAL COURT COSTS ON CONVICTION IN
10-40 DISTRICT COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a
10-41 district court shall collect fees and costs under the Code of
10-42 Criminal Procedure on conviction of a defendant as follows:

10-43 (1) a jury fee (Art. 102.004, Code of Criminal
10-44 Procedure) . . . \$20;

10-45 (2) a fee for clerk of the court services (Art.
10-46 102.005, Code of Criminal Procedure) . . . \$40;

10-47 (3) a records management and preservation services fee
10-48 (Art. 102.005, Code of Criminal Procedure) . . . \$25;

10-49 (4) a security fee on a felony offense (Art. 102.017,
10-50 Code of Criminal Procedure) . . . \$5;

10-51 (5) a security fee on a misdemeanor offense (Art.
10-52 102.017, Code of Criminal Procedure) . . . \$3; and

10-53 (6) a juvenile delinquency prevention and graffiti
10-54 eradication fee (Art. 102.0171, Code of Criminal Procedure) . . .
10-55 not less than \$50 or more than \$500 [~~\$5~~].

10-56 SECTION 4.05. Section 102.061, Government Code, as amended
10-57 by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular
10-58 Session, 2007, is amended to read as follows:

10-59 Sec. 102.061. ADDITIONAL COURT COSTS ON CONVICTION IN
10-60 STATUTORY COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a
10-61 statutory county court shall collect fees and costs under the Code
10-62 of Criminal Procedure on conviction of a defendant as follows:

10-63 (1) a jury fee (Art. 102.004, Code of Criminal
10-64 Procedure) . . . \$20;

10-65 (2) a fee for services of the clerk of the court (Art.
10-66 102.005, Code of Criminal Procedure) . . . \$40;

10-67 (3) a records management and preservation services fee
10-68 (Art. 102.005, Code of Criminal Procedure) . . . \$25;

10-69 (4) a security fee on a misdemeanor offense (Art.

11-1 102.017, Code of Criminal Procedure) . . . \$3;
11-2 (5) a juvenile delinquency prevention and graffiti
11-3 eradication fee (Art. 102.0171, Code of Criminal Procedure) . . .
11-4 not less than \$50 or more than \$500 [~~\$5~~]; and

11-5 (6) a juvenile case manager fee (Art. 102.0174, Code
11-6 of Criminal Procedure) . . . not to exceed \$5.

11-7 SECTION 4.06. Section 102.081, Government Code, as amended
11-8 by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular
11-9 Session, 2007, is amended to read as follows:

11-10 Sec. 102.081. ADDITIONAL COURT COSTS ON CONVICTION IN
11-11 COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a county
11-12 court shall collect fees and costs under the Code of Criminal
11-13 Procedure on conviction of a defendant as follows:

11-14 (1) a jury fee (Art. 102.004, Code of Criminal
11-15 Procedure) . . . \$20;

11-16 (2) a fee for clerk of the court services (Art.
11-17 102.005, Code of Criminal Procedure) . . . \$40;

11-18 (3) a records management and preservation services fee
11-19 (Art. 102.005, Code of Criminal Procedure) . . . \$25;

11-20 (4) a security fee on a misdemeanor offense (Art.
11-21 102.017, Code of Criminal Procedure) . . . \$3;

11-22 (5) a juvenile delinquency prevention and graffiti
11-23 eradication fee (Art. 102.0171, Code of Criminal Procedure) . . .
11-24 not less than \$50 or more than \$500 [~~\$5~~]; and

11-25 (6) a juvenile case manager fee (Art. 102.0174, Code
11-26 of Criminal Procedure) . . . not to exceed \$5.

11-27 SECTION 4.07. Section 103.0212, Government Code, is amended
11-28 to read as follows:

11-29 Sec. 103.0212. ADDITIONAL FEES AND COSTS IN CRIMINAL OR
11-30 CIVIL CASES: FAMILY CODE. An accused or defendant, or a party to a
11-31 civil suit, as applicable, shall pay the following fees and costs
11-32 under the Family Code if ordered by the court or otherwise required:

11-33 (1) in family matters:

11-34 (A) issuing writ of withholding (Sec. 8.262,
11-35 Family Code) . . . \$15;

11-36 (B) filing copy of writ of withholding to
11-37 subsequent employer (Sec. 8.267, Family Code) . . . \$15;

11-38 (C) issuing and delivering modified writ of
11-39 withholding or notice of termination (Sec. 8.302, Family Code)
11-40 . . . \$15;

11-41 (D) issuing and delivering notice of termination
11-42 of withholding (Sec. 8.303, Family Code) . . . \$15;

11-43 (E) issuance of change of name certificate (Sec.
11-44 45.106, Family Code) . . . \$10;

11-45 (F) protective order fee (Sec. 81.003, Family
11-46 Code) . . . \$16;

11-47 (G) filing suit requesting adoption of child
11-48 (Sec. 108.006, Family Code) . . . \$15;

11-49 (H) filing fees for suits affecting parent-child
11-50 relationship (Sec. 110.002, Family Code):

11-51 (i) suit or motion for modification (Sec.
11-52 110.002, Family Code) . . . \$15;

11-53 (ii) motion for enforcement (Sec. 110.002,
11-54 Family Code) . . . \$15;

11-55 (iii) notice of application for judicial
11-56 writ of withholding (Sec. 110.002, Family Code) . . . \$15;

11-57 (iv) motion to transfer (Sec. 110.002,
11-58 Family Code) . . . \$15;

11-59 (v) petition for license suspension (Sec.
11-60 110.002, Family Code) . . . \$15;

11-61 (vi) motion to revoke a stay of license
11-62 suspension (Sec. 110.002, Family Code) . . . \$15; and

11-63 (vii) motion for contempt (Sec. 110.002,
11-64 Family Code) . . . \$15;

11-65 (I) order or writ of income withholding to be
11-66 delivered to employer (Sec. 110.004, Family Code) . . . not to
11-67 exceed \$15;

11-68 (J) filing fee for transferred case (Sec.
11-69 110.005, Family Code) . . . \$45;

12-1 (K) filing a writ of withholding (Sec. 158.319,
12-2 Family Code) . . . \$15;
12-3 (L) filing a request for modified writ of
12-4 withholding or notice of termination (Sec. 158.403, Family Code)
12-5 . . . not to exceed \$15;
12-6 (M) filing an administrative writ to employer
12-7 (Sec. 158.503, Family Code) . . . not to exceed \$15; and
12-8 (N) genetic testing fees in relation to a child
12-9 born to a gestational mother (Sec. 160.762, Family Code) . . . as
12-10 assessed by the court; and
12-11 (2) in juvenile court:
12-12 (A) fee schedule for deferred prosecution
12-13 services (Sec. 53.03, Family Code) . . . maximum fee of \$15 a month;
12-14 (B) a request fee for a teen court program
12-15 [administration fee] (Sec. 54.032, Family Code) . . . \$20, if the
12-16 court ordering the fee is located in the Texas-Louisiana border
12-17 region, but otherwise not to exceed \$10;
12-18 (C) court costs for juvenile probation diversion
12-19 fund (Sec. 54.0411, Family Code) . . . \$20;
12-20 (D) a juvenile delinquency prevention fee (Sec.
12-21 54.0461, Family Code) . . . not less than \$50 or more than \$500
12-22 [\$5]; [and]
12-23 (E) a court fee for child's probationary period
12-24 (Sec. 54.061, Family Code) . . . not to exceed \$15 a month; and
12-25 (F) a fee to cover costs of required duties of
12-26 teen court (Sec. 54.032, Family Code) . . . \$20, if the court
12-27 ordering the fee is located in the Texas-Louisiana border region,
12-28 but otherwise not to exceed \$10.

12-29 SECTION 4.08. Subsection (a), Section 485.018, Health and
12-30 Safety Code, is amended to read as follows:
12-31 (a) A political subdivision or an agency of this state may
12-32 not enact an ordinance or rule that requires a business
12-33 establishment to display an abusable volatile chemical, other than
12-34 aerosol paint, in a manner that makes the chemical accessible to
12-35 patrons of the business only with the assistance of personnel of the
12-36 business.

12-37 SECTION 4.09. Chapter 250, Local Government Code, is
12-38 amended by adding Sections 250.006 and 250.007 to read as follows:
12-39 Sec. 250.006. REGULATION OF SALE OF AEROSOL PAINT;
12-40 SURCHARGE. (a) A county by order or a municipality by ordinance
12-41 may require a person who sells aerosol paint to:
12-42 (1) require proof of identification from the buyer
12-43 before making a sale to that buyer; and
12-44 (2) record the sale in a log and maintain the log for
12-45 at least two years after the date of the sale.
12-46 (b) An order adopted by a county under this section applies
12-47 only in the unincorporated area of the county.
12-48 (c) An order or ordinance adopted under this section may
12-49 require a surcharge not to exceed one dollar on each sale. Money
12-50 collected under this section may be used only for purposes related
12-51 to graffiti abatement.

12-52 Sec. 250.007. GRAFFITI REMOVAL. (a) A county by order or a
12-53 municipality by ordinance may require the owner of property within
12-54 the jurisdiction of the county or municipality to remove graffiti
12-55 from the owner's property on receipt of notice from the county or
12-56 municipality.
12-57 (b) The order or ordinance must require a property owner to
12-58 remove the graffiti on or before the 10th day after the date the
12-59 property owner receives notice under Subsection (a), except that if
12-60 the property owner requests the county or municipality, as
12-61 applicable, to remove the graffiti or if the property owner fails to
12-62 remove the graffiti on or before the 10th day after the date of
12-63 receipt of the notice, the county or municipality may remove the
12-64 graffiti and charge the expenses of removal to the property owner in
12-65 accordance with a fee schedule adopted by the county or
12-66 municipality.
12-67 (c) The notice required by Subsection (a) must be given:
12-68 (1) personally to the owner in writing;
12-69 (2) by letter sent by certified mail, addressed to the

13-1 property owner at the property owner's address as contained in the
13-2 records of the appraisal district in which the property is located;
13-3 or

13-4 (3) if service cannot be obtained under Subdivision
13-5 (1) or (2):

13-6 (A) by publication at least once in a newspaper
13-7 of general circulation in the county or municipality;

13-8 (B) by posting the notice on or near the front
13-9 door of each building on the property to which the notice relates;
13-10 or

13-11 (C) by posting the notice on a placard attached
13-12 to a stake driven into the ground on the property to which the
13-13 notice relates.

13-14 (d) The county or municipality may assess expenses incurred
13-15 under Subsection (b) against the property on which the work is
13-16 performed to remove the graffiti.

13-17 (e) To obtain a lien against the property for expenses
13-18 incurred under Subsection (b), the governing body of the county or
13-19 municipality must file a statement of expenses with the county
13-20 clerk. The statement of expenses must contain:

- 13-21 (1) the name of the property owner, if known;
- 13-22 (2) the legal description of the property; and
- 13-23 (3) the amount of expenses incurred under Subsection

13-24 (b).

13-25 (f) A lien described by Subsection (e) attaches to the
13-26 property on the date on which the statement of expenses is filed in
13-27 the real property records of the county in which the property is
13-28 located and is subordinate to:

- 13-29 (1) any previously recorded lien; and
- 13-30 (2) the rights of a purchaser or lender for value who
13-31 acquires an interest in the property subject to the lien before the
13-32 statement of expenses is filed as described by Subsection (e).

13-33 SECTION 4.10. Chapter 30, Penal Code, is amended by adding
13-34 Section 30.021 to read as follows:

13-35 Sec. 30.021. BURGLARY OF BUILDING TO CREATE GRAFFITI.

13-36 (a) A person commits an offense if, without the effective consent
13-37 of the owner, the person:

13-38 (1) enters a building, or any portion of a building,
13-39 not then open to the public, with the intent to commit an offense
13-40 under Section 28.08;

13-41 (2) remains concealed, with the intent to commit an
13-42 offense under Section 28.08, in a building; or

13-43 (3) enters a building and commits or attempts to
13-44 commit an offense under Section 28.08.

13-45 (b) For purposes of this section, "enter" has the meaning
13-46 assigned by Section 30.02.

13-47 (c) An offense under this section is a state jail felony.

13-48 SECTION 4.11. Section 101.067, Civil Practice and Remedies
13-49 Code, as added by this Act, applies only to a cause of action that
13-50 accrues on or after the effective date of this Act. A cause of
13-51 action that accrued before the effective date of this Act is
13-52 governed by the law in effect immediately before the effective date
13-53 of this Act, and that law is continued in effect for that purpose.

13-54 SECTION 4.12. Subsections (a) and (c), Article 102.0171,
13-55 Code of Criminal Procedure, and Sections 102.041, 102.061, and
13-56 102.081, Government Code, as amended by this Act, apply only to an
13-57 offense committed on or after the effective date of this Act. An
13-58 offense committed before the effective date of this Act is covered
13-59 by the law in effect when the offense was committed, and the former
13-60 law is continued in effect for that purpose. For purposes of this
13-61 section, an offense was committed before the effective date of this
13-62 Act if any element of the offense occurred before that date.

13-63 SECTION 4.13. Subsection (a), Section 54.0461, Family Code,
13-64 and Section 103.0212, Government Code, as amended by this Act,
13-65 apply only to conduct that violates a penal law of this state and
13-66 that occurs on or after the effective date of this Act. Conduct
13-67 that violates a penal law of this state and that occurs before the
13-68 effective date of this Act is covered by the law in effect at the
13-69 time the conduct occurred, and the former law is continued in effect

14-1 for that purpose. For purposes of this section, conduct occurs
 14-2 before the effective date of this Act if each element of the
 14-3 violation occurred before that date.

14-4 ARTICLE 5. USE OF FALSE OR FICTITIOUS IDENTITY OR IDENTIFYING
 14-5 DOCUMENTS

14-6 SECTION 5.01. Section 37.10, Penal Code, is amended by
 14-7 adding Subsection (j) to read as follows:

14-8 (j) It is not a defense to prosecution under Subsection
 14-9 (a)(2) that the record, document, or thing made, presented, or used
 14-10 displays or contains the statement "NOT A GOVERNMENT DOCUMENT" or
 14-11 another substantially similar statement intended to alert a person
 14-12 to the falsity of the record, document, or thing, unless the record,
 14-13 document, or thing displays the statement diagonally printed
 14-14 clearly and indelibly on both the front and back of the record,
 14-15 document, or thing in solid red capital letters at least one-fourth
 14-16 inch in height.

14-17 SECTION 5.02. Section 521.454, Transportation Code, is
 14-18 amended by adding Subsection (d) to read as follows:

14-19 (d) If conduct constituting an offense under this section
 14-20 also constitutes an offense under another law, the actor may be
 14-21 prosecuted under this section, the other law, or both.

14-22 SECTION 5.03. Section 521.455, Transportation Code, is
 14-23 amended by adding Subsection (c) to read as follows:

14-24 (c) If conduct constituting an offense under this section
 14-25 also constitutes an offense under another law, the actor may be
 14-26 prosecuted under this section, the other law, or both.

14-27 SECTION 5.04. Section 521.456, Transportation Code, is
 14-28 amended by adding Subsection (e) to read as follows:

14-29 (e) If conduct constituting an offense under this section
 14-30 also constitutes an offense under another law, the actor may be
 14-31 prosecuted under this section, the other law, or both.

14-32 SECTION 5.05. Subsection (j), Section 37.10, Penal Code,
 14-33 and Subsection (d), Section 521.454, Subsection (c), Section
 14-34 521.455, and Subsection (e), Section 521.456, Transportation Code,
 14-35 as added by this Act, apply only to an offense committed on or after
 14-36 the effective date of this Act. An offense committed before the
 14-37 effective date of this Act is covered by the law in effect when the
 14-38 offense was committed, and the former law is continued in effect for
 14-39 that purpose. For purposes of this section, an offense was
 14-40 committed before the effective date of this Act if any element of
 14-41 the offense occurred before that date.

14-42 ARTICLE 6. PENAL PROVISIONS RELATED TO FIREARMS

14-43 SECTION 6.01. Chapter 46, Penal Code, is amended by adding
 14-44 Section 46.14 to read as follows:

14-45 Sec. 46.14. FIREARM SMUGGLING. (a) A person commits an
 14-46 offense if the person knowingly engages in the business of
 14-47 transporting or transferring a firearm that the person knows was
 14-48 acquired in violation of the laws of any state or of the United
 14-49 States. For purposes of this subsection, a person is considered to
 14-50 engage in the business of transporting or transferring a firearm if
 14-51 the person engages in that conduct:

14-52 (1) on more than one occasion; or

14-53 (2) for profit or any other form of remuneration.

14-54 (b) An offense under this section is a felony of the third
 14-55 degree, unless it is shown on the trial of the offense that the
 14-56 offense was committed with respect to three or more firearms in a
 14-57 single criminal episode, in which event the offense is a felony of
 14-58 the second degree.

14-59 (c) This section does not apply to a peace officer who is
 14-60 engaged in the actual discharge of an official duty.

14-61 (d) If conduct that constitutes an offense under this
 14-62 section also constitutes an offense under any other law, the actor
 14-63 may be prosecuted under this section, the other law, or both.

14-64 ARTICLE 7. INTELLIGENCE DATABASES

14-65 SECTION 7.01. Article 61.02, Code of Criminal Procedure, is
 14-66 amended by amending Subsection (c) and adding Subsections (d) and
 14-67 (e) to read as follows:

14-68 (c) Criminal information collected under this chapter
 14-69 relating to a criminal street gang must:

15-1 (1) be relevant to the identification of an
 15-2 organization that is reasonably suspected of involvement in
 15-3 criminal activity; and

15-4 (2) consist of:

15-5 (A) a judgment under any law that includes, as a
 15-6 finding or as an element of a criminal offense, participation in a
 15-7 criminal street gang;

15-8 (B) a self-admission by the individual of
 15-9 criminal street gang membership that is made during a judicial
 15-10 proceeding; or

15-11 (C) except as provided by Subsection (d), any two
 15-12 of the following:

15-13 (i) a self-admission by the individual of
 15-14 criminal street gang membership that is not made during a judicial
 15-15 proceeding, including the use of the Internet or other electronic
 15-16 format or medium to post photographs or other documentation
 15-17 identifying the individual as a member of a criminal street gang;

15-18 (ii) an identification of the individual as
 15-19 a criminal street gang member by a reliable informant or other
 15-20 individual;

15-21 (iii) a corroborated identification of the
 15-22 individual as a criminal street gang member by an informant or other
 15-23 individual of unknown reliability;

15-24 (iv) evidence that the individual frequents
 15-25 a documented area of a criminal street gang and associates with
 15-26 known criminal street gang members;

15-27 (v) evidence that the individual uses, in
 15-28 more than an incidental manner, criminal street gang dress, hand
 15-29 signals, tattoos, or symbols, including expressions of letters,
 15-30 numbers, words, or marks, regardless of how or the means by [~~the~~
 15-31 ~~format or medium in~~] which the symbols are displayed, that are
 15-32 associated with a criminal street gang that operates in an area
 15-33 frequented by the individual and described by Subparagraph (iv);
 15-34 [~~or~~]

15-35 (vi) evidence that the individual has been
 15-36 arrested or taken into custody with known criminal street gang
 15-37 members for an offense or conduct consistent with criminal street
 15-38 gang activity;

15-39 (vii) evidence that the individual has
 15-40 visited a known criminal street gang member, other than a family
 15-41 member of the individual, while the gang member is confined in or
 15-42 committed to a penal institution; or

15-43 (viii) evidence of the individual's use of
 15-44 technology, including the Internet, to recruit new criminal street
 15-45 gang members.

15-46 (d) Evidence described by Subsections (c)(2)(C)(iv) and
 15-47 (vii) is not sufficient to create the eligibility of a person's
 15-48 information to be included in an intelligence database described by
 15-49 this chapter unless the evidence is combined with information
 15-50 described by another subparagraph of Subsection (c)(2)(C).

15-51 (e) In this article:

15-52 (1) "Family member" means a person related to another
 15-53 person within the third degree by consanguinity or affinity, as
 15-54 described by Subchapter B, Chapter 573, Government Code, except
 15-55 that the term does not include a person who is considered to be
 15-56 related to another person by affinity only as described by Section
 15-57 573.024(b), Government Code.

15-58 (2) "Penal institution" means a confinement facility
 15-59 operated by or under a contract with any division of the Texas
 15-60 Department of Criminal Justice, a confinement facility operated by
 15-61 or under contract with the Texas Youth Commission, or a juvenile
 15-62 secure pre-adjudication or post-adjudication facility operated by
 15-63 or under a local juvenile probation department, or a county jail.

15-64 SECTION 7.02. Subsection (b), Article 61.06, Code of
 15-65 Criminal Procedure, is amended to read as follows:

15-66 (b) Subject to Subsection (c), information collected under
 15-67 this chapter relating to a criminal street gang must be removed from
 15-68 an intelligence database established under Article 61.02 and the
 15-69 intelligence database maintained by the department under Article

16-1 61.03 after five [~~three~~] years if:

16-2 (1) the information relates to the investigation or
16-3 prosecution of criminal activity engaged in by an individual other
16-4 than a child; and

16-5 (2) the individual who is the subject of the
16-6 information has not been arrested for criminal activity reported to
16-7 the department under Chapter 60.

16-8 SECTION 7.03. Subsection (c), Article 61.06, Code of
16-9 Criminal Procedure, as amended by Chapters 258 (S.B. 11), 263 (S.B.
16-10 103), and 1308 (S.B. 909), Acts of the 80th Legislature, Regular
16-11 Session, 2007, is reenacted and amended to read as follows:

16-12 (c) In determining whether information is required to be
16-13 removed from an intelligence database under Subsection (b), the
16-14 five-year [~~three-year~~] period does not include any period during
16-15 which the individual who is the subject of the information is:

16-16 (1) confined in a correctional facility operated by or
16-17 under contract with the Texas Department of Criminal Justice;

16-18 (2) committed to a secure correctional facility
16-19 operated by or under contract with the Texas Youth Commission, as
16-20 defined by Section 51.02, Family Code; or

16-21 (3) confined in a county jail or confined in or
16-22 committed to a facility operated by a juvenile board in lieu of
16-23 being confined in a correctional facility operated by or under
16-24 contract with the Texas Department of Criminal Justice or being
16-25 committed to a secure correctional facility operated by or under
16-26 contract with the Texas Youth Commission.

16-27 SECTION 7.04. Article 61.06, Code of Criminal Procedure, as
16-28 amended by this Act, applies to any applicable information
16-29 maintained in an intelligence database under Chapter 61 of that
16-30 code on or after the effective date of this Act.

16-31 ARTICLE 8. LICENSE SUSPENSION

16-32 SECTION 8.01. Subsection (a), Section 521.343,
16-33 Transportation Code, is amended to read as follows:

16-34 (a) Except as provided by Sections 521.342(b), 521.344(a),
16-35 (b), (d), (e), (f), (g), (h), and (i), 521.345, 521.346, 521.3465,
16-36 [~~and~~] 521.351, and 521.352, a suspension under this subchapter is
16-37 for one year.

16-38 SECTION 8.02. Subchapter O, Chapter 521, Transportation
16-39 Code, is amended by adding Section 521.352 to read as follows:

16-40 Sec. 521.352. SUSPENSION OR PROHIBITION FOR CERTAIN
16-41 ORGANIZED CRIME OFFENSES. (a) A person's license is automatically
16-42 suspended on conviction of the person for an offense under Chapter
16-43 71, Penal Code.

16-44 (b) The department may not issue a driver's license to a
16-45 person convicted of an offense specified in Subsection (a) who, on
16-46 the date of the conviction, did not hold a license.

16-47 (c) The period of license suspension or prohibition under
16-48 this section begins on a date set by the court that is not earlier
16-49 than the date of conviction or later than the 30th day after the
16-50 date of conviction. The period of license suspension or
16-51 prohibition under this section expires on the first anniversary of
16-52 the date the suspension or prohibition began.

16-53 SECTION 8.03. Section 521.457, Transportation Code, is
16-54 amended by amending Subsection (e) and adding Subsection (f-2) to
16-55 read as follows:

16-56 (e) Except as provided by Subsections (f), [~~and~~] (f-1), and
16-57 (f-2), an offense under this section is a Class C misdemeanor.

16-58 (f-2) If it is shown on the trial of an offense under this
16-59 section that the person operated a motor vehicle on a highway during
16-60 a period that the person's driver's license was suspended under
16-61 Section 521.352 or the person was prohibited from obtaining a
16-62 driver's license under that section, the offense is a Class A
16-63 misdemeanor.

16-64 SECTION 8.04. (a) The change in law made by this article
16-65 applies only to an offense committed on or after the effective date
16-66 of this Act.

16-67 (b) An offense committed before the effective date of this
16-68 Act is covered by the law in effect when the offense was committed,
16-69 and the former law is continued in effect for that purpose. For

17-1 purposes of this subsection, an offense was committed before the
 17-2 effective date of this Act if any element of the offense was
 17-3 committed before that date.

17-4 ARTICLE 9. MISCELLANEOUS PROVISIONS

17-5 SECTION 9.01. Article 18.20, Code of Criminal Procedure, is
 17-6 amended by adding Section 9A to read as follows:

17-7 Sec. 9A. INTERCEPTION ORDER FOR COMMUNICATION BY SPECIFIED
 17-8 PERSON. (a) The requirements of Sections 8(a)(2)(B) and 9(b)(2)
 17-9 relating to the specification of the facilities from which or the
 17-10 place where a communication is to be intercepted do not apply if:

17-11 (1) in the case of an application for an order
 17-12 authorizing the interception of an oral communication:

17-13 (A) the application contains a full and complete
 17-14 statement as to why the specification is not practical and
 17-15 identifies the person committing or believed to be committing the
 17-16 offense and whose communications are to be intercepted; and

17-17 (B) a judge of competent jurisdiction finds that
 17-18 the specification is not practical; and

17-19 (2) in the case of an application for an order
 17-20 authorizing the interception of a wire or electronic communication:

17-21 (A) the application identifies the person
 17-22 committing or believed to be committing the offense and whose
 17-23 communications are to be intercepted;

17-24 (B) a judge of competent jurisdiction finds that
 17-25 the applicant has made an adequate showing of probable cause to
 17-26 believe that the actions of the person identified in the
 17-27 application could have the effect of thwarting interception from a
 17-28 specified facility; and

17-29 (C) the authority to intercept a wire or
 17-30 electronic communication under the order is limited to a period in
 17-31 which it is reasonable to presume that the person identified in the
 17-32 application will be reasonably proximate to the interception
 17-33 device.

17-34 (b) A person implementing an order authorizing the
 17-35 interception of an oral communication that, in accordance with this
 17-36 section, does not specify the facility from which or the place where
 17-37 a communication is to be intercepted may begin interception only
 17-38 after the person ascertains the place where the communication is to
 17-39 be intercepted.

17-40 (c) A provider of wire or electronic communications that
 17-41 receives an order authorizing the interception of a wire or
 17-42 electronic communication that, in accordance with this section,
 17-43 does not specify the facility from which or the place where a
 17-44 communication is to be intercepted may move the court to modify or
 17-45 quash the order on the ground that the provider's assistance with
 17-46 respect to the interception cannot be performed in a timely or
 17-47 reasonable fashion. On notice to the state, the court shall decide
 17-48 the motion expeditiously.

17-49 SECTION 9.02. Subchapter A, Chapter 411, Government Code,
 17-50 is amended by adding Section 411.0207 to read as follows:

17-51 Sec. 411.0207. LAW ENFORCEMENT INTEGRITY UNIT. (a) In
 17-52 this section, "organized criminal activity" means conduct that
 17-53 constitutes an offense under Section 71.02, Penal Code.

17-54 (b) A law enforcement integrity unit is created within the
 17-55 department to investigate and assist in the management of
 17-56 allegations of participation in organized criminal activity by:

17-57 (1) an individual elected, appointed, or employed to
 17-58 serve as a peace officer for a governmental entity of this state
 17-59 under Article 2.12, Code of Criminal Procedure; or

17-60 (2) a federal law enforcement officer while performing
 17-61 duties in this state.

17-62 (c) The unit shall:

17-63 (1) assist district attorneys and county attorneys in
 17-64 the investigation and prosecution of allegations described by
 17-65 Subsection (b);

17-66 (2) if requested by the agency, assist a state or local
 17-67 law enforcement agency with the investigation of such allegations
 17-68 against law enforcement officers in the agency;

17-69 (3) assist the United States Department of Justice or

18-1 any other appropriate federal department or agency in the
 18-2 investigation and prosecution of allegations described by
 18-3 Subsection (b);

18-4 (4) if requested by the agency, assist a federal law
 18-5 enforcement agency with the investigation of such allegations
 18-6 against law enforcement officers in the agency;

18-7 (5) serve as a clearinghouse for information relating
 18-8 to the investigation and prosecution of allegations described by
 18-9 Subsection (b); and

18-10 (6) report to the highest-ranking officer of the Texas
 18-11 Rangers division of the department.

18-12 (d) On written approval of the director or of the chair of
 18-13 the commission, the highest-ranking officer of the Texas Rangers
 18-14 division of the department may initiate an investigation of an
 18-15 allegation of participation in organized criminal activity by a law
 18-16 enforcement officer described by Subsection (b)(1). Written
 18-17 approval under this subsection must be based on cause.

18-18 (e) To the extent allowed by law, a state or local law
 18-19 enforcement agency shall cooperate with the law enforcement
 18-20 integrity unit by providing information requested by the unit as
 18-21 necessary to carry out the purposes of this section. Information
 18-22 described by this subsection is excepted from required disclosure
 18-23 under Chapter 552 in the manner provided by Section 552.108.

18-24 SECTION 9.03. Section 421.082, Government Code, is amended
 18-25 by adding Subsections (e), (f), and (g) to read as follows:

18-26 (e) The center shall annually submit to the governor and the
 18-27 legislature a report regarding criminal street gangs and
 18-28 gang-related crime. The report must include:

18-29 (1) an evaluation of the threat that criminal street
 18-30 gangs and gang-related crime pose to communities in this state that
 18-31 are at or near the international border between this state and the
 18-32 United Mexican States;

18-33 (2) an evaluation of the threat that criminal street
 18-34 gangs and gang-related crime occurring at or near the border pose to
 18-35 other areas of this state;

18-36 (3) identification of any law enforcement strategies
 18-37 in this state or another jurisdiction that have been effective in
 18-38 preventing the growth or proliferation of criminal street gangs or
 18-39 gang-related crime; and

18-40 (4) recommendations on actions that may be taken to:

18-41 (A) prevent criminal street gangs from
 18-42 committing human trafficking offenses;

18-43 (B) reduce criminal street gang violence
 18-44 throughout this state, with specific recommendations concerning
 18-45 reduction of criminal street gang violence at or near the border;

18-46 (C) prevent the growth or proliferation of
 18-47 criminal street gangs throughout this state, with specific
 18-48 recommendations concerning prevention of the growth or
 18-49 proliferation of criminal street gangs at or near the border; and

18-50 (D) ensure that law enforcement personnel
 18-51 receive the necessary training and education to effectively deal
 18-52 with the problems created by criminal street gangs and gang-related
 18-53 crime.

18-54 (f) On request, a criminal justice or juvenile justice
 18-55 agency of this state shall provide to the center information
 18-56 relating to criminal street gangs and gang-related crime.

18-57 (g) The report required under Subsection (e) may not contain
 18-58 any information that:

18-59 (1) is considered sensitive intelligence information
 18-60 by the agency that provided the information; or

18-61 (2) could jeopardize an ongoing investigation being
 18-62 conducted by the agency that provided the information.

18-63 SECTION 9.04. Section 9A, Article 18.20, Code of Criminal
 18-64 Procedure, as added by this Act, applies only to an application for
 18-65 an order authorizing the interception of a wire, oral, or
 18-66 electronic communication that is submitted on or after the
 18-67 effective date of this Act. An application that was submitted
 18-68 before the effective date of this Act is covered by the law in
 18-69 effect on the date the application was submitted, and the former law

19-1 is continued in effect for that purpose.

19-2 SECTION 9.05. Not later than December 1, 2010, the
19-3 Department of Public Safety shall establish the law enforcement
19-4 integrity unit under Section 411.0207, Government Code, as added by
19-5 this Act.

19-6 SECTION 9.06. The Texas Fusion Center shall submit the
19-7 first annual report regarding criminal street gangs and
19-8 gang-related crime to the governor and the legislature as required
19-9 by Subsection (e), Section 421.082, Government Code, as added by
19-10 this Act, not later than September 1, 2010.

19-11 ARTICLE 10. CONFLICT OF LAW AND EFFECTIVE DATE PROVISIONS

19-12 SECTION 10.01. To the extent of any conflict, this Act
19-13 prevails over another Act of the 81st Legislature, Regular Session,
19-14 2009, relating to nonsubstantive additions to and corrections in
19-15 enacted codes.

19-16 SECTION 10.02. This Act takes effect September 1, 2009.

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