

By: Carona

S.B. No. 423

A BILL TO BE ENTITLED

AN ACT

relating to the conditions of community supervision to be imposed on a defendant who is a member of a criminal street gang.

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

SECTION 1. Chapter 42, Code of Criminal Procedure, is amended by adding Article 42.0145 to read as follows:

Art. 42.0145. FINDING THAT OFFENSE WAS COMMITTED BY A MEMBER OF A CRIMINAL STREET GANG. In the trial of an offense, the judge shall make an affirmative finding of fact and enter the affirmative finding in the judgment of the case if, at the guilt or innocence phase of the trial, the trier of fact determines beyond a reasonable doubt that at the time the offense was committed, the defendant was a member of a criminal street gang as defined by Section 71.01, Penal Code.

SECTION 2. Article 42.12, Code of Criminal Procedure, is amended by adding Section 13E to read as follows:

Sec. 13E. COMMUNITY SUPERVISION FOR OFFENSE COMMITTED BY A MEMBER OF A CRIMINAL STREET GANG. A court granting community supervision to a defendant convicted of an offense for which the court has made an affirmative finding under Article 42.0145 shall require as a condition of community supervision that the defendant not knowingly communicate with another member of a criminal street gang except as authorized by the court or by an employee of a law enforcement agency, as defined by Article 59.01, for the purpose of

1 aiding in a criminal investigation.

2 SECTION 3. The change in law made by this Act applies only
3 to an offense committed on or after the effective date of this Act.
4 An offense committed before the effective date of this Act is
5 governed by the law in effect when the offense was committed, and
6 the former law is continued in effect for that purpose. For
7 purposes of this section, an offense was committed before the
8 effective date of this Act if any element of the offense occurred
9 before that date.

10 SECTION 4. This Act takes effect September 1, 2009.