

By: Carona

S.B. No. 551

A BILL TO BE ENTITLED

AN ACT

relating to civil liability for criminal street gang activity that violates a court-ordered injunction.

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

SECTION 1. Subchapter D, Chapter 125, Civil Practice and Remedies Code, is amended by adding Section 125.070 to read as follows:

Sec. 125.070. CIVIL ACTION FOR VIOLATION OF INJUNCTION.

(a) In this section, "governmental entity" means a political subdivision of this state, including any city, county, school district, junior college district, levee improvement district, drainage district, irrigation district, water improvement district, water control and improvement district, water control and preservation district, freshwater supply district, navigation district, conservation and reclamation district, soil conservation district, communication district, public health district, and river authority.

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

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

(d) A district, county, or city attorney or the attorney

1 general may sue for money damages on behalf of the state or a
2 governmental entity. If the state or a governmental entity
3 prevails in a suit under this section, the state or governmental
4 entity may recover:

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

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

12 (f) The attorney general shall deposit money received under
13 this section for damages or as a civil penalty in the neighborhood
14 and community recovery fund held by the attorney general outside
15 the state treasury. Money in the fund is held by the attorney
16 general in trust for the benefit of the community or neighborhood
17 harmed by the violation of a temporary or permanent injunctive
18 order. Money in the fund may be used only for the benefit of the
19 community or neighborhood harmed by the violation of the injunctive
20 order. Interest earned on money in the fund shall be credited to
21 the fund. The attorney general shall account for money in the fund
22 so that money held for the benefit of a community or neighborhood,
23 and interest earned on that money, are not commingled with money in
24 the fund held for the benefit of a different community or
25 neighborhood.

26 (g) A district, county, or city attorney who brings suit on
27 behalf of a governmental entity shall deposit money received for

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

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

15 SECTION 2. The change in law made by this Act applies only
16 to a cause of action that accrues on or after the effective date of
17 this Act. A cause of action that accrued before the effective date
18 of this Act is governed by the law in effect immediately before the
19 effective date of this Act, and that law is continued in effect for
20 that purpose.

21 SECTION 3. This Act takes effect September 1, 2009.