

A BILL TO BE ENTITLED

AN ACT

relating to civil liability for criminal street gang activity.

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

SECTION 1. Title 4, Civil Practice and Remedies Code, is amended by adding Chapter 100B to read as follows:

CHAPTER 100B. CRIMINAL STREET GANG LIABILITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 100B.001. DEFINITIONS. In this chapter:

(1) "Child" means a person younger than 18 years of age.

(2) "Criminal street gang" means three or more persons having a common identifying sign or symbol or an identifiable leadership who continuously or regularly associate in the commission of criminal activities.

(3) "Continuously or regularly" means at least five times in a period of not more than 12 months.

(4) "Gang activity" has the meaning assigned by Section 125.061.

(5) "Governmental entity" means:

(A) this state and any agency of the state; and

(B) 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

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

5 (6) "Parent" means a natural or adoptive parent,
6 managing or possessory conservator, or legal guardian of a person.

7 [Sections 100B.002-100B.050 reserved for expansion]

8 SUBCHAPTER B. LIABILITY TO PARENT

9 Sec. 100B.051. LIABILITY. A criminal street gang or a
10 member of a criminal street gang is liable to the parent of a child
11 for damages arising from the criminal street gang's or a member of
12 the criminal street gang's recruitment or inducement of the child
13 to become a member of the criminal street gang.

14 Sec. 100B.052. DAMAGES. (a) A plaintiff who prevails in a
15 suit under this chapter may recover economic and noneconomic
16 damages, including damages for loss of companionship of and society
17 with the child and mental anguish, even if an injury other than
18 mental anguish is not shown.

19 (b) In addition to an award under Subsection (a), a
20 plaintiff who prevails in a suit under this chapter may recover
21 exemplary damages and court costs and reasonable attorney's fees.

22 [Sections 100B.053-100B.100 reserved for expansion]

23 SUBCHAPTER C. LIABILITY TO GOVERNMENTAL ENTITY

24 Sec. 100B.101. LIABILITY. A criminal street gang or a
25 member of a criminal street gang is liable to a governmental entity
26 for damages arising from activities of a criminal street gang,
27 including:

1 (1) the cost of:

2 (A) policing property owned by the governmental
3 entity; and

4 (B) governmental services provided as a result of
5 the criminal street gang activity; and

6 (2) the amount by which the value of property owned by
7 the governmental entity or the entity's revenue from ad valorem
8 taxes on property in the entity's jurisdiction or any other taxes
9 collected in the entity's jurisdiction is reduced.

10 Sec. 100B.102. DAMAGES. (a) A governmental entity that
11 prevails in a suit under this chapter may recover economic damages.

12 (b) In addition to an award under Subsection (a), a
13 governmental entity that prevails in a suit under this chapter may
14 recover exemplary damages and court costs and reasonable attorney's
15 fees.

16 [Sections 100B.103-100B.150 reserved for expansion]

17 SUBCHAPTER D. LIABILITY TO NEIGHBORHOOD OR COMMUNITY

18 Sec. 100B.151. LIABILITY. A criminal street gang or a
19 member of a criminal street gang is liable to a neighborhood or
20 community injured by a public nuisance under Subchapter E, Chapter
21 100B, arising out of gang activity engaged in by the gang.

22 Sec. 100B.152. DAMAGES. A district, county, or city
23 attorney, the attorney general, or a resident of the state may sue
24 for money damages on behalf of a neighborhood or community injured
25 by a public nuisance under Subchapter E, Chapter 100B.

26 [Sections 100B.153-100B.200 reserved for expansion]

27 SUBCHAPTER E. EXECUTION ON JUDGMENT

1 Sec. 100B.201. LEVY ON PROPERTY OF GANG OR MEMBER. The
2 property of the criminal street gang or a member of the street gang
3 may be seized in execution on a judgment under this section.

4 SECTION 2. The change in law made by this Act applies only
5 to a cause of action that accrues on or after the effective date of
6 this Act. A cause of action that accrued before the effective date
7 of this Act is governed by the law in effect immediately before the
8 effective date of this Act, and that law is continued in effect for
9 that purpose.

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