

1-1 By: Carona S.B. No. 551  
1-2 (In the Senate - Filed January 26, 2009; February 23, 2009,  
1-3 read first time and referred to Committee on State Affairs;  
1-4 April 15, 2009, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 6, Nays 0; April 15, 2009,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 551 By: Carona

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

1-10 relating to civil liability for criminal street gang activity that  
1-11 violates a court-ordered injunction.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subchapter D, Chapter 125, Civil Practice and  
1-14 Remedies Code, is amended by adding Section 125.070 to read as  
1-15 follows:

1-16 Sec. 125.070. CIVIL ACTION FOR VIOLATION OF INJUNCTION.

1-17 (a) In this section, "governmental entity" means a political  
1-18 subdivision of this state, including any city, county, school  
1-19 district, junior college district, levee improvement district,  
1-20 drainage district, irrigation district, water improvement  
1-21 district, water control and improvement district, water control and  
1-22 preservation district, freshwater supply district, navigation  
1-23 district, conservation and reclamation district, soil conservation  
1-24 district, communication district, public health district, and  
1-25 river authority.

1-26 (b) A member of a criminal street gang is liable to the state  
1-27 or a governmental entity injured by the violation of a temporary or  
1-28 permanent injunctive order under this subchapter.

1-29 (c) In an action brought against a member of a criminal  
1-30 street gang, the plaintiff must show that the member violated the  
1-31 temporary or permanent injunctive order.

1-32 (d) A district, county, or city attorney or the attorney  
1-33 general may sue for money damages on behalf of the state or a  
1-34 governmental entity. If the state or a governmental entity  
1-35 prevails in a suit under this section, the state or governmental  
1-36 entity may recover:

1-37 (1) actual damages;

1-38 (2) a civil penalty in an amount not to exceed \$20,000  
1-39 for each violation; and

1-40 (3) court costs and attorney's fees.

1-41 (e) The property of the criminal street gang or a member of  
1-42 the street gang may be seized in execution on a judgment under this  
1-43 section.

1-44 (f) The attorney general shall deposit money received under  
1-45 this section for damages or as a civil penalty in the neighborhood  
1-46 and community recovery fund held by the attorney general outside  
1-47 the state treasury. Money in the fund is held by the attorney  
1-48 general in trust for the benefit of the community or neighborhood  
1-49 harmed by the violation of a temporary or permanent injunctive  
1-50 order. Money in the fund may be used only for the benefit of the  
1-51 community or neighborhood harmed by the violation of the injunctive  
1-52 order. Interest earned on money in the fund shall be credited to  
1-53 the fund. The attorney general shall account for money in the fund  
1-54 so that money held for the benefit of a community or neighborhood,  
1-55 and interest earned on that money, are not commingled with money in  
1-56 the fund held for the benefit of a different community or  
1-57 neighborhood.

1-58 (g) A district, county, or city attorney who brings suit on  
1-59 behalf of a governmental entity shall deposit money received for  
1-60 damages or as a civil penalty in an account to be held in trust for  
1-61 the benefit of the community or neighborhood harmed by the  
1-62 violation of a temporary or permanent injunctive order. Money in  
1-63 the account may be used only for the benefit of the community or

neighborhood harmed by the violation of the injunctive order.  
Interest earned on money in the account shall be credited to the  
account. The district, county, or city attorney shall account for  
money in the account so that money held for the benefit of a  
community or neighborhood, and interest earned on that money, are  
not commingled with money in the account held for the benefit of a  
different community or neighborhood.

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

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

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

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