

By: Carona

S.B. No. 937

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution of and punishment for certain criminal offenses involving a combination or a criminal street gang.

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

SECTION 1. Section 15.031(e), Penal Code, is amended to read as follows:

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

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

(2) committed the offense with the intent to:

(A) further the criminal activities of the criminal street gang; or

(B) avoid detection as a member of a criminal street gang.

SECTION 2. Section 22.015(a), Penal Code, is amended by adding Subdivision (3) to read as follows:

(3) "Family" has the meaning assigned by Section 71.003, Family Code.

SECTION 3. Section 22.015(b), Penal Code, is amended to read as follows:

(b) A person commits an offense if, with intent to coerce,

1 induce, or solicit a child to actively participate in the
2 activities of a criminal street gang, the person:

3 (1) threatens the child or a member of the child's
4 family with imminent bodily injury; or

5 (2) causes bodily injury to the child or a member of
6 the child's family.

7 SECTION 4. Chapter 33, Penal Code, is amended by adding
8 Section 33.06 to read as follows:

9 Sec. 33.06. ONLINE PROMOTION OF A CRIMINAL STREET GANG. (a)
10 In this section, "criminal street gang" has the meaning assigned by
11 Section 71.01.

12 (b) A person commits an offense if, with the intent to
13 benefit, to promote, or to further the interests of a criminal
14 street gang or to increase the person's standing, position, or
15 status in the criminal street gang, the person uses the Internet,
16 including distributing, selling, transmitting, or posting on the
17 Internet an audio, video, or still representation of a person
18 engaged in criminal activity, to:

19 (1) intimidate or harass another person; or

20 (2) advertise the presence of the criminal street gang
21 in a specific geographic location.

22 (c) An offense under this section is a state jail felony.

23 SECTION 5. Chapter 71, Penal Code, is amended by adding
24 Section 71.024 to read as follows:

25 Sec. 71.024. CAUSING OR ENCOURAGING CHILD TO PARTICIPATE IN
26 GANG-RELATED CRIMINAL ACTIVITY. (a) In this section, "child"
27 means an individual younger than 17 years of age.

1 (b) A person commits an offense if the person intentionally,
2 knowingly, or recklessly, by act or omission, causes or encourages
3 a child to participate in any criminal activity that is:

4 (1) committed by a criminal street gang; and

5 (2) punishable as a Class A misdemeanor or a felony.

6 (c) An offense under this section is a felony of the third
7 degree if the offense is committed intentionally or knowingly. An
8 offense under this section is a Class A misdemeanor if the offense
9 is committed recklessly.

10 (d) If conduct, including an omission, constituting an
11 offense under this section also constitutes an offense under
12 another section of this code, the actor may be prosecuted under
13 either section or under both sections.

14 SECTION 6. The change in law made by this Act applies only
15 to an offense committed on or after the effective date of this Act.
16 An offense committed before the effective date of this Act is
17 covered by the law in effect when the offense was committed, and the
18 former law is continued in effect for that purpose. For purposes of
19 this section, an offense was committed before the effective date of
20 this Act if any element of the offense occurred before that date.

21 SECTION 7. This Act takes effect September 1, 2009.