

1-1 By: Carona S.B. No. 937  
1-2 (In the Senate - Filed February 18, 2009; March 9, 2009, read  
1-3 first time and referred to Committee on Criminal Justice;  
1-4 April 14, 2009, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 5, Nays 0; April 14, 2009,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 937 By: Whitmire

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

1-10 relating to the prosecution of and punishment for certain criminal  
1-11 offenses involving a criminal street gang.

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

1-13 SECTION 1. Subsection (e), Section 15.031, Penal Code, is  
1-14 amended to read as follows:

1-15 (e) An offense under this section is one category lower than  
1-16 the solicited offense, except that an offense under this section is  
1-17 the same category as the solicited offense if it is shown on the  
1-18 trial of the offense that the actor:

1-19 (1) was at the time of the offense 17 years of age or  
1-20 older and a member of a criminal street gang, as defined by Section  
1-21 71.01; and

1-22 (2) committed the offense with the intent to:  
1-23 (A) further the criminal activities of the  
1-24 criminal street gang; or

1-25 (B) avoid detection as a member of a criminal  
1-26 street gang.

1-27 SECTION 2. Subsection (a), Section 22.015, Penal Code, is  
1-28 amended by adding Subdivision (3) to read as follows:

1-29 (3) "Family" has the meaning assigned by Section  
1-30 71.003, Family Code.

1-31 SECTION 3. Subsection (b), Section 22.015, Penal Code, is  
1-32 amended to read as follows:

1-33 (b) A person commits an offense if, with intent to coerce,  
1-34 induce, or solicit a child to actively participate in the  
1-35 activities of a criminal street gang, the person:

1-36 (1) threatens the child or a member of the child's  
1-37 family with imminent bodily injury; or

1-38 (2) causes bodily injury to the child or a member of  
1-39 the child's family.

1-40 SECTION 4. Chapter 33, Penal Code, is amended by adding  
1-41 Section 33.06 to read as follows:

1-42 Sec. 33.06. ONLINE HARASSMENT TO FURTHER INTERESTS OF  
1-43 CRIMINAL STREET GANG. (a) In this section:

1-44 (1) "Commercial social networking site" means any  
1-45 business, organization, or other similar entity operating a website  
1-46 that permits persons to become registered users for the purpose of  
1-47 establishing personal relationships with other users through  
1-48 direct or real-time communication with other users or the creation  
1-49 of web pages or profiles available to the public or to other users.  
1-50 The term does not include an electronic mail program.

1-51 (2) "Criminal street gang" has the meaning assigned by  
1-52 Section 71.01.

1-53 (3) "Electronic communication" means the transmission  
1-54 of a sign, signal, writing, image, sound, text, or other data  
1-55 through the use of an electronic device, including a telephone,  
1-56 cellular telephone, text messaging device, personal data  
1-57 assistant, computer, or wireless communications device.

1-58 (b) A person commits an offense if the person sends an  
1-59 electronic communication or posts a message on an electronic  
1-60 message board or commercial social networking site with the intent  
1-61 to:

1-62 (1) abuse, intimidate, harass, alarm, or threaten  
1-63 another person; and

2-1 (2) benefit, promote, or further the interests of a  
2-2 criminal street gang.

2-3 (c) An offense under this section is a Class B misdemeanor,  
2-4 except that the offense is a Class A misdemeanor if the actor has  
2-5 previously been convicted under this section.

2-6 SECTION 5. The change in law made by this Act applies only  
2-7 to an offense committed on or after the effective date of this Act.  
2-8 An offense committed before the effective date of this Act is  
2-9 covered by the law in effect when the offense was committed, and the  
2-10 former law is continued in effect for that purpose. For purposes of  
2-11 this section, an offense was committed before the effective date of  
2-12 this Act if any element of the offense occurred before that date.

2-13 SECTION 6. This Act takes effect September 1, 2009.

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