

By: Carona, et al.

S.B. No. 1256

A BILL TO BE ENTITLED

AN ACT

relating to the prevention and prosecution of, and punishment prescribed for engaging in, organized criminal activity in a gang-free zone.

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

SECTION 1. Chapter 71, Penal Code, is amended by adding Sections 71.028 and 71.029 to read as follows:

Sec. 71.028. GANG-FREE ZONES. (a) In this section:

(1) "Institution of higher education," "playground," "premises," "school," "video arcade facility," and "youth center" have the meanings assigned by Section 481.134, Health and Safety Code.

(2) "Shopping mall" means an enclosed public walkway or hall area that connects retail, service, or professional establishments.

(b) Except as provided by Subsection (c), the punishment prescribed for an offense under Section 71.02 is increased to the punishment prescribed for the next highest category of offense if the actor is 17 years of age or older and it is shown beyond a reasonable doubt on the trial of the offense that the actor committed the offense at a location that was:

(1) in, on, or within 1,000 feet of any:

(A) real property that is owned, rented, or leased by a school or school board;

1 (B) premises owned, rented, or leased by an
2 institution of higher education;

3 (C) shopping mall;

4 (D) movie theater;

5 (E) premises of a public or private youth center;
6 or

7 (F) playground;

8 (2) in, on, or within 300 feet of the premises of a
9 public swimming pool or video arcade facility; or

10 (3) on a school bus.

11 (c) The punishment prescribed for an offense under Section
12 71.02 may not be increased under this section if the offense is
13 punishable under Section 71.02 as a felony of the first degree.

14 Sec. 71.029. MAPS AS EVIDENCE OF LOCATION OR AREA. (a) In
15 a prosecution of an offense for which punishment is increased under
16 Section 71.028, a map produced or reproduced by a municipal or
17 county engineer for the purpose of showing the location and
18 boundaries of gang-free zones is admissible in evidence and is
19 prima facie evidence of the location or boundaries of those zones if
20 the governing body of the municipality or county adopts a
21 resolution or ordinance approving the map as an official finding
22 and record of the location or boundaries of those zones.

23 (b) A municipal or county engineer may, on request of the
24 governing body of the municipality or county, revise a map that has
25 been approved by the governing body of the municipality or county as
26 provided by Subsection (a).

27 (c) A municipal or county engineer shall file the original

1 or a copy of every approved or revised map approved as provided by
2 Subsection (a) with the county clerk of each county in which the
3 zone is located.

4 (d) This section does not prevent the prosecution from:

5 (1) introducing or relying on any other evidence or
6 testimony to establish any element of an offense for which
7 punishment is increased under Section 71.028; or

8 (2) using or introducing any other map or diagram
9 otherwise admissible under the Texas Rules of Evidence.

10 SECTION 2. Subchapter D, Chapter 37, Education Code, is
11 amended by adding Section 37.110 to read as follows:

12 Sec. 37.110. INFORMATION REGARDING GANG-FREE ZONES. The
13 superintendent of each public school district and the administrator
14 of each private elementary or secondary school located in the
15 public school district shall ensure that the student handbook for
16 each campus in the public school district includes information on
17 gang-free zones and the consequences of engaging in organized
18 criminal activity within those zones.

19 SECTION 3. Subchapter Z, Chapter 51, Education Code, is
20 amended by adding Section 51.973 to read as follows:

21 Sec. 51.973. INFORMATION REGARDING GANG-FREE ZONES. The
22 governing board of each institution of higher education shall
23 ensure that any student handbook or similar publication for the
24 institution includes information on gang-free zones and the
25 consequences of engaging in organized criminal activity within
26 those zones.

27 SECTION 4. Subchapter C, Chapter 42, Human Resources Code,

1 is amended by adding Section 42.064 to read as follows:

2 Sec. 42.064. INFORMATION REGARDING GANG-FREE ZONES. Each
3 day-care center shall, in accordance with rules adopted by the
4 executive commissioner, distribute to parents and guardians of
5 children who attend the center information on gang-free zones and
6 the consequences of engaging in organized criminal activity within
7 those zones.

8 SECTION 5. The changes in law made by this Act in adding
9 Sections 71.028 and 71.029, Penal Code, apply only to an offense
10 committed on or after the effective date of this Act. An offense
11 committed before the effective date of this Act is governed by the
12 law in effect when the offense was committed, and the former law is
13 continued in effect for that purpose. For purposes of this section,
14 an offense was committed before the effective date of this Act if
15 any element of the offense occurred before that date.

16 SECTION 6. The change in law made by this Act in adding
17 Section 37.110, Education Code, applies beginning with the public
18 school district's 2009-2010 school year.

19 SECTION 7. The change in law made by this Act in adding
20 Section 51.973, Education Code, applies beginning with the 2009
21 fall semester.

22 SECTION 8. This Act takes effect September 1, 2009, except
23 that Sections 37.110 and 51.973, Education Code, and Section
24 42.064, Human Resources Code, as added by this Act, take effect
25 immediately if this Act receives a vote of two-thirds of all the
26 members elected to each house, as provided by Section 39, Article
27 III, Texas Constitution. If this Act does not receive the vote

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1 necessary for immediate effect, those sections of the Education
2 Code and Human Resources Code take effect September 1, 2009.