

By: Carona, et al.

S.B. No. 1256

A BILL TO BE ENTITLED

AN ACT

relating to the 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
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;

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

1 (C) shopping mall;

2 (D) movie theater;

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

4 or

5 (F) playground;

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

8 (3) on a school bus.

9 (c) The punishment prescribed for an offense under Section
10 71.02 may not be increased under this section if the offense is
11 punishable under Section 71.02 as a felony of the first degree.

12 (d) Punishment that is prescribed for an offense under
13 Section 71.02 and increased in accordance with this section may not
14 run concurrently with punishment for conviction of an offense under
15 any other criminal statute.

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

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

1 provided by Subsection (a).

2 (c) A municipal or county engineer shall file the original
3 or a copy of every approved or revised map approved as provided by
4 Subsection (a) with the county clerk of each county in which the
5 zone is located.

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

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

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

12 SECTION 2. The change in law made by this Act applies only
13 to an offense committed on or after the effective date of this Act.
14 An offense committed before the effective date of this Act is
15 governed by the law in effect when the offense was committed, and
16 the former law is continued in effect for that purpose. For
17 purposes of this section, an offense was committed before the
18 effective date of this Act if any element of the offense occurred
19 before that date.

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