

1-1 By: Carona, et al. S.B. No. 1256
1-2 (In the Senate - Filed March 3, 2009; March 17, 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. 1256 By: Carona

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

1-10 relating to the prosecution of and punishment prescribed for
1-11 engaging in organized criminal activity in a gang-free zone.

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

1-13 SECTION 1. Chapter 71, Penal Code, is amended by adding
1-14 Sections 71.028 and 71.029 to read as follows:

1-15 Sec. 71.028. GANG-FREE ZONES. (a) In this section:

1-16 (1) "Institution of higher education," "playground,"
1-17 "premises," "school," "video arcade facility," and "youth center"
1-18 have the meanings assigned by Section 481.134, Health and Safety
1-19 Code.

1-20 (2) "Shopping mall" means an enclosed public walkway
1-21 or hall area that connects retail, service, or professional
1-22 establishments.

1-23 (b) Except as provided by Subsection (c), the punishment
1-24 prescribed for an offense under Section 71.02 is increased to the
1-25 punishment prescribed for the next highest category of offense if
1-26 it is shown beyond a reasonable doubt on the trial of the offense
1-27 that the actor committed the offense at a location that was:

1-28 (1) in, on, or within 1,000 feet of any:

1-29 (A) real property that is owned, rented, or
1-30 leased by a school or school board;

1-31 (B) premises owned, rented, or leased by an
1-32 institution of higher education;

1-33 (C) shopping mall;

1-34 (D) movie theater;

1-35 (E) premises of a public or private youth center;

1-36 or

1-37 (F) playground;

1-38 (2) in, on, or within 300 feet of the premises of a
1-39 public swimming pool or video arcade facility; or

1-40 (3) on a school bus.

1-41 (c) The punishment prescribed for an offense under Section
1-42 71.02 may not be increased under this section if the offense is
1-43 punishable under Section 71.02 as a felony of the first degree.

1-44 Sec. 71.029. MAPS AS EVIDENCE OF LOCATION OR AREA. (a) In
1-45 a prosecution of an offense for which punishment is increased under
1-46 Section 71.028, a map produced or reproduced by a municipal or
1-47 county engineer for the purpose of showing the location and
1-48 boundaries of gang-free zones is admissible in evidence and is
1-49 prima facie evidence of the location or boundaries of those zones if
1-50 the governing body of the municipality or county adopts a
1-51 resolution or ordinance approving the map as an official finding
1-52 and record of the location or boundaries of those zones.

1-53 (b) A municipal or county engineer may, on request of the
1-54 governing body of the municipality or county, revise a map that has
1-55 been approved by the governing body of the municipality or county as
1-56 provided by Subsection (a).

1-57 (c) A municipal or county engineer shall file the original
1-58 or a copy of every approved or revised map approved as provided by
1-59 Subsection (a) with the county clerk of each county in which the
1-60 zone is located.

1-61 (d) This section does not prevent the prosecution from:

1-62 (1) introducing or relying on any other evidence or
1-63 testimony to establish any element of an offense for which

2-1 punishment is increased under Section 71.028; or
2-2 (2) using or introducing any other map or diagram
2-3 otherwise admissible under the Texas Rules of Evidence.

2-4 SECTION 2. The change in law made by this Act applies only
2-5 to an offense committed on or after the effective date of this Act.
2-6 An offense committed before the effective date of this Act is
2-7 governed by the law in effect when the offense was committed, and
2-8 the former law is continued in effect for that purpose. For
2-9 purposes of this section, an offense was committed before the
2-10 effective date of this Act if any element of the offense occurred
2-11 before that date.

2-12 SECTION 3. This Act takes effect September 1, 2009.

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