

2SHB 2432 - H AMD 1186

By Representative Hurst

1 On page 2, line 3, after "(3)" insert "Prevention and intervention  
2 services that divert young people from gang activity are most  
3 effective when the leadership and operation of a gang is interrupted.  
4 Civil gang injunctions are a proven tool for interrupting gang  
5 activity and operation and allowing prevention and intervention  
6 services to succeed.

7 (4)"

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9 On page 4, after line 21, insert the following:

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11 "NEW SECTION. **Sec. 4.** The definitions in this section apply  
12 throughout this chapter unless the context clearly requires otherwise.

13 (1) "Criminal street gang" has the same meaning as that term is  
14 defined in RCW 9.94A.030.

15 (2) "Criminal street gang activity" includes: (a) Criminal street  
16 gang-related offenses, as defined in RCW 9.94A.030; and (b)  
17 noncriminal acts that are in furtherance of a criminal street gang.

18 (3) "Criminal street gang associate or member" has the same  
19 meaning as that term is defined in RCW 9.94A.030. However, in  
20 determining whether a person is a criminal street gang associate or  
21 member, the court may also consider all relevant evidence including,  
22 but not limited to, an admission by a person that he or she is an  
23 associate or member of a criminal street gang.

24 (4) "Pattern of criminal street gang activity" has the same  
25 meaning as that term is defined in RCW 9.94A.030.

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1        NEW SECTION.    **Sec. 5.**    An action seeking injunctive relief under  
2 this chapter may be brought by the attorney general, county  
3 prosecuting attorney, or city attorney or city prosecutor. If a city  
4 seeks injunctive relief under this chapter, the city shall seek and  
5 obtain the approval of the prosecuting attorney of the county in which  
6 the city is located prior to filing the action.

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8        NEW SECTION.    **Sec. 6.**    (1) Injunctive relief is authorized to  
9 enjoin, abate, and prevent criminal street gang activity.

10        (2) A party seeking injunctive relief under this chapter may file  
11 a complaint in superior court. The complaint must contain: (a) A  
12 description of the specific geographic area within which the plaintiff  
13 seeks to enjoin the activities of a criminal street gang and its  
14 members or associates; and (b) a list of the activities in the  
15 geographic area that the plaintiff seeks to enjoin.

16        (3) Service of the summons and complaint on the criminal street  
17 gang may be made by representative service of process, served  
18 personally, pursuant to RCW 4.28.080, on at least five adult  
19 associates or members of the criminal street gang, at least two of  
20 whom occupy a leadership role in the criminal street gang at the time  
21 of filing.

22        (4) The court shall order an evidentiary hearing on the complaint.  
23 The hearing may be held whether or not any person served in a  
24 representative capacity appears to contest the issuance of the  
25 injunction.

26        (5) A person served in a representative capacity has the right to  
27 testify, cross-examine witnesses, and present testimony and other  
28 evidence on his or her own behalf. The court must appoint counsel to  
29 represent a person who is served in a representative capacity. The  
30 plaintiff is responsible for the cost of the representation. A person  
31 served in a representative capacity must receive notice of this right  
32 to request counsel in the summons.

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1        NEW SECTION.    **Sec. 7.** (1) At the hearing, the plaintiff must prove  
2 by a preponderance of the evidence that:

3        (a) A criminal street gang with known leadership, membership, and  
4 criminal activities is named as a respondent;

5        (b) The persons served in a representative capacity are associates  
6 or members of the criminal street gang;

7        (c) The membership of the criminal street gang includes at least  
8 five persons, at least two of whom occupy a leadership role at the  
9 time of filing;

10       (d) The criminal street gang has operated in the specified  
11 geographic area for at least five years immediately prior to the  
12 filing of the complaint;

13       (e) During the five years immediately prior to the filing of the  
14 complaint, associates and members of the criminal street gang have  
15 committed a pattern of criminal street gang activity within the  
16 specified geographic area;

17       (f) As a result of the criminal street gang activity, a  
18 significant number of the residents of the specified geographic area  
19 are in reasonable fear of threats to their physical safety, the  
20 physical safety of their family members, or damage to their property,  
21 such that the criminal street gang activity interferes with the quiet  
22 enjoyment of their residences;

23       (g) The jurisdiction in which the plaintiff is located has  
24 previously offered or is planning to offer prevention and intervention  
25 services to divert the associates or members of the criminal street  
26 gang from criminal street gang activity; and

27       (h) The remedies requested are reasonable and necessary.

28       (2) The plaintiff has a burden to prove by a preponderance of the  
29 evidence that any person whose activities are sought to be enjoined is  
30 an associate or member of the criminal street gang. The plaintiff may  
31 make this showing at the initial hearing or may seek to add a person  
32 to an existing injunction at a later date. A person may be added to  
33 an injunction previously issued under this chapter regardless of  
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1 whether the person was a criminal street gang associate or member at  
2 the time the complaint was filed or the injunction granted.

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4 NEW SECTION. **Sec. 8.** (1) If the court finds that the plaintiff  
5 has met its burden under section 7 of this act, the court shall enter  
6 an order:

7 (a) Specifically describing the geographic boundaries within which  
8 the injunction operates; and

9 (b) Providing for all relief necessary and proper under the  
10 circumstances, including enjoining persons who have been proven to be  
11 associates or members of the criminal street gang from engaging in the  
12 following behaviors and activities:

13 (i) Associating with other criminal street gang associates or  
14 members, except as provided in subsection (2) of this section;

15 (ii) Intimidating, harassing, threatening, or assaulting any  
16 person;

17 (iii) Intimidating, harassing, threatening, or assaulting any  
18 person known to be a victim or witness to criminal street gang  
19 activity;

20 (iv) Possessing a firearm, ammunition, or deadly weapon in a  
21 public place or knowingly remaining in the presence of anyone in  
22 possession of a firearm, ammunition, or deadly weapon in a public  
23 place;

24 (v) Possessing a controlled substance or drug paraphernalia or  
25 knowingly remaining in the presence of anyone in possession of a  
26 controlled substance or drug paraphernalia;

27 (vi) Consuming alcohol in a public place;

28 (vii) Trespassing;

29 (viii) Defacing any public or private property or possessing  
30 graffiti or tagging tools;

31 (ix) Violating a curfew imposed by the court;

32 (x) Using hand or other gestures associated with the criminal  
33 street gang;

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1 (xi) Wearing colors or symbols associated with the criminal street  
2 gang; or

3 (xii) Any other behavior or activity that has contributed in the  
4 past to the intimidation of the residents of the specified geographic  
5 area.

6 (2) With respect to a condition imposed pursuant to subsection  
7 (1)(b)(i) of this section, the condition may not apply to enjoin a  
8 person from associating with another criminal street gang associate or  
9 member who:

10 (a) Resides with the person if they are related by blood or  
11 marriage or have a dating relationship;

12 (b) Is married to the person;

13 (c) Has a child with the person, regardless of whether they have  
14 been married; or

15 (d) Has a biological or legal parent-child, grandparent-child, or  
16 sibling relationship with the person.

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18 NEW SECTION. **Sec. 9.** (1) The plaintiff shall provide personal  
19 notice of the injunction to any person to whom the injunction applies,  
20 as well as notice that he or she may request an evidentiary hearing  
21 regarding his or her association with or membership in the criminal  
22 street gang.

23 (2) At the hearing, the plaintiff must show by a preponderance of  
24 the evidence that the person is an associate or member of the criminal  
25 street gang. The person has the right to testify, cross-examine  
26 witnesses, and present testimony and other evidence on his or her own  
27 behalf. The court must appoint counsel to represent the person. The  
28 plaintiff is responsible for the cost of the representation.

29 (3) No juvenile may be enjoined under this chapter.

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31 NEW SECTION. **Sec. 10.** (1) A person who violates an order issued  
32 under this chapter may be found in contempt of court as provided in  
33 chapter 7.21 RCW and subject to the penalties therein, including but  
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1 not limited to a fine of not more than five thousand dollars or  
2 imprisonment for not more than one year, or both.

3 (2) In addition, a person who willfully violates an injunction  
4 issued under this chapter is guilty of a gross misdemeanor punishable  
5 by imprisonment in the county jail for a maximum term fixed by the  
6 court of up to three hundred sixty-four days, or by a fine in an  
7 amount fixed by the court of not more than five thousand dollars, or  
8 by both such imprisonment and fine.

9 (3) If the person did not contest the finding that he or she was a  
10 criminal street gang associate or member when originally served with  
11 the complaint or a copy of the injunction, it is an affirmative  
12 defense to a proceeding under this section that he or she is no longer  
13 an associate or member of the criminal street gang.

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15 NEW SECTION. **Sec. 11.** (1) An injunction issued pursuant to this  
16 chapter shall be effective for ten years.

17 (2) The plaintiff may reapply for an extension of the injunction  
18 by filing a motion no more than thirty days prior to the expiration  
19 of the current injunction. However, the injunction shall not be  
20 extended unless the plaintiff meets the burden described in Section  
21 7 of this Act.

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23 NEW SECTION. **Sec. 12.** Nothing in this chapter may be construed  
24 to apply to a governmental entity or a nonprofit or charitable  
25 organization.

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27 NEW SECTION. **Sec. 13.** If any provision of this act or its  
28 application to any person or circumstance is held invalid, the  
29 remainder of the act or the application of the provision to other  
30 persons or circumstances is not affected.

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32 NEW SECTION. **Sec. 14.** Sections 4 through 12 of this act  
33 constitute a new chapter in Title 7 RCW."

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1 Correct the title.

EFFECT: Allows prosecutors to file civil injunctions against criminal street gangs and their members.

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