

ASSEMBLY BILL

No. 891

Introduced by Assembly Member Bill Berryhill

February 26, 2009

An act to add Article 2.5 (commencing with Section 11250) to Chapter 3 of Title 1 of Part 4 of the Penal Code, relating to gang abatement.

LEGISLATIVE COUNSEL'S DIGEST

AB 891, as introduced, Bill Berryhill. Real property: gang abatement.

Existing law provides that every building or place used for the purpose of specified unlawful transactions involving controlled substances is a nuisance that is subject to abatement, and authorizes the court to assess civil penalties against a defendant who has caused that nuisance.

This bill would enacted the Gang Nuisance and Abatement Act, establishing a cause of action against the owner of property used by a criminal street gang as a congregating point. The bill would authorize a district attorney or city attorney to bring an abatement action against the property owner and would authorize the imposition of a fine not to exceed \$1,000 for the first violation and a fine not to exceed \$2,500 for a 2nd violation. Upon a 3rd or subsequent violation, the district attorney or city attorney would be authorized to file a petition with the court for the seizure and forfeiture of the property in question, in accordance with certain procedures. The proceeds from fines and property forfeiture would be split between local law enforcement and the district attorney's office for the purpose of funding gang prevention activities, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 2.5 (commencing with Section 11250) is
2 added to Chapter 3 of Title 1 of Part 4 of the Penal Code, to read:

3
4 Article 2.5. GANG NUISANCE AND ABATEMENT ACT
5

6 11250. This article shall be known and may be cited as the
7 Gang Nuisance and Abatement Act.

8 11251. (a) Every building or place used as a congregating
9 point for criminal street gang activity is a nuisance that shall be
10 enjoined, abated, and prevented in accordance with the procedures
11 in this section.

12 (b) If there is reason to believe that a nuisance pursuant to
13 subdivision (a) is being maintained in any county, the district
14 attorney, in the name of the people of the State of California, or
15 the city attorney of an incorporated city or any city and county
16 may bring an action against the owner of the property where the
17 criminal street gang activity has occurred or is occurring to abate
18 and prevent the nuisance.

19 (c) Any person who is found to have maintained a nuisance in
20 violation of this section shall be subject to the following civil
21 penalties:

22 (1) For the first violation, a fine not to exceed one thousand
23 dollars (\$1,000).

24 (2) For the second violation, a fine not to exceed two thousand
25 five hundred dollars (\$2,500).

26 (3) Upon a third or subsequent violation, the district attorney
27 or city attorney may file a petition with the court for seizure and
28 forfeiture of the real property that is the subject of the nuisance
29 action. Except as specified in this section, forfeiture proceedings
30 shall be conducted in conformity with the procedures set forth in
31 Chapter 8 (commencing with Section 11469) of Division 10 of the
32 Health and Safety Code.

33 (d) Property that is determined to be subject to forfeiture
34 pursuant to paragraph (3) of subdivision (c) shall be sold at fair
35 market value. The proceeds of the civil penalties and property
36 forfeited pursuant to this section shall be distributed as follows:

1 (1) One-half shall be paid to the local law enforcement of the
2 jurisdiction in which the property is located for the purpose of
3 funding gang prevention activities.

4 (2) One-half shall be paid to the local district attorney's office
5 of the jurisdiction in which the property is located for the purpose
6 of funding gang prevention activities.

7 (e) For purposes of this section, "criminal street gang" has the
8 same meaning as set forth in Section 186.22 of the Penal Code.

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