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168

State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH SESSION

HOUSE FILE No. 49

January 8, 2007

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The bill was read for the first time and referred to the Committee on Public Safety and Civil Justice

March 27, 2007

Committee Recommendation and Adoption of Report:

To Pass

Read Second Time

1.1 A bill for an act
1.2 relating to public nuisances; providing that certain criminal gang behavior is a
1.3 public nuisance; authorizing injunctive relief and other remedies; proposing
1.4 coding for new law in Minnesota Statutes, chapter 617.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. **[617.91] DEFINITIONS.**

1.7 Subdivision 1. **General.** The definitions in this section apply to sections 617.91
1.8 to 617.97.

1.9 Subd. 2. **Continuously or regularly.** "Continuously or regularly" means at least
1.10 five times in a period of not more than 12 months.

1.11 Subd. 3. **Criminal gang.** "Criminal gang" has the meaning given in section 609.229.

1.12 Subd. 4. **Gang activity.** "Gang activity" means the commission of one or more of
1.13 the offenses listed in section 609.11, subdivision 9; criminal damage to property in the
1.14 first or second degree under section 609.595, subdivision 1 or 1a; trespass under section
1.15 609.605; or disorderly conduct under section 609.72.

1.16 Sec. 2. **[617.92] PUBLIC NUISANCE.**

1.17 Subdivision 1. **Gang activities.** A criminal gang that continuously or regularly
1.18 engages in gang activities is a public nuisance.

1.19 Subd. 2. **Use of place.** The habitual use of a place by a criminal gang for engaging
1.20 in gang activity is a public nuisance.

1.21 Sec. 3. **[617.93] SUIT TO ABATE NUISANCE.**

2.1 (a) A county or city attorney, the attorney general, or a resident of the state may sue
2.2 to enjoin a public nuisance under sections 617.91 to 617.97.

2.3 (b) A person who habitually associates with others to engage in the gang activity
2.4 as a member of the criminal gang may be made a defendant in the suit. A person who
2.5 owns or is responsible for maintaining a place that is habitually used for engaging in gang
2.6 activity may be made a defendant in the suit.

2.7 **Sec. 4. [617.94] COURT ORDER.**

2.8 (a) If the court finds that a criminal gang constitutes a public nuisance, the court
2.9 may enter a temporary or permanent order:

2.10 (1) enjoining a defendant in the suit from engaging in the gang activities; and

2.11 (2) imposing other reasonable requirements to prevent the gang from engaging
2.12 in future gang activities.

2.13 (b) "Reasonable requirements" as specified in paragraph (a), clause (2), means any
2.14 injunctive limitation on gang behavior and social interaction that reduces opportunity for
2.15 gang activity. The court in imposing reasonable requirements must balance state interest in
2.16 public safety against constitutional first amendment freedom of association requirements.

2.17 (c) If the court finds that a place is habitually used in a manner that constitutes a
2.18 public nuisance, the court may include in its order reasonable requirements to prevent the
2.19 use of the place for gang activity.

2.20 **Sec. 5. [617.95] VIOLATION OF COURT ORDER.**

2.21 A person who violates a temporary or permanent injunctive order under section
2.22 617.94 is subject to the following sentences for civil contempt:

2.23 (1) a fine of not less than \$1,000 nor more than \$10,000;

2.24 (2) confinement in jail for a term of not less than ten nor more than 30 days; or

2.25 (3) both a fine and confinement.

2.26 **Sec. 6. [617.96] ATTORNEY FEES.**

2.27 In an action brought under sections 617.91 to 617.97, the court may award a
2.28 prevailing party reasonable attorney fees and costs.

2.29 **Sec. 7. [617.97] USE OF PLACE; EVIDENCE.**

2.30 In an action brought under sections 617.91 to 617.97, proof that gang activity by
2.31 a member of a criminal gang is frequently committed at a place or proof that a place is
2.32 frequently used for engaging in gang activity by a member of a criminal gang is prima

- 3.1 facie evidence that the person who owns or is responsible for maintaining the place
- 3.2 knowingly permitted the act.