
HOUSE BILL 2550

State of Washington

61st Legislature

2010 Regular Session

By Representatives Ross, Schmick, and Warnick

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1 AN ACT Relating to abatement of nuisances involving criminal street
2 gang activity; adding a new chapter to Title 9 RCW; and prescribing
3 penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** Notwithstanding the provisions of any other
6 law or ordinance, each board of county commissioners may, by ordinance,
7 to protect the public health, safety, and welfare of the residents of
8 the county, adopt procedures pursuant to which the county prosecuting
9 attorney may file an injunctive action in a court of competent
10 jurisdiction to seek any or all of the forms of relief detailed in this
11 chapter. The board of county commissioners may further authorize and
12 adopt rules providing for a nuisance action instituted by a resident of
13 the county provided that such action may only be brought against a
14 building as defined in section 2 of this act, and such action is
15 subject to the provisions set forth in sections 2 through 14 of this
16 act.

17 NEW SECTION. **Sec. 2.** The definitions in this section apply
18 throughout this chapter unless the context clearly requires otherwise.

1 (1) "Building" includes, but is not limited to, any structure or
2 separate part or portion thereof, whether permanent or not, or the
3 ground itself.

4 (2) "Criminal street gang activity" means a pattern of criminal
5 street gang activity as defined in RCW 9.94A.030.

6 (3) "Criminal street gang associate or member" and "criminal street
7 gang-related offense" have the meaning prescribed in RCW 9.94A.030.

8 NEW SECTION. **Sec. 3.** An ordinance may authorize an action
9 providing for a temporary or permanent injunction against any specific
10 criminal street gang associate or member to enjoin his or her activity
11 which is associated with any criminal street gang activity or any
12 criminal street gang-related offense and which is occurring within the
13 county.

14 NEW SECTION. **Sec. 4.** An ordinance may authorize an action
15 providing for a temporary or permanent injunction against any building
16 or unit within a building used for the purpose of aiding, promoting, or
17 conducting criminal street gang activity, and every building or unit
18 within a building wherein or upon which such acts take place. In a
19 multiunit building, only the offending unit shall be declared a
20 nuisance, and only the offending unit shall be enjoined, abated, and
21 prevented.

22 NEW SECTION. **Sec. 5.** (1) Upon application for a temporary
23 restraining order or preliminary injunction, the court may, upon a
24 showing of good cause, issue an ex parte restraining order or
25 preliminary injunction, preventing the defendant and all other persons,
26 other than the legal owner, from removing or in any manner interfering
27 with the personal property and contents of the place where the nuisance
28 is alleged to exist and may grant preliminary equitable relief as is
29 necessary to prevent the continuance or recurrence of the nuisance
30 pending final resolution of the matter on the merits. Pending the
31 decision, the stock in trade may not be so restrained, but an inventory
32 and full accounting of all business transactions may be required.

33 (2) The restraining order or preliminary injunction may be served
34 by handing to and leaving a copy with any person in charge of the place
35 or residing in the place, or by posting a copy in a conspicuous place

1 at or upon one or more of the principal doors or entrances to the
2 place, or by both delivery and posting. The officer serving the order
3 or injunction shall forthwith make and return into court an inventory
4 of the personal property and contents situated in and used in
5 conducting or maintaining the nuisance. Additionally, a copy of the
6 restraining order or preliminary injunction must be sent by registered
7 mail to the owner of the building.

8 (3) Any violation of the order or injunction is a contempt of
9 court, and where the order or injunction is posted, mutilation or
10 removal thereof while the same remains in force is a contempt of court
11 if the posted order or injunction contains a notice to that effect.

12 NEW SECTION. **Sec. 6.** An action under this chapter shall have
13 precedence over all other actions, except prior matters of the same
14 character, actions under chapter 7.43 RCW, criminal proceedings,
15 election contests, hearings on temporary restraining orders and
16 injunctions, foreclosures by a legal owner, and actions to forfeit
17 vehicles used in violation of the uniform controlled substances act.

18 NEW SECTION. **Sec. 7.** A copy of the complaint, together with a
19 notice of the time and place of the hearing of the action, shall be
20 served upon the defendant at least three business days before the
21 hearing. Service may also be made by posting the papers in the same
22 manner as is provided for in section 5 of this act. In addition to
23 service by posting, a copy of the complaint must be sent by registered
24 mail to the owner of the building or the agent of the owner. If the
25 hearing is then continued at the request of any defendant, all
26 temporary orders and injunctions shall be extended as a matter of
27 course.

28 NEW SECTION. **Sec. 8.** (1) Except as provided in subsection (2) of
29 this section, if the existence of the nuisance is established in the
30 action, an order of abatement shall be entered as part of the final
31 judgment in the case. The plaintiff's costs in the action, including
32 those of abatement, are a lien upon the building or unit within a
33 building, subject to the lien of the legal owner. The lien is
34 enforceable and collectible by execution issued by order of the court.

1 (2) If the court finds and concludes that the owner of the building
2 or unit within a building:

3 (a) Had no knowledge of the existence of the nuisance or has been
4 making reasonable efforts to abate the nuisance;

5 (b) Has not been guilty of any contempt of court in the
6 proceedings; and

7 (c) Will immediately abate any such nuisance that may exist at the
8 building or unit within a building and prevent it from being a nuisance
9 within a period of one year thereafter, the court shall, if satisfied
10 with the owner's good faith, order the building or unit within a
11 building to be delivered to the owner, and no order of abatement shall
12 be entered. If an order of abatement has been entered and the owner
13 subsequently meets the requirements of this subsection, the order of
14 abatement shall be canceled.

15 NEW SECTION. **Sec. 9.** Any final order of abatement issued under
16 this chapter shall:

17 (1) If the building or unit is not subject to the interests of
18 innocent legal owners, provide for the immediate closure of the
19 building or unit within a building against its use for any purpose, and
20 for keeping it closed for a period of one year unless released sooner
21 as provided in this chapter; and

22 (2) State that while the order of abatement remains in effect, the
23 building or unit within a building shall remain in the custody of the
24 court.

25 NEW SECTION. **Sec. 10.** An intentional violation of a restraining
26 order, preliminary injunction, or order of abatement under this chapter
27 brought by a political subdivision is a misdemeanor and shall be
28 punishable as such. If the violation also constitutes a criminal
29 offense under another provision of the law, the violation may be
30 prosecuted pursuant to this section or the other provision of law, or
31 both.

32 NEW SECTION. **Sec. 11.** Whenever the owner of a building or unit
33 within a building upon which the act or acts constituting the contempt
34 have been committed, or the owner of any interest in the building or
35 unit has been found in contempt of court, and fined in any proceedings

1 under this chapter, the fine is a lien upon the building or unit within
2 a building to the extent of the owner's interest, subject to the lien
3 of the legal owner. The lien is enforceable and collectible by
4 execution issued by order of the court.

5 NEW SECTION. **Sec. 12.** An action may not be brought pursuant to
6 this section against any governmental entity or any charitable or
7 nonprofit organization that is conducting, with ordinary care and
8 skill, activities relating to prevention or education concerning
9 criminal street gangs.

10 NEW SECTION. **Sec. 13.** The abatement of a nuisance under this
11 chapter does not prejudice the right of any person to recover damages
12 for its past existence.

13 NEW SECTION. **Sec. 14.** If any provision of this act or its
14 application to any person or circumstance is held invalid, the
15 remainder of the act or the application of the provision to other
16 persons or circumstances is not affected.

17 NEW SECTION. **Sec. 15.** Sections 1 through 14 of this act
18 constitute a new chapter in Title 9 RCW.

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