

SUBJECT: Criminal offense for violating court order enjoining gang activity

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 7 ayes — Place, Talton, Greenberg, Nixon, Pickett, Pitts, Solis
0 nays
2 absent — Farrar, Hudson

SENATE VOTE: On final passage, April 26 — voice vote

WITNESSES: No public hearing

DIGEST: SB 1090 would make it a Class A misdemeanor (punishable by a maximum penalty of one year in jail and a \$4,000 fine) to knowingly violate a temporary or permanent court order enjoining a person from engaging in the organized criminal activities of a combination or criminal street gang or preventing the use of a place for organized criminal activity.

If a person who committed the offense created by this bill also committed another offense, the person could be prosecuted for either or both offenses.

SB 1090 would take effect September 1, 1995.

SUPPORTERS SAY: SB 1090 would allow police to arrest persons who violate civil court orders to stop them from engaging in gang activity or to stop them from using a gang hangout. It could also be used to enforce orders against a property owner to stop their allowing property to be used by a gang. This would put teeth into the current civil statutes and give law enforcement authorities another tool to combat criminal gangs. The proliferation of gang activity and the dangers it represents to the public justify every instrument to combat its spread.

It would be especially useful for law enforcement authorities to be able use the Penal Code to enforce civil orders enjoining criminal activity and public nuisances. Civil penalties can mean little to gang members or absent property owners. SB 1090 would allow police to bring gang members into

the criminal justice system instead of relying on the civil system yet also afford persons who are arrested under a criminal charge more due process than that is given if arrested on contempt of court charges for violating a civil order. Since a civil court order can be brought by a citizen as well as by district, county or city attorneys and the attorney general, SB 1090 would appropriately take some of these cases out of the hands of citizens and put them in the hands of law enforcement authorities.

The offense created by this bill would be similar to the Penal Code offense for violating a protective order.

**OPPONENTS
SAY:**

SB 1090 is unnecessary because civil courts already have the power to hold someone in contempt of court and arrest and jail someone for violating a civil court order. This bill would encumber the Penal Code with an unneeded sanction.