

**CHAPTER 150—S.F.No. 493**

*An act relating to public nuisances; providing that certain criminal gang behavior is a public nuisance; authorizing injunctive relief and other remedies; proposing coding for new law in Minnesota Statutes, chapter 617.*

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

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

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

Subd. 2. **Continuously or regularly.** "Continuously or regularly" means at least three separate incidents or occurrences in a period of not more than 12 months.

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

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

Subd. 5. **Place.** "Place" means:

(1) a structure suitable for human shelter, a commercial structure that is maintained for business activities, a portion of the structure, or the land surrounding the structure that is under the control of the person who owns or is responsible for maintaining the structure. If the place is a multiunit dwelling, a hotel or motel, or a commercial or office building, "place" means only the portion of the place in which a public nuisance is maintained or permitted, including a dwelling unit, room, suite of rooms, office, common area, storage area, garage, parking area, or the land surrounding the place that is under the control of the person who owns or is responsible for maintaining the structure; or

(2) a parcel of land that does not include a structure and is under the control of the person who owns or is responsible for maintaining the land.

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

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

Subd. 2. **Use of place.** The continuous or regular use of a place by a lessee or tenant to engage in or allow gang activity by a criminal gang that is knowingly permitted by the owner or a person who is responsible for maintaining the place on behalf of the owner is a public nuisance.

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

(a) A county or city attorney or the attorney general may sue to enjoin a public nuisance under sections 617.91 to 617.97.

(b) A person who continuously or regularly engages in gang activity as a member of a criminal gang may be made a defendant in a suit.

(c) If the public nuisance involves the use of a place as provided in section 617.92, subdivision 2, the owner or a person who is responsible for maintaining the place on behalf of the owner may be made a defendant in the suit pursuant to the procedures applicable to owners under sections 617.81 to 617.87.

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

(a) If the court finds, by a preponderance of the evidence, that a criminal gang constitutes a public nuisance, the court may enter a temporary or permanent order:

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

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

(b) "Reasonable requirement" as specified in paragraph (a), clause (2), means an injunctive limitation on gang behavior and social interaction that reduces the opportunity for gang activity. The court in imposing reasonable requirements must balance state interests in public safety against constitutional freedoms.

(c) If the court finds, by a preponderance of the evidence, that a place is continuously or regularly used in a manner that constitutes a public nuisance, the court may include in its order reasonable requirements to prevent the use of the place for gang activity. This may include cancellation of any applicable lease pursuant to the procedures in section 617.85 that may involve any tenant or lessee who has maintained or conducted the public nuisance, or other reasonable requirements established in the order.

**Sec. 5. [617.95] VIOLATION OF COURT ORDER; FINE AND CRIMINAL PENALTY.**

Subdivision 1. **Fine for civil contempt.** A person who violates a temporary or permanent injunctive order issued under section 617.94 is subject to a fine for civil contempt of not less than \$1,000 nor more than \$10,000.

Subd. 2. **Criminal penalty.** A person who knowingly violates a temporary or permanent injunctive order issued under section 617.94 is guilty of a misdemeanor.

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

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

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

(a) In an action brought under sections 617.91 to 617.97, proof that gang activity by a member of a criminal gang is continuously or regularly committed at a place or proof that a place is continuously or regularly used for engaging in gang activity by a member of a criminal gang is prima facie evidence that the person who owns or is responsible for maintaining the place knowingly permitted the act.

(b) Paragraph (a) does not apply if the person who owns or is responsible for maintaining the place proves, by a preponderance of the evidence, that the person has made reasonable efforts to prevent the occurrence of the gang activity, which may include cancellation of or an attempt to cancel the lease.

Presented to the governor May 24, 2007

Signed by the governor May 25, 2007, 3:40 p.m.