

Amendment No. 1 to HB1430

Lundberg  
Signature of Sponsor

**AMEND Senate Bill No. 1634**

**House Bill No. 1430\***

by deleting the amendatory language of SECTION 4 and by substituting instead the following:

(b)

(1) Upon any hearing or trial, establishing a criminal gang as a nuisance under § 29-3-101(a)(2)(B) need only be proven by clear and convincing evidence, notwithstanding any references under this chapter to the criminal code. Neither a criminal conviction nor a finding of juvenile delinquency is required in order to prove, by clear and convincing evidence, that particular conduct is gang related conduct to be abated as a nuisance under this chapter. Gang related conduct to be abated as a nuisance may be proven through the testimony of a fact witness, an expert witness, or a combined fact-expert witness pursuant to the rules of evidence.

(2) If, upon any hearing or trial, the existence of a gang related nuisance is established under § 29-3-101, an order of abatement shall be entered as part of the judgment or decree of the court. That order shall enjoin perpetually the defendant or defendants from engaging in, conducting, continuing, aiding or abetting the nuisance, directly or indirectly.

(3) In addition to the relief permitted in subdivision (b)(2), the court may designate a certain geographically defined area or areas in any temporary or permanent gang injunction, which are narrowly tailored in compliance with prevailing constitutional case law for one (1) or more of the following purposes:

(A) Preventing the gang from gathering in public in groups of two (2) or more members; and

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(B) Preventing any gang member from entering any public ground, place, or space where the gang has been found to have carried out its operations.

(4) All gang injunctions shall also include an "opt out" provision permitting an individual to seek an order of dismissal from the injunction upon proper application to the court, with thirty (30) days' notice to the petitioner, truthfully stating that the individual renounces involvement with that particular gang, which is the subject of the gang injunction, and for the last two (2) years:

(A) Has not committed any crimes or engaged in any form of criminal conduct, not including any time spent incarcerated;

(B) Has not been in the company, or association, of any person found under this chapter to be a gang member, other than an immediate family member; and

(C) Has not obtained any new gang-related tattoos.

AND FURTHER AMEND by inserting the following language as a new SECTION 5 and by redesignating the subsequent sections accordingly:

SECTION 5. Tennessee Code Annotated Section 29-3-110 is amended by adding the following as a new subsection (d):

(d)

(1) Any person who is not specifically named in a gang injunction issued pursuant to subsection (b) may be subject to the injunction by service upon the person of:

(A) A petition by the original petitioner to amend the injunction to specifically include the person; or

(B) A summons and a copy of the injunction.

(2) Service of the petition or summons shall include a date, time, and place of a hearing, where the original petitioner shall be required to show why the person should be subject to the injunction.

(3) A person who is added to the injunction under subdivision (d)(1) shall be subject to § 29-3-111 for any conduct occurring after the date the person is added to the injunction.

(4) A person who is added to the injunction under subdivision (d)(1) shall be afforded the same opt-out provisions under subdivision (b)(4).