



Office of the City Clerk

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Legislation Text

File #: SO2021-4130, Version: 1

SUBSTITUTE ORDINANCE

WHEREAS, the City of Chicago ("City") is a home rule municipality as described in Article VII, Section 6 (a) of the 1970 Constitution of the State of Illinois, and as such may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the City hereby finds and declares that it is the right of every person, regardless of race, color, creed, religion, national origin, sex, sexual orientation, age, or disability, to be secure and protected from fear, intimidation, and physical harm caused by the activities of violent groups and individuals. It is not the intent of this Ordinance to interfere with the exercise of the constitutionally protected rights of freedom of expression and association; and

WHEREAS, the City hereby recognizes the constitutional right of every citizen to harbor and express beliefs on any lawful subject whatsoever, to lawfully associate with others who share similar beliefs, to petition lawfully constituted authority for a redress of perceived grievances, and to participate in the electoral process; and

WHEREAS, the City finds, however, that communities and neighborhoods throughout Chicago are being terrorized and plundered by streetgangs. The City finds that there are approximately 100 streetgang factions currently operating in Chicago; and

WHEREAS, the City finds that the harms exacted by streetgangs and related violent activities have substantial costs to residents and manifest in many forms such as increased trauma and a range of mental health consequences for individuals, diminished opportunities for legitimate economic activity and investments related in part to fear on the part of businesses for themselves, their employees, customers and property, and overall diminished opportunities for community gatherings, unity and quality of life; and

WHEREAS, the City further finds that streetgangs are often controlled by criminally sophisticated adults who take advantage of our youth by intimidating and coercing them into membership by employing them as drug couriers, and by using them to commit brutal crimes against persons and property to further the financial benefit and dominance of the streetgangs; and

WHEREAS, the City must continue to make investments to support our children and young people at the earliest stages of life and thereafter, and continue to offer those who have been in gang activity every opportunity to exit those lives; and

WHEREAS, these streetgangs' activities present a clear and present danger to public order and safety and are not constitutionally protected. No society is or should be required to endure such activities without redress; and

WHEREAS, in order to provide additional tools to promote community safety, support victims, witnesses and survivors and their families, the City has an obligation to use methods and means to quell the impact of streetgangs who pose a threat to residents; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

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SECTION 1. The foregoing recitals are adopted and incorporated into and made a part of this Ordinance.

SECTION 2. Title 8 of the Municipal Code of Chicago is hereby amended by creating a new Chapter 8-6, as follows:

CHAPTER 8-6 VICTIMS' JUSTICE ORDINANCE

8-6-010 Purpose and intent.

This Chapter shall be known and may be cited as the "Victims' Justice Ordinance." It is the purpose of this Chapter and the policy of the City to create a civil remedy against streetgangs and their leaders who profit from illegal and violent activities, with particular focus upon patterns of criminal gang activity and upon the organized nature of streetgangs.

8-6-020 Definitions.

As used in this Chapter, the following terms shall have the following meanings:

"Chicago" means the municipality of Chicago, Illinois. "City" means the municipal government of Chicago.

"Corporation Counsel" means the Corporation Counsel of the City or his or her designee.

"Course or pattern of criminal activity" means 2 or more gang-related criminal offenses committed in whole or in part within Chicago when:

- 1) at least one such offense was committed after the effective date of this Chapter;
- 2) both offenses were committed within 5 years of each other; and
- 3) at least one offense involved the solicitation to commit, conspiracy to commit, attempt to commit, or commission of any offense involving a violent or predatory act motivated by gang-related profit and defined as a felony or forcible felony under the Criminal Code. For purposes of this paragraph (3), there shall be a rebuttable presumption that a violent or predatory act is motivated by gang-related profit.

"Criminal Code" means the Illinois Criminal Code of 2012, codified at 720 ILCS 5 et seq.

"Gang leader" or "leader" means any gang member who is at least 18 years old and who exercises directorial, governing, leadership, managerial, or policymaking authority in that gang.

"Streetgang" or "gang" or "organized gang" or "criminal street gang" means any combination, confederation, alliance, network, conspiracy, understanding, or other similar conjoining, in law or in fact, of 3 or more persons with an established hierarchy that, through its membership or through the agency of any member engages in a course or pattern of criminal activity.

"Streetgang member" or "gang member" means any person who actually and in fact belongs to a gang.

"Streetgang-related" or "gang-related" means any criminal activity, enterprise, pursuit, or undertaking conducted by, directed by, ordered by, authorized by, consented to, agreed to, requested by, acquiesced in, or ratified by any gang leader:

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- 1) with the intent to increase the gang's size, membership, prestige, dominance, or control in any geographical area; or
- 2) with the intent to provide the gang with any advantage in, or any control or dominance over any criminal market sector, including but not limited to, the manufacture, delivery, or sale of controlled substances or cannabis; arson or arson-for-hire; traffic in stolen property or stolen credit cards; traffic in prostitution, obscenity, or pornography; or that involves robbery, burglary, or theft; or
- 3) with the intent to exact revenge or retribution for the gang or any member of the gang; or
- 4) with the intent to obstruct justice, or intimidate or eliminate any witness against the gang or any member of the gang; or
- 5) with the intent to otherwise directly or indirectly cause any benefit, aggrandizement, gain, profit or other advantage whatsoever to or for the gang, its reputation, influence, or membership.

8-6-030 Creation of civil cause of action.

a) A civil cause of action is hereby created in favor of the City based upon the City's expending money, allocating or reallocating police, firefighting, emergency or other personnel or resources, or otherwise incurring any loss, deprivation, or injury, or sustaining any damage, impairment, or harm whatsoever, including costs and resources associated with supporting victims of streetgang-related activity after they have been victimized, as well as the larger cost to economic communities impacted by violent streetgangs, that is proximately caused by any course or pattern of streetgang-related criminal activity.

b) The cause of action created by this Chapter shall lie against:

- 1) any streetgang in whose name, for whose benefit, on whose behalf, or under whose direction the act was committed; and
- 2) any gang leader.

c) The cause of action authorized by this Chapter shall be brought by the Corporation Counsel. This cause of action shall be in addition to any other civil or criminal proceeding authorized by City ordinance, the laws of this State or by federal law, and shall not be construed as requiring the Corporation Counsel to elect a civil, rather than criminal remedy, or as replacing any other cause of action. Liability of the gang and its leaders shall be joint and several, subject only to the apportionment and allocation of punitive damages authorized under Section 8-6-090.

d) It shall not be necessary for the Corporation Counsel, in bringing an action under this Chapter, to show that a particular conspiracy, combination, or conjoining of persons possesses, acknowledges, or is known by any common name, insignia, flag, means of recognition, secret signal or code, creed, belief, structure, leadership or command structure, method of operation or criminal enterprise, concentration or specialty, membership, age, or other qualifications, initiation rites, geographical or territorial situs or boundary or location, or other unifying mark, manner, protocol or method of expressing or indicating membership when the conspiracy's existence, in law or in fact, can be demonstrated by a preponderance of other competent evidence. However, the Corporation Counsel may present any evidence reasonably tending to show or demonstrate, in law or in fact, the existence of or membership in any conspiracy, confederation, or other association described herein, or probative of the existence of or membership in any such association.

8-6-040 Commencement of action.

(a) An action may be commenced under this Chapter by the filing of a complaint as in civil cases, which complaint shall name the City as the complaining party, and which may also name the Mayor, Superintendent of Police, Fire Commissioner, or any other affected City official as one or more additional complaining parties.

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b) The complaint may name as defendants the gang and/or all known gang leaders. The complaint may also name, as a class of defendants, all unknown gang leaders.

c) A complaint filed under this Chapter, and all other ancillary or collateral matters arising therefrom, including matter relating to discovery, motions, trial, and the perfection or execution of judgments shall be subject to the Illinois Code of Civil Procedure, except as may be otherwise provided in this Chapter, or except as the court may otherwise order upon motion of the Corporation Counsel in matters relating to immunity or the physical safety of witnesses.

(d) When, at any point prior to trial, other specific gang leaders become known, the Corporation Counsel may amend the complaint to include any such person as a named defendant.

8-6-050 Venue.

In bringing an action under this Chapter, the Corporation Counsel may file the complaint in any county where an act charged in the complaint as part of a course or pattern of gang-related criminal activity was committed.

8-6-060 Service of process.

a) Service of process upon a streetgang may be had by leaving a copy of the complaint and summons directed to any leader of such gang, commanding the gang to appear and answer the complaint or otherwise plead at a time and place certain:

- 1) with any gang leader; or
- 2) in the manner provided for service upon a voluntary unincorporated association in a civil action; or
- 3) in the manner provided for service by publication in a civil action; or
- 4) with the probation or parole officer or aftercare specialist of any person sued under this Chapter; or

5) with such other person or agent as the court may, upon petition of the Corporation Counsel, authorize as appropriate and reasonable under all of the circumstances.

b) If after being summoned a streetgang does not appear, the court may in its discretion enter an answer for the streetgang neither affirming nor denying the allegations of the complaint but demanding strict proof thereof, and proceed to trial and judgment.

c) When any person is named as a defendant gang leader in any complaint, or subsequently becomes known and is added or joined as a named defendant, service of process may be had as authorized or provided for in the Illinois Code of Civil Procedure for service of process in a civil case.

(d) Unknown gang leaders may be sued as a class and designated as such in the caption of any complaint filed under this Chapter. Service of process upon unknown leaders may be made in the manner prescribed for provision of notice to members of a class in a class action, or as the court may direct for providing the best service and notice practicable under the circumstances which shall include individual, personal, or other service upon all leaders who can be identified and located through reasonable effort.

8-6-070 Law enforcement participation.

The Corporation Counsel is authorized to work with the Illinois Attorney General, Cook County State's Attorney, Cook County Sheriff, Illinois State Police, Federal Bureau of Investigation, United States Attorney, the Chicago Police Department and other law enforcement agencies and officials to gather data, collect and share evidence and information potentially relevant to an action under this Chapter, and otherwise proceed collaboratively with such agencies and officials to achieve the purposes of this Chapter, including entering into intergovernmental agreements.

8-6-080 Subpoenas.

In order to effectively carry out the purposes of this Chapter, the Corporation Counsel may issue in writing and cause to be served one or more subpoenas in accordance with the procedures of Section 1-22-050 of the Code.

8-6-090 Injunctive relief, damages, costs, fines and fees.

a) In any action brought under this Chapter, upon application by the Corporation Counsel served on the defendant by U.S. mail or as permitted under Section 8-6-060 or Illinois Supreme Court Rules, the court may at any time enter such restraining orders, injunctions, or other prohibitions, or order such other relief as it deems proper, including but not limited to ordering any person to divest himself of any involvement or interest, direct or indirect, in any illegal streetgang-related activity and imposing other reasonable restrictions on the future illegal activities of any defendant.

b) Upon application by the Corporation Counsel served on the defendant by U.S. mail or as permitted under Section 8-6-060 or Illinois Supreme Court Rules, the court also may at any time enter against any defendant found liable under this Chapter: (i) compensatory damages for all damages, losses, impairments, or other harm proximately caused; (ii) a fine of not less than \$500.00 nor more than \$10,000.00 for each offense, and to count each day that such offense continued as a separate and distinct offense to which a separate fine shall apply; (iii) punitive damages; and (iv) the costs of the suit and reasonable attorneys' fees.

8-6-100 Forfeiture.

a) Upon application by the Corporation Counsel served on the defendant by U.S. mail or as permitted under Section 8-6-060 or Illinois Supreme Court Rules, the court in its discretion may order as part of any judgment that the following are subject to seizure and forfeiture under this Chapter:

- 1) any property that is directly or indirectly used or intended for use in any manner to facilitate streetgang-related activity; and
- 2) any property constituting or derived from gross profits or other proceeds obtained from streetgang-related activity.

b) The City shall bear the burden of proving by a preponderance of the evidence that the property was used for or acquired through streetgang-related activity.

c) When seeking forfeiture pursuant to this section, the Corporation Counsel shall provide notice by U.S. mail to all persons of record owning or possessing a lien on the subject property, advising them of the City's intent to seek forfeiture. An owner or person possessing a lien on the property may establish as a defense to the forfeiture of property that is subject to forfeiture under this Section that the owner or lienholder had no knowledge that the property was used for or acquired through streetgang-related activity.

d) If a family member of the owner of a vehicle sought to be forfeited pursuant to this section makes a showing that the vehicle is their only source of transportation and the court determines that the financial hardship to the family member as a result of forfeiture would outweigh the benefit to the City from the forfeiture, the vehicle may be forfeited to the family member and the title to the vehicle shall be transferred to the family member who is properly licensed and who requires the use of the vehicle for employment or family transportation purposes. This subsection (d) shall apply only to one forfeiture per vehicle. If the owner of the vehicle sought to be forfeited owns more than one vehicle, the procedure set out in this subsection (d) may be used for only one vehicle. For purposes of this subsection, the term "family member" means spouse or qualified domestic partner, siblings and their spouses, children and their spouses, grandchildren and their spouses, and parents and grandparents, but only if the pertinent relative is a member of the same household as the owner.

8-6-110 Abatement as public nuisance.

Upon application by the Corporation Counsel served on the defendant by U.S. mail or as permitted under Section 8-6-060 or Illinois Supreme Court Rules, the court in its discretion may order as part of any judgment that any real property that is erected, established, maintained, owned, leased, or used by any streetgang for the purpose of conducting streetgang-related activity constitutes a public nuisance and that

such nuisance be abated.

8-6-120 Use of proceeds.

A minimum of 50 percent of funds obtained by the City pursuant to proceedings under this Chapter shall be dedicated to the support of victims of, and witnesses to, streetgang-related activity.

SECTION 3. Chapter 8-20 of the Municipal Code of Chicago is hereby amended by adding a new Section 8-20-020, as follows:

8-20-020 Reserved Unlawful possession of a firearm.

a) It shall be unlawful for any person to carry or possess a firearm in violation of any applicable state or federal law.

b) This section shall not apply to concealed carry licensees under the Firearm Concealed Carry Act (430 ILCS 66/1 et seq.) and holders of a FOID card under the Firearm Owners Identification Card Act (430 ILCS 65/0.01 et seq.).

ic) In addition to the penalties provided in Sections 8-20-070 and 8-20-250, any person who violates this section shall be fined not less than \$10,000 nor more than \$15,000 for the first violation; and not less than \$20,000 nor more than \$30,000, or be incarcerated for not less than 90 days nor more than 180 days, or both, for the second or subsequent violation within twelve months of the first violation.

SECTION 4. If any part, section, sentence, clause or application of this Ordinance shall be adjudged invalid, void and of no effect for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 5. In light of the horrific and ongoing cost to our law-abiding residents' lives caused by streetgang-related activity, pursuant to 65 ILCS 5/1-2-4 this Ordinance shall take effect immediately upon its passage and approval, if such passage is by a vote of at least two-thirds of the members of the City Council. In the event this Ordinance passes by a majority vote of less than two-thirds of the members of the City Council, it shall take effect ten days after passage and publication.