

By Senator Aronberg

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1 A bill to be entitled

2 An act relating to civil causes of action under the
3 Criminal Street Gang Prevention Act of 1996; amending s.
4 874.06, F.S.; providing for recovery of the costs of
5 investigation and litigation; authorizing municipalities
6 and the state or its agencies or subdivisions to bring a
7 civil action for certain violations of ch. 874, F.S.;
8 providing that a prevailing plaintiff has a claim to
9 property or proceeds which is superior to that of the
10 state or its agencies or subdivisions; providing an
11 effective date.

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13 Be It Enacted by the Legislature of the State of Florida:

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15 Section 1. Section 874.06, Florida Statutes, is amended to
16 read:

17 874.06 Civil cause of action.--

18 (1) A person or organization establishing, by clear and
19 convincing evidence, coercion, intimidation, threats, or other
20 harm to that person or organization in violation of this chapter
21 has a civil cause of action for treble damages, an injunction, or
22 any other appropriate relief in law or equity. Upon prevailing,
23 the plaintiff may recover ~~reasonable~~ attorney's fees in the trial
24 and appellate courts and reasonably incurred costs of
25 investigation and litigation and costs.

26 (2) The state, including any of its agencies,
27 instrumentalities, subdivisions, or municipalities, has a civil
28 cause of action against any person or organization if it proves
29 by clear and convincing evidence that it has been injured by

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30 reason of a violation of this chapter by the person or
31 organization. The state has a civil cause of action for treble
32 damages, injunctive relief, or any other relief in law or equity
33 which the court deems appropriate. If the state prevails, it may
34 also recover attorney's fees in the trial and appellate courts
35 and the costs of investigation and litigation which are
36 reasonably incurred. The state may not recover punitive damages.
37 The defendant is entitled to recover reasonable attorney's fees
38 and court costs if the court finds that the state raised a claim
39 that was without factual or legal support.

40 (3) A prevailing plaintiff under subsection (1) has a right
41 or claim that is superior to any right or claim that the state
42 has in the same property or proceeds.

43 (4) A person who knowingly violates a temporary or
44 permanent order issued under this section commits a misdemeanor
45 of the first degree punishable as provided in s. 775.082 or s.
46 775.083.

47 Section 2. This act shall take effect July 1, 2008.