

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2670

Session of
1994

INTRODUCED BY STURLA, BELFANTI, COY, VEON, FAJT, MIHALICH,
STISH, MARKOSEK, LAUB, DENT, FARMER, MILLER, COLAIZZO,
M. COHEN, LEDERER, BATTISTO, GERLACH, JAROLIN, NAILOR,
TANGRETTI, DeLUCA, FREEMAN, ROONEY, MELIO, KING, SAURMAN,
ZUG, SCHULER, STRITTMATTER, J. TAYLOR, WAUGH, PISTELLA, RUDY,
STABACK, DALEY, WILLIAMS, GEIST, RUBLEY, SAYLOR, CAWLEY,
MARSICO, GODSHALL AND BROWN, APRIL 5, 1994

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 5, 1994

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, providing for gang activity.

3 The General Assembly declares that it is the right of every
4 person, regardless of race, color, creed, religion, national
5 origin, sex, age, sexual orientation or handicap to be secure
6 and protected from fear, intimidation and physical harm caused
7 by the activities of violent groups and individuals. It is not
8 the intent of the General Assembly to interfere with the
9 exercise of constitutionally protected rights of freedom of
10 expression and association. The General Assembly recognizes the
11 constitutional right of every citizen to harbor and express
12 beliefs on any lawful subject whatsoever, to lawfully associate
13 with others who share beliefs, to petition lawfully constituted
14 authority for a redress of perceived grievances and to
15 participate in the electoral process.

1 The General Assembly finds that this Commonwealth is facing a
2 mounting crisis caused by gangs whose members threaten and
3 terrorize peaceful citizens and commit crimes. These activities
4 both individually and collectively present a clear and present
5 danger to the public order and safety and are not
6 constitutionally protected.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Section 903 of Title 18 of the Pennsylvania
10 Consolidated Statutes is amended by adding a subsection to read:
11 § 903. Criminal conspiracy.

12 * * *

13 (h) Gang activity.--Conspiracy shall not include gang
14 activity as defined under section 913 (relating to gang
15 activity).

16 Section 2. Title 18 is amended by adding a section to read:
17 § 913. Gang activity.

18 (a) Offense.--A person commits gang activity if he knowingly
19 commits a crime for the benefit of, at the direction of or in
20 affiliation with a criminal gang with the intent to promote,
21 further or assist the activities of the criminal gang.

22 (b) Grading.--Gang activity is a crime of the same grade and
23 degree as the most serious offense which is the object of the
24 gang activity.

25 (c) Assessment.--All persons found in violation of this
26 section shall be assessed \$300 which shall be transmitted to the
27 Criminal Gang Deterrence Fund created under subsection (g).

28 (d) Responsibilities of the Pennsylvania Commission on Crime
29 and Delinquency.--The Pennsylvania Commission on Crime and
30 Delinquency shall award grant moneys equal to the moneys

1 received under this section to community-based organizations
2 which implement programs to deter criminal gang activity.

3 (e) Civil cause of action.--A person, organization or
4 municipality which has been coerced, intimidated, threatened or
5 otherwise harmed in violation of this act shall have a civil
6 cause of action for treble damages, an injunction, nuisance
7 abatement, asset forfeiture or any other appropriate relief in
8 law or equity. This civil action may be brought against any gang
9 member reasonably believed to have been involved in the
10 violation, including, but not limited to, gang leaders and gang
11 members who have personal knowledge of the crime. Upon
12 prevailing in this civil action based on the clear and
13 convincing evidence presented, the plaintiff may recover
14 reasonable attorney fees and costs.

15 (f) Fund.--There is hereby established within the State
16 Treasury a separate nonlapsing revolving account to be known as
17 the Criminal Gang Deterrence Fund. The fund shall be
18 administered by the Pennsylvania Commission on Crime and
19 Delinquency for the purpose of developing, implementing and
20 administrating a program of award grants to community
21 organizations which implement programs to deter criminal gang
22 activity.

23 (g) Definitions.--As used in this section, the following
24 words and phrases shall have the meanings given to them in this
25 subsection:

26 "Criminal gang."

27 (1) A combination, confederation, alliance, network,
28 conspiracy, in law or fact, of three or more persons that do
29 either of the following:

30 (i) Engages in a pattern of criminal activity

1 through its membership or through the agency of any
2 member and at the direction, order, solicitation or
3 request of a conspirator who is a leader, officer,
4 director, organizer or other governing or policymaking
5 person in the conspiracy, or at the direction, order,
6 solicitation or request of such person's agent, deputy or
7 representative.

8 (ii) Engages in a pattern of criminal activity
9 through its membership or through the agency of any
10 member.

11 (2) Any evidence reasonably tending to show or
12 demonstrate, in law or in fact, the existence of or
13 membership in any conspiracy, confederation or other
14 association described herein, or probative of the existence
15 of or membership in any such association, shall be admissible
16 in any action or proceeding brought under this section.

17 "Criminal gang member." A person who demonstrates
18 affiliation with a criminal gang by any two or more of the
19 following indicia:

20 (1) An admission of gang membership.

21 (2) Identification as a gang member by a parent,
22 guardian, spouse or sibling.

23 (3) Identification by an informant, verified by
24 independent information.

25 (4) More than one arrest while in the company of
26 identified gang members for any criminal offense.

27 (5) Identification as a gang member by physical evidence
28 such as photographs or other documentation.

29 "Pattern of criminal activity." Two or more felonies,
30 misdemeanors or a combination thereof committed on separate

1 occasions within a three-year period.

2 Section 3. This act shall take effect in 90 days.