
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 56

Session of
1995

INTRODUCED BY STURLA, STRITTMATTER, TRUE, ARMSTRONG, ROBINSON,
YOUNGBLOOD, ROONEY, NAILOR, MILLER, BUXTON, DeLUCA, BATTISTO,
FLICK, PISTELLA, MIHALICH, BROWN, E. Z. TAYLOR, GEIST,
STABACK, CAPPABIANCA, MARSICO, LAUGHLIN, PETRARCA, WOZNIAK
AND STETLER, FEBRUARY 7, 1995

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 7, 1995

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, providing for criminal gang activity;
3 and making an appropriation.

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

17 The General Assembly finds that this Commonwealth is facing a

1 mounting crisis caused by criminal gangs whose members threaten
2 and terrorize peaceful citizens and commit crimes. These
3 activities both individually and collectively present a clear
4 and present danger to the public order and safety and are not
5 constitutionally protected.

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

8 Section 1. Title 18 of the Pennsylvania Consolidated
9 Statutes is amended by adding a section to read:

10 § 913. Criminal gang activity.

11 (a) Offense.--A person commits the offense of criminal gang
12 activity if he knowingly commits a crime for the benefit of, at
13 the direction of or in affiliation with a criminal gang with the
14 intent to promote, further or assist the activities of the
15 criminal gang.

16 (b) Grading.--Criminal gang activity is a crime of the same
17 grade and degree as the most serious offense which is the object
18 of the criminal gang activity.

19 (c) Assessment.--Each person found in violation of this
20 section shall be assessed a minimum of \$500 and a maximum of
21 \$5,000 which shall be transmitted to the Criminal Gang
22 Deterrence Fund created under subsection (f).

23 (d) Responsibilities of the Pennsylvania Commission on Crime
24 and Delinquency.--The Pennsylvania Commission on Crime and
25 Delinquency shall award grants to:

26 (1) Community organizations which implement programs to
27 deter criminal gang activity. The commission shall give
28 preference to programs which engage community organizations
29 in identifying and prioritizing delinquency risk factors
30 operating in their communities and which include a

comprehensive plan to reduce the impact of these risk factors on children. Criminal gang deterrence programs may include:

(i) Aftercare and monitoring to ensure that former criminal gang members are able to integrate into society.

(ii) Rehabilitative and education support services.

(2) District attorneys to be used for the formation of special prosecution units, grand jury investigations and other strategies to deter criminal gang activity.

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

(f) Fund.--There is hereby established within the State Treasury a separate nonlapsing revolving account to be known as the Criminal Gang Deterrence Fund. The fund shall be administered by the Pennsylvania Commission on Crime and Delinquency for the purpose of developing, implementing and administering a grant program as described under subsection (d).

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

1 "Criminal gang."

2 (1) A combination, confederation, alliance, network,
3 conspiracy, in law or fact, of three or more persons that are
4 primarily organized to engage in a pattern of violent or
5 drug-related criminal activity through its membership or
6 through the agency of any member at the direction, order,
7 solicitation or request of a leader, officer, director,
8 organizer or other governing or policymaking person in the
9 conspiracy, or at the direction, order, solicitation or
10 request of such person's agent, deputy or representative.

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:

19 (1) an admission of criminal gang membership; or

20 (2) by any two or more of the following indicia:

21 (i) identification as a criminal gang member by a
22 parent, guardian, spouse or sibling.

23 (ii) identification by an informant, verified by
24 independent information.

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

28 (iv) identification as a criminal gang member by
29 physical evidence such as photographs or other
30 documentation.

1 "Pattern of criminal activity." Violent or drug-related
2 felonies, misdemeanors or a combination thereof committed on a
3 continuing basis.

4 Section 3. The amount of \$1,000,000, or as much thereof as
5 may be necessary, is hereby appropriated to the Criminal Gang
6 Deterrence Fund for the fiscal year July 1, 1995, to June 30,
7 1996, to carry out the provisions of this act.

8 Section 4. This act shall take effect in 90 days.