

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2111 Session of
2007

INTRODUCED BY MANN, STURLA, BAKER, BARRAR, BELFANTI, BEYER,
BOYD, BRENNAN, CAPPELLI, CARROLL, COHEN, DeLUCA, DePASQUALE,
FABRIZIO, FRANKEL, GEIST, GILLESPIE, GINGRICH, GODSHALL,
GOODMAN, GRUCELA, HARHART, HARKINS, HARPER, HORNAMAN, KOTIK,
KULA, LENTZ, LONGIETTI, MAHONEY, MELIO, MENSCH, MICOZZIE,
MOYER, MURT, MYERS, PASHINSKI, PAYNE, PEIFER, PHILLIPS,
READSHAW, RUBLEY, SANTONI, SAYLOR, SCAVELLO, SCHRODER,
SHIMKUS, SIPTROTH, SONNEY, STERN, SWANGER, TRUE, WANSACZ,
WOJNAROSKI, YOUNGBLOOD AND YUDICHAK, DECEMBER 11, 2007

REFERRED TO COMMITTEE ON JUDICIARY, DECEMBER 11, 2007

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, providing for the offenses of criminal
3 gang activity and criminal gang solicitation and recruitment;
4 and imposing penalties.

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

7 Section 1. Title 18 of the Pennsylvania Consolidated
8 Statutes is amended by adding sections to read:

9 § 914. Criminal gang activity.

10 (a) Offense.--A person commits the offense of criminal gang
11 activity if he:

12 (1) Knowingly commits a crime for the benefit of, at the
13 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.

1 (2) Knowingly commits a crime for the benefit of, at the
2 direction of or in affiliation with a criminal gang with the
3 intent to promote, further or assist the activities of the
4 criminal gang:

5 (i) Within 1,000 feet of a public or private
6 elementary, vocational, junior high or high school during
7 hours in which the facility is open for classes or
8 school-related programs or when minors are using the
9 facility.

10 (ii) Within 1,000 feet of a public housing project,
11 public park or community recreation center.

12 (iii) At a school bus stop.

13 (iv) By engaging a minor under 18 years of age in
14 any criminal activity.

15 (b) Grading.--

16 (1) An offense under subsection (a)(1) is a crime of the
17 same grade and degree as the most serious offense which is
18 the object of the criminal gang activity.

19 (2) An offense under subsection (a)(2) is a crime of the
20 same grade and degree as the most serious offense which is
21 the object of the criminal gang activity for which the
22 offender may be sentenced to a term of imprisonment for two
23 years in addition to any sentence imposed for the offense.

24 (c) Consecutive sentences.--If a person is convicted of
25 criminal gang activity, all sentences imposed for the same
26 activity shall be served consecutive to each other and to any
27 other sentence imposed for any other offense.

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

1 "Criminal gang."

2 (1) A combination, confederation, alliance, network,
3 conspiracy, in law or in fact, of three or more persons that
4 are primarily organized to engage in a pattern of criminal
5 activity through its membership or through the agency of any
6 member at the direction, order, solicitation or request of a
7 leader, officer, director, organizer or other governing or
8 policymaking person in the conspiracy, or at the direction,
9 order, solicitation or request of such person's agent, deputy
10 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 in this definition, or probative of the
15 existence of or membership in any such association, shall be
16 admissible in any action or proceeding brought under this
17 section.

18 "Criminal gang member." A person who demonstrates
19 affiliation with a criminal gang by:

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

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

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

24 (ii) Identification by an informant, verified by
25 independent information.

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

29 (iv) Identification as a criminal gang member by
30 physical evidence such as photographs or other

1 documentation.

2 (v) Residing in or frequenting a particular criminal
3 gang area and affecting the criminal gang's style of
4 dress, use of hand signs or tattoos.

5 (vi) Identification as a gang member by a
6 Pennsylvania law enforcement agency.

7 (vii) Identification as a gang member by a law
8 enforcement agency outside this Commonwealth and whose
9 criteria or recognition is similar to that set forth
10 under this definition.

11 "Pattern of criminal activity." The ongoing commission of,
12 attempted commission of, the conspiracy or solicitation to
13 commit or the intimidation of another to commit criminal
14 offenses with a grading of third degree misdemeanor or higher.

15 § 914.1. Criminal gang solicitation or recruitment.

16 (a) Offense.--Any person who solicits or entices another
17 person to join a criminal gang, or intimidates or threatens
18 another person because the other person refuses to join a
19 criminal gang or has withdrawn or is attempting to withdraw from
20 a criminal gang commits the offense of criminal gang
21 solicitation or recruitment.

22 (b) Grading.--An offense under subsection (a) constitutes a:

23 (1) Misdemeanor of the first degree when the offense is
24 a first offense.

25 (2) Felony of the third degree when the offense is a
26 second or subsequent offense.

27 (c) Definition.--As used in this section, the term "criminal
28 gang" has the meaning ascribed to it under section 914(d)
29 (relating to criminal gang activity).

30 Section 2. This act shall take effect in 60 days.