

Article 13B.

North Carolina Criminal Gang Nuisance Abatement Act.

§ 14-50.41. Short title.

This Article shall be known and may be cited as the "North Carolina Criminal Gang Nuisance Abatement Act." (2012-28, s. 1; 2018-142, s. 1.)

§ 14-50.42. Real property used by criminal gangs declared a public nuisance: abatement.

(a) Public Nuisance. – Any real property that is erected, established, maintained, owned, leased, or used by any criminal gang for the purpose of conducting criminal gang activity, as defined in G.S. 14-50.16A(2), shall constitute a public nuisance and may be abated as provided by and subject to the provisions of Article 1 of Chapter 19 of the General Statutes.

Proof that criminal gang activity by a criminal gang member is regularly committed at any real property or proof that the real property is regularly used for engaging in criminal gang activity by a criminal gang member is prima facie evidence that the owner or person who has legal possession of the real property knowingly permitted the act unless the owner or person who has legal possession of the real property is making or has made a good-faith attempt to terminate the criminal gang activity or remove criminal gang members from the property through legal means, including trespass or summary ejection. For purposes of this section, the term "regularly" means at least five times in a period of not more than 12 months.

(b) Innocent Activities. – The provisions of this section shall not apply to real property used for criminal gang activity where any of the following conditions are met:

- (1) The owner or person who has legal possession of the real property does not have actual knowledge that the real property is being used for criminal gang activity.
- (2) The owner or person who has legal possession of the real property is being coerced into allowing the property to be used for criminal gang activity.
- (3) The owner or person who has legal possession of the real property is making or has made a good-faith attempt to terminate the criminal gang activity or remove criminal gang members from the property through legal means, including trespass or summary ejection.

For purposes of this subsection, evidence that the defendant knew, or by the exercise of due diligence should have known, of the criminal gang activity constitutes proof of actual knowledge. (2008-214, s. 3; 2012-28, ss. 1, 2; 2017-194, s. 15.)

§ 14-50.43. Criminal gangs declared a public nuisance.

(a) A criminal gang, as defined in G.S. 14-50.16A(a), that regularly engages in criminal gang activity, as defined in G.S. 14-50.16A(2), constitutes a public nuisance. For the purposes of this section, the term "regularly" means at least five times in a period of not more than 12 months.

(b) Any person who regularly associates with others to engage in criminal gang activity, as defined in G.S. 14-50.16A(2), may be made a defendant in a suit, brought pursuant to Chapter 19 of the General Statutes, to abate any public nuisance resulting from criminal gang activity.

(c) If the court finds that a public nuisance exists under this section, the court may enter an order enjoining the defendant in the suit from engaging in criminal gang activities and impose other reasonable requirements to prevent the defendant or a gang from engaging in future criminal gang activities.

(d) An order entered under this section shall expire three years after entry unless extended by the court for good cause established by the plaintiff after a hearing. The order may be modified,

rescinded, or vacated at any time prior to its expiration date upon the motion of any party if it appears to the court that one or more of the defendants is no longer engaging in criminal gang activities. (2012-28, s. 1; 2015-91, s. 4; 2017-194, s. 16.)