

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 202

Short Title: Gang Crime/Enhanced Penalties.

(Public)

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Sponsors: Senators Ballantine; Hoyle and McDaniel.

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Referred to: Judiciary.

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February 20, 1997

1 A BILL TO BE ENTITLED  
2 AN ACT TO ENHANCE THE PUNISHMENT IMPOSED FOR GANG-RELATED  
3 CRIMINAL OFFENSES.

4 The General Assembly of North Carolina enacts:

5 Section 1. Chapter 14 of the General Statutes is amended by adding a new  
6 Article to read:

7 **"ARTICLE 61.**

8 **"STREET TERRORISM ENFORCEMENT AND PREVENTION ACT.**

9 **"§ 14-460. Definitions.**

10 The following definitions apply in this Article:

11 (1) Criminal street gang. – A formal or informal ongoing organization,  
12 association, or group of three or more persons who:

13 a. Have a common name or common identifying signs, colors, or  
14 symbols;

15 b. Have member or associates who, individually or collectively,  
16 engage in or have engaged in a pattern of criminal street gang  
17 activity.

18 (2) Criminal street gang member. – A person who engages in a pattern of  
19 criminal street gang activity and meets two or more of the following  
20 criteria:

- 1           a.     Admits to criminal street gang membership.  
2           b.     Is a youth under the age of 21 years who is identified as a  
3           criminal street gang member by a parent or legal guardian.  
4           c.     Is identified as a criminal gang member by a documented reliable  
5           informant.  
6           d.     Resides in or frequents a particular criminal street gang's area  
7           and adopts their style of dress, their use of hand signs, or their  
8           tattoos, and associates with known criminal street gang members.  
9           e.     Is identified as a criminal street gang member by an informant of  
10          previously untested reliability and such identification is  
11          corroborated by independent information.  
12          f.     Has been arrested more than once in the company of identified  
13          criminal street gang members for offenses which are consistent  
14          with usual criminal street gang activity.  
15          g.     Is identified as a criminal street gang member by physical  
16          evidence such as photographs or other documentation.  
17          h.     Has been stopped in the company of known criminal street gang  
18          members four or more times.  
19        (3)    Pattern of criminal street gang activity. The commission, attempted  
20          commission, or solicitation, by any member of a criminal street gang, of  
21          two or more felony or violent misdemeanor offenses, or two or more  
22          delinquent acts or violations of law that would be felonies or violent  
23          misdemeanors if committed by an adult, on separate occasions within a  
24          three-year period.

25    "**§ 14-461. Legislative findings and intent.**

26       (a)    The General Assembly finds that it is the right of every person, regardless of  
27       race, color, creed, religion, national origin, sex, age, sexual orientation, or handicap, to be  
28       secure and protected from fear, intimidation, and physical harm caused by the activities  
29       of violent groups and individuals. It is not the intent of this Chapter to interfere with the  
30       exercise of the constitutionally protected rights of freedom of expression and association.  
31       The General Assembly recognizes the constitutional right of every citizen to harbor and  
32       express beliefs on any lawful subject whatsoever, to lawfully associate with others who  
33       share similar beliefs, to petition lawfully constituted authority for a redress of perceived  
34       grievances, and to participate in the electoral process.

35       (b)    The General Assembly finds, however, that the State is facing a mounting  
36       crisis caused by criminal street gangs whose members threaten and terrorize peaceful  
37       citizens and commit a multitude of crimes. These activities, both individually and  
38       collectively, present a clear and present danger to public order and safety and are not  
39       constitutionally protected.

40       (c)    It is the intent of the General Assembly to eradicate the terror created by  
41       criminal street gangs and criminal street gang members by providing enhanced penalties  
42       and by eliminating the patterns, profits, proceeds, instrumentalities, or property which  
43       facilitates criminal street gang activity.

1 **"§ 14-462. Pattern of criminal street gang activity, reclassified penalties.**

2 (a) A person who commits a felony and who was a member of a criminal street  
3 gang at the time of the offense that meets the criteria of a pattern of criminal street gang  
4 activity is guilty of a felony that is one class higher than the felony committed.

5 (b) A person who commits a misdemeanor who was a member of a criminal street  
6 gang at the time of the offense that meets the criteria of a pattern of criminal street gang  
7 activity is guilty of a misdemeanor that is one class higher than the misdemeanor  
8 committed. If the offense was a Class A1 misdemeanor, then the defendant is guilty of a  
9 Class I felony.

10 **"§ 14-463. Civil cause of action.**

11 Any person or organization which establishes by clear and convincing evidence that it  
12 has been coerced, intimidated, threatened, or otherwise harmed in violation of this  
13 Chapter shall have a civil cause of action for treble damages, an injunction, or any other  
14 appropriate relief in law or equity. Upon prevailing in such civil action, the plaintiff may  
15 recover reasonable attorneys' fees and costs.

16 **"§ 14-464. Profits, proceeds, and instrumentalities of criminal street gangs;**  
17 **forfeiture.**

18 Any profits, proceeds, or instrumentalities of criminal activity or any property used,  
19 intended, or attempted to be used to facilitate criminal activity of any criminal street gang  
20 member shall be subject to seizure and forfeiture.

21 **"§ 14-465. Crime data information.**

22 Crime information obtained pursuant to this Chapter shall be reported to the  
23 Department of Justice."

24 Section 2. This act becomes effective December 1, 1997, and applies to  
25 offenses committed on or after that date.