

VIRGINIA ACTS OF ASSEMBLY -- 2000 SESSION

CHAPTER 332

An Act to amend the Code of Virginia by adding in Chapter 4 of Title 18.2 an article numbered 2.1, consisting of sections numbered 18.2-46.1, 18.2-46.2, and 18.2-46.3, relating to criminal gangs and criminal gang activity; penalty.

[S 143]

Approved April 3, 2000

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 4 of Title 18.2 an article numbered 2.1, consisting of sections numbered 18.2-46.1, 18.2-46.2, and 18.2-46.3, as follows:

Article 2.1. Crimes by Gangs.

§ 18.2-46.1. Definitions.

As used in this article unless the context requires otherwise or it is otherwise provided:

"Act of violence" means those felony offenses described in subsection A of § 19.2-297.1.

"Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, (i) which has as one of its primary objectives or activities the commission of one or more predicate criminal acts, (ii) which has an identifiable name or identifying sign or symbol, and (iii) whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity.

"Pattern of criminal gang activity" means commission of, attempt to commit, conspiracy to commit, or solicitation of two or more predicate criminal acts, at least one of which is an act of violence, provided such predicate criminal acts (i) were not part of a common act, transaction or scheme or (ii) were committed by two or more persons who are members of, or belong to, the same criminal street gang.

"Predicate criminal act" means an act of violence, any violation of §§ 18.2-51, 18.2-51.1, 18.2-52, 18.2-53, 18.2-55, 18.2-57, 18.2-57.2, 18.2-121, 18.2-127, 18.2-128, 18.2-137, 18.2-138, 18.2-146, or § 18.2-147, or any violation of a local ordinance adopted pursuant to § 18.2-138.1.

§ 18.2-46.2. Prohibited criminal street gang participation; penalty.

A. Any person who actively participates in or is a member of a criminal street gang and who knowingly and willfully participates in any predicate criminal act committed for the benefit of, at the direction of, or in association with any criminal street gang shall be guilty of a Class 5 felony. However, if such participant in or member of a criminal street gang is age eighteen years or older and knows or has reason to know that such criminal street gang also includes a juvenile member or participant, he shall be guilty of a Class 4 felony.

B. Violation of this section shall constitute a separate and distinct offense. If the acts or activities violating this section also violate another provision of law, a prosecution under this section shall not prohibit or bar any prosecution or proceeding under such other provision or the imposition of any penalties provided for thereby.

§ 18.2-46.3. Recruitment of juveniles for criminal street gang; penalty.

Any person age eighteen years or older who solicits, invites, recruits, encourages or otherwise causes or attempts to cause a juvenile to actively participate in or become a member of a criminal street gang shall be guilty of a Class 6 felony.

2. That the provisions of this act may result in a net increase in periods of imprisonment in state correctional facilities. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$159,750 in FY 2010.