

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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

5 [S 143]

6 Approved

7 **Be it enacted by the General Assembly of Virginia:**

8 **1. That the Code of Virginia is amended by adding in Chapter 4 of Title 18.2 an article numbered**
9 **2.1, consisting of sections numbered 18.2-46.1, 18.2-46.2, and 18.2-46.3, as follows:**

10 *Article 2.1.*11 *Crimes by Gangs.*12 *§ 18.2-46.1. Definitions.*13 *As used in this article unless the context requires otherwise or it is otherwise provided:*14 *"Act of violence" means those felony offenses described in subsection A of § 19.2-297.1.*

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

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

25 *"Predicate criminal act" means an act of violence, any violation of §§ 18.2-51, 18.2-51.1, 18.2-52,*
26 *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*
27 *§ 18.2-147, or any violation of a local ordinance adopted pursuant to § 18.2-138.1.*

28 *§ 18.2-46.2. Prohibited criminal street gang participation; penalty.*

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

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

39 *§ 18.2-46.3. Recruitment of juveniles for criminal street gang; penalty.*

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

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