

VIRGINIA ACTS OF ASSEMBLY -- 2013 SESSION

CHAPTER 645

An Act to amend and reenact § 18.2-46.1 of the Code of Virginia, relating to criminal street gang predicate offenses; penalties.

[S 1205]

Approved March 20, 2013

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-46.1 of the Code of Virginia is amended and reenacted as follows:

§ 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 criminal activities; (ii) which has an identifiable name or identifying sign or symbol; and (iii) whose members individually or collectively have engaged in the 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 acts were not part of a common act or transaction.

"Predicate criminal act" means (i) an act of violence; (ii) any violation of § 18.2-31, 18.2-42, 18.2-46.3, 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.6, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-55, 18.2-56.1, 18.2-57, 18.2-57.2, 18.2-59, 18.2-83, 18.2-89, 18.2-90, 18.2-95, 18.2-108.1, 18.2-121, 18.2-127, 18.2-128, 18.2-137, 18.2-138, 18.2-146, 18.2-147, ~~subsection H, H1 or H2 of § 18.2-248, § 18.2-248.01, 18.2-248.03, 18.2-255, 18.2-255.2, 18.2-279, 18.2-282.1, 18.2-286.1, 18.2-287.4, 18.2-289, 18.2-300, 18.2-308.1, 18.2-308.2, 18.2-308.2:01, 18.2-308.4, 18.2-355, 18.2-356, or 18.2-357;~~ (iii) a felony violation of § 18.2-60.3 or 18.2-248.1:1; (iv) a ~~second or subsequent~~ felony violation of ~~subsection E of § 18.2-248 or of § 18.2-248.1 or a conspiracy to commit a felony violation of § 18.2-248 or 18.2-248.1;~~ (v) any violation of a local ordinance adopted pursuant to § 15.2-1812.2; or (vi) any substantially similar offense under the laws of another state or territory of the United States, the District of Columbia, or the United States.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is at least \$574,916 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

3. That the provisions of this act shall not become effective unless an appropriation of general funds effectuating the purposes of this act is included in a general appropriation act passed by the 2013 Session of the General Assembly, which becomes law.

4. That the General Assembly determines that the requirements of the third enactment of this act have been met.