

JAN 17 2025

A BILL FOR AN ACT

RELATING TO CRIMINAL STREET GANGS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that it is the right of
2 every person to be secure and protected from fear, intimidation,
3 and physical harm caused by the activities of violent groups and
4 individuals. While it is not the intent of this Act to
5 interfere with the exercise of the constitutionally protected
6 rights of freedom of expression and association, the legislature
7 also finds that the State must address criminal street gangs and
8 the violence caused by their members. Between January and
9 September of 2024, there was at least one incident of gun
10 violence per month in the State. Additionally, it has been
11 reported that theft, burglaries, drug offenses, and gambling
12 offenses have been on the rise in recent years throughout the
13 State.

14 According to the Interagency Working Group on Youth
15 Programs, composed of twenty-five federal departments and
16 agencies, communities with gang activity are disproportionately
17 affected by theft, vandalism, assault, gun violence, illegal



1 drug trade, and homicide. An increase in these types of crime
2 in the State are concerning in that it likely indicates a
3 corresponding rise in criminal street gang participation and
4 violence.

5 More than forty other jurisdictions in the nation have laws
6 that specifically define criminal street gangs and other related
7 terms and provide for enhanced penalties related to
8 participation in illegal activities as a part of a criminal
9 street gang. While the State may have ways to prosecute the
10 crimes committed by members of criminal street gangs, the State
11 does not have laws that define criminal street gangs or related
12 terms. Nor does the State have a specific process to prosecute
13 illegal acts as part of a criminal street gang's activity, nor
14 does it have the ability to apply enhanced penalties for
15 criminal street gang activities.

16 Accordingly, the purpose of this Act is to:

17 (1) Establish the offense of criminal street gang
18 participation, solicitation, recruitment, or
19 retention;

20 (2) Clearly define criminal street gangs and related
21 terms; and



(3) Provide for enhanced penalties for a conviction of any crime conducted by a defendant as a member of, or in active participation with, a criminal street gang.

SECTION 2. Chapter 711, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

"§711- Criminal street gang participation, solicitation, recruitment, or retention. (1) A person commits the offense of criminal street gang participation, solicitation, recruitment, or retention when the person:

(a) Knowingly and wilfully participates in a criminal act committed for the benefit of, at the direction of, or in association with any criminal street gang;

(b) Intentionally coerces, solicits, recruits, employs, causes, encourages, or conspires to cause another person to become or remain a member of a criminal street gang that results in the other person's commission of a criminal act for the benefit of, at the direction of, or in association with the criminal street gang; or



1 (c) Intentionally makes any communication, direct or
2 indirect, that results in the commission of a criminal
3 act constituting a threat to:

4 (i) A person being solicited, recruited, or retained
5 as a member of a criminal street gang or the
6 person's property; or

7 (ii) Any associate or relative of the person being
8 solicited, recruited, or retained as a member of
9 a criminal street gang or the associate or
10 relative's property.

11 (2) Prosecution under this section shall not require proof
12 that a person devotes all or a substantial part of the person's
13 time or efforts to a criminal street gang to establish that the
14 person is a member of a criminal street gang. Active
15 participation in or association with the criminal street gang
16 shall be sufficient to establish that the person is a member of
17 a criminal street gang.

18 (3) Criminal street gang participation pursuant to
19 subsection (1)(a) is a class B felony.



(4) Criminal street gang solicitation, recruitment, or retention pursuant to subsection (1)(b) or (c) is a class C felony.

§711- Criminal acts committed as member of criminal street gang; enhanced penalties.

(1) Upon finding, by proof beyond a reasonable doubt, that a defendant, who is eighteen years of age or older, committed a criminal act as a member of a criminal street gang, or a defendant committed a criminal act while actively participating in a criminal street gang, the penalty shall be enhanced as follows:

(a) A petty misdemeanor shall be deemed to be and punished as a misdemeanor;

(b) A misdemeanor shall be deemed to be and punished as a class C felony;

(c) A class C felony shall be deemed to be and punished as a class B felony; and

(d) A class B felony shall be deemed to be and punished as a class A felony."



SECTION 3. Section 711-1100, Hawaii Revised Statutes, is amended by adding three new definitions to be appropriately inserted and to read as follows:

"Criminal act" means conduct constituting any offense, or conspiracy or attempt to commit any offense, under chapters 707, 708, 708A, 710, and 711.

"Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more criminal acts, having a common name or common identifying sign or symbol, and whose members, individually or collectively, engage in or have engaged in a pattern of criminal street gang activity.

"Pattern of criminal street gang activity" means the commission of, attempted commission of, conspiracy to commit, or solicitation of a delinquent act, or conviction of two or more enumerated criminal acts; provided that:

(a) At least one of these criminal acts occurred after the effective date of Act , Session Laws of Hawaii 2025;



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1 (b) The last of those criminal acts occurred within three
2 years after a prior offense; and

3 (c) The criminal acts were committed on separate occasions
4 or by two or more persons."

5 SECTION 4. This Act does not affect rights and duties that
6 matured, penalties that were incurred, and proceedings that were
7 begun before its effective date.

8 SECTION 5. If any provision of this Act, or the
9 application thereof to any person or circumstance, is held
10 invalid, the invalidity does not affect other provisions or
11 applications of the Act that can be given effect without the
12 invalid provision or application, and to this end the provisions
13 of this Act are severable.

14 SECTION 6. New statutory material is underscored.

15 SECTION 7. This Act shall take effect on July 1, 2025.

16 INTRODUCED BY:

Samatha DeBore



S.B. NO. 792

Report Title:

Criminal Street Gang; Criminal Activities; Penalties

Description:

Establishes the offense of criminal street gang participation, solicitation, recruitment, or retention. Provides for enhanced penalties for crimes committed by a defendant while part of a criminal street gang.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

