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Extends criminal gang offenses to include drug-related offenses, to increase penalties, and to provide for forfeiture of profits. CL Art., sec. 9-801 through 9-807.

9-801.

(a) In this subtitle the following words have the meanings indicated.

(b) “Coerce” means to compel or attempt to compel another by threat of harm or other adverse consequences.

(c) “Criminal gang” means a group or association of three or more persons whose members:

(1) individually or collectively engage in a pattern of criminal gang activity;

(2) have as one of their primary objectives or activities the commission of one or more underlying crimes, including acts by juveniles that would be underlying crimes if committed by adults; and

(3) have in common an overt or covert organizational or command structure.

**(D) “ENTERPRISE” INCLUDES:**

**(1) A SOLE PROPRIETORSHIP, PARTNERSHIP, CORPORATION, BUSINESS TRUST, OR OTHER LEGAL ENTITY; OR**

**(2) ANY GROUP OF INDIVIDUALS ASSOCIATED IN FACT ALTHOUGH NOT A LEGAL ENTITY.**

**[(d)] (E) “Pattern of criminal gang activity” means the commission of, attempted commission of, conspiracy to commit, or solicitation of two or more underlying crimes or acts by a juvenile that would be an underlying crime if committed by an adult, provided the crimes or acts were not part of the same incident.**

**[(e)] (F) “Solicit” has the meaning stated in § 11-301 of this article.**

**[(f)] (G) “Underlying crime” means:**

(1) a crime of violence as defined under § 14-101 of this article;

(2) a violation of § 3-203 (second degree assault), § 4-203 (wearing, carrying, or transporting a handgun), § 9-302 (inducing false testimony or avoidance of subpoena), § 9-303 (retaliation for testimony), § 9-305 (intimidating or corrupting juror), § 11-303 (human trafficking), § 11-304 (receiving earnings of prostitute), or § 11-306(a)(2), (3), or (4) (house of prostitution) of this article;

1           (3) a felony violation of § 3-701 (extortion), § 4-503 (manufacture or  
 2 possession of destructive device), § 5-602 (distribution of CDS), § 5-603 (manufacturing  
 3 CDS or equipment), § 5-604(B) (CREATING OR POSSESSING A COUNTERFEIT  
 4 SUBSTANCE), § 5-606 (FALSE PRESCRIPTION), § 6-103 (second degree arson), § 6-202  
 5 (first degree burglary), § 6-203 (second degree burglary), § 6-204 (third degree burglary), §  
 6 7-104 (theft), or § 7-105 (unauthorized use of a motor vehicle) of this article; or

7           (4) a felony violation of § 5-133 of the Public Safety Article.

8 9-802.

9           (a) A person may not threaten an individual, or a friend or family member of an  
 10 individual, with physical violence with the intent to coerce, induce, or solicit the individual  
 11 to participate in or prevent the individual from leaving a criminal gang.

12           (b) A person who violates this section is guilty of a misdemeanor and on conviction  
 13 is subject to imprisonment not exceeding 2 years or a fine not exceeding [\$1,000] \$10,000  
 14 or both.

15 9-803.

16           (a) A person may not threaten an individual, or a friend or family member of an  
 17 individual, with or use physical violence to coerce, induce, or solicit the individual to  
 18 participate in or prevent the individual from leaving a criminal gang:

19           (1) in a school vehicle, as defined under § 11-154 of the Transportation  
 20 Article; or

21           (2) in, on, or within 1,000 feet of real property owned by or leased to an  
 22 elementary school, secondary school, or county board of education and used for elementary  
 23 or secondary education.

24           (b) Subsection (a) of this section applies whether or not:

25           (1) school was in session at the time of the crime; or

26           (2) the real property was being used for purposes other than school purposes  
 27 at the time of the crime.

28           (c) A person who violates this section is guilty of a misdemeanor and on conviction  
 29 is subject to imprisonment not exceeding 4 years or a fine not exceeding [\$4,000] \$20,000  
 30 or both.

31           (d) Notwithstanding any other law, a conviction under this section may not merge  
 32 with a conviction under § 9-802 of this subtitle.

1 9-804.

2 (a) A person may not:

3 (1) participate in a criminal gang knowing that the members of the gang  
4 engage in a pattern of criminal gang activity; and

5 (2) knowingly and willfully direct or participate in an underlying crime, or  
6 act by a juvenile that would be an underlying crime if committed by an adult, committed for  
7 the benefit of, at the direction of, or in association with a criminal gang.

8 (B) A CRIMINAL GANG OR AN INDIVIDUAL BELONGING TO A CRIMINAL GANG  
9 MAY NOT:

10 (1) RECEIVE PROCEEDS KNOWN TO HAVE BEEN DERIVED DIRECTLY OR  
11 INDIRECTLY FROM AN UNDERLYING CRIME; AND

12 (2) USE OR INVEST, DIRECTLY OR INDIRECTLY, AN AGGREGATE OF  
13 \$10,000 OR MORE OF THE PROCEEDS FROM AN UNDERLYING CRIME IN:

14 (I) THE ACQUISITION OF A TITLE TO, RIGHT TO, INTEREST IN,  
15 OR EQUITY IN REAL PROPERTY; OR

16 (II) THE ESTABLISHMENT OR OPERATION OF ANY ENTERPRISE.

17 (C) A CRIMINAL GANG MAY NOT ACQUIRE OR MAINTAIN, DIRECTLY OR  
18 INDIRECTLY, ANY INTEREST IN OR CONTROL OF ANY ENTERPRISE OR REAL  
19 PROPERTY THROUGH AN UNDERLYING CRIME.

20 (D) A PERSON MAY NOT CONSPIRE TO VIOLATE SUBSECTION (A), (B), OR (C)  
21 OF THIS SECTION.

22 ~~[(b)]~~ (E) A person may not violate subsection (a) of this section that results in the  
23 death of a victim.

24 ~~[(c)]~~ (F) (1) (i) Except as provided in subparagraph (ii) of this paragraph,  
25 a person who violates this section is guilty of a felony and on conviction is subject to  
26 imprisonment not exceeding [10] 15 years or a fine not exceeding [\$100,000] \$1,000,000 or  
27 both.

28 (ii) A person who violates subsection ~~[(b)]~~ (E) of this section is guilty  
29 of a felony and on conviction is subject to imprisonment not exceeding [20] 25 years or a fine  
30 not exceeding [\$100,000] \$5,000,000 or both.

1           (2) (i) A sentence imposed under paragraph (1)(i) of this subsection for  
 2 a first offense may be separate from and consecutive to or concurrent with a sentence for any  
 3 crime based on the act establishing a violation of this section.

4           (ii) A sentence imposed under paragraph (1)(i) of this subsection for  
 5 a second or subsequent offense, or paragraph (1)(ii) of this subsection shall be separate from  
 6 and consecutive to a sentence for any crime based on the act establishing a violation of this  
 7 section.

8           (iii) A consecutive sentence for a second or subsequent offense shall not  
 9 be mandatory unless the State notifies the person in writing of the State's intention to  
 10 proceed against the person as a second or subsequent offender at least 30 days before trial.

11           **(3) IN ADDITION TO THE OTHER PENALTIES PROVIDED IN THIS**  
 12 **SUBSECTION, ON CONVICTION THE COURT MAY:**

13           **(I) ORDER A PERSON OR CRIMINAL GANG TO BE DIVESTED OF**  
 14 **ANY INTEREST IN AN ENTERPRISE OR REAL PROPERTY;**

15           **(II) ORDER THE DISSOLUTION OR REORGANIZATION OF AN**  
 16 **ENTERPRISE; AND**

17           **(III) ORDER THE SUSPENSION OR REVOCATION OF ANY LICENSE,**  
 18 **PERMIT, OR PRIOR APPROVAL GRANTED TO THE ENTERPRISE OR PERSON BY A UNIT**  
 19 **OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE.**

20           **(G) (1) THIS SUBSECTION APPLIES TO A VIOLATION OF § 5-602, § 5-603,**  
 21 **§ 5-604(B), § 5-606, § 5-612, § 5-613, § 5-614, OR § 5-617 OF THIS ARTICLE.**

22           **(2) ASSETS DIVESTED UNDER THIS SECTION AND DERIVED FROM THE**  
 23 **COMMISSION OF, ATTEMPTED COMMISSION OF, CONSPIRACY TO COMMIT, OR**  
 24 **SOLICITATION OF A CRIME DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION,**  
 25 **EITHER IN WHOLE OR IN PART, SHALL BE DEPOSITED IN THE ADDICTION**  
 26 **TREATMENT DIVESTITURE FUND ESTABLISHED UNDER § 8-6D-01 OF THE HEALTH**  
 27 **- GENERAL ARTICLE.**

28           ~~[(d)]~~ **(H)** A person may be charged with a violation of this section only by  
 29 indictment, criminal information, or petition alleging a delinquent act.

30           ~~[(e)]~~ **(I)** (1) The Attorney General, at the request of the **GOVERNOR OR THE**  
 31 State's Attorney for a county in which a violation or an act establishing a violation of this  
 32 section occurs, may:

33           (i) aid in the investigation of the violation or act; and

1           (ii) prosecute the violation or act.

2           (2) In exercising authority under paragraph (1) of this subsection, the  
3 Attorney General has all the powers and duties of a State's Attorney, including the use of the  
4 grand jury in the county, to prosecute the violation.

5           (3) Notwithstanding any other provision of law, in circumstances in which  
6 violations of this section are alleged to have been committed in more than one county, the  
7 respective State's Attorney of each county, or the Attorney General, may join the causes of  
8 action in a single complaint with the consent of each State's Attorney having jurisdiction  
9 over an offense sought to be joined.

10          ~~[(f)]~~ (J) Notwithstanding any other provision of law and provided at least one  
11 criminal gang activity of a criminal gang allegedly occurred in the county in which a grand  
12 jury is sitting, the grand jury may issue subpoenas, summon witnesses, and otherwise  
13 conduct an investigation of the alleged criminal gang's activities and offenses in other  
14 counties.

15 9-805.

16          (a) A person may not organize, supervise, **PROMOTE, SPONSOR,** finance, or  
17 manage a criminal gang.

18          (b) A person who violates this section is guilty of a felony and on conviction is  
19 subject to imprisonment not exceeding 20 years or a fine not exceeding **[\$100,000]**  
20 **\$1,000,000** or both.

21          (c) A sentence imposed under this section shall be separate from and consecutive  
22 to a sentence for any crime based on the act establishing a violation of this section.

23 **9-807.**

24          **FOR PURPOSES OF VENUE, ANY VIOLATION OF THIS SUBTITLE IS CONSIDERED**  
25 **TO HAVE BEEN COMMITTED IN ANY COUNTY:**

26                 **(1) IN WHICH ANY ACT WAS PERFORMED IN FURTHERANCE OF A**  
27 **VIOLATION OF THIS SUBTITLE;**

28                 **(2) THAT IS THE PRINCIPAL PLACE OF THE OPERATIONS OF THE**  
29 **CRIMINAL GANG IN THE STATE;**

30                 **(3) IN WHICH A DEFENDANT HAD CONTROL OR POSSESSION OF**  
31 **PROCEEDS OF A VIOLATION OF THIS SUBTITLE OR OF RECORDS OR OTHER MATERIAL**  
32 **OR OBJECTS THAT WERE USED IN FURTHERANCE OF A VIOLATION; OR**

1           **(4) IN WHICH A DEFENDANT RESIDES.**

2    14-101.

3           (a) In this section, "crime of violence" means:

4           (1) abduction;

5           (2) arson in the first degree;

6           (3) kidnapping;

7           (4) manslaughter, except involuntary manslaughter;

8           (5) mayhem;

9           (6) maiming, as previously proscribed under former Article 27, §§ 385 and  
10 386 of the Code;

11           (7) murder;

12           (8) rape;

13           (9) robbery under § 3-402 or § 3-403 of this article;

14           (10) carjacking;

15           (11) armed carjacking;

16           (12) sexual offense in the first degree;

17           (13) sexual offense in the second degree;

18           (14) use of a handgun in the commission of a felony or other crime of violence;

19           (15) child abuse in the first degree under § 3-601 of this article;

20           (16) sexual abuse of a minor under § 3-602 of this article if:

21                   (i) the victim is under the age of 13 years and the offender is an adult  
22 at the time of the offense; and

23                   (ii) the offense involved:

24                           1. vaginal intercourse, as defined in § 3-301 of this article;

25                           2. a sexual act, as defined in § 3-301 of this article;