

CRIMINAL GANG AMENDMENTS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis Oda

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends Title 76, Chapter 9, Offenses Against Public Order and Decency, by modifying a definition.

Highlighted Provisions:

This bill:

- ▶ amends the definition of a "criminal street gang."

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-9-802, as last amended by Laws of Utah 2009, Chapters 157 and 356

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **76-9-802** is amended to read:

76-9-802. Definitions.

As used in this part:

(1) "Criminal street gang" means an organization, association in fact, or group of three or more persons, whether operated formally or informally:



- 28 (a) that is currently in operation;
- 29 (b) that has as one of its [~~primary~~] substantial activities the commission of one or more
30 predicate gang crimes;
- 31 (c) that has, as a group, an identifying name or identifying sign or symbol, or both; and
- 32 (d) whose members, acting individually or in concert with other members, engage in or
33 have engaged in a pattern of criminal gang activity.
- 34 (2) "Intimidate" means the use of force, duress, violence, coercion, menace, or threat of
35 harm for the purpose of causing an individual to act or refrain from acting.
- 36 (3) "Minor" means a person younger than 18 years of age.
- 37 (4) "Pattern of criminal gang activity" means:
 - 38 (a) committing, attempting to commit, conspiring to commit, or soliciting the
39 commission of two or more predicate gang crimes within five years;
 - 40 (b) the predicate gang crimes are:
 - 41 (i) committed by two or more persons; or
 - 42 (ii) committed by an individual at the direction of, or in association with a criminal
43 street gang; and
 - 44 (c) the criminal activity was committed with the specific intent to promote, further, or
45 assist in any criminal conduct by members of the criminal street gang.
- 46 (5) (a) "Predicate gang crime" means any of the following offenses:
 - 47 (i) Title 41, Chapter 1a, Motor Vehicle Act:
 - 48 (A) Section 41-1a-1313, regarding possession of a motor vehicle without an
49 identification number;
 - 50 (B) Section 41-1a-1315, regarding false evidence of title and registration;
 - 51 (C) Section 41-1a-1316, regarding receiving or transferring stolen vehicles;
 - 52 (D) Section 41-1a-1317, regarding selling or buying a motor vehicle without an
53 identification number; or
 - 54 (E) Section 41-1a-1318, regarding the fraudulent alteration of an identification number;
 - 55 (ii) any criminal violation of the following provisions:
 - 56 (A) Title 58, Chapter 37, Utah Controlled Substances Act;
 - 57 (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
 - 58 (C) Title 58, Chapter 37b, Imitation Controlled Substances Act; or

- 59 (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;
- 60 (iii) Sections 76-5-102 through 76-5-103.5, which address assault offenses;
- 61 (iv) Title 76, Chapter 5, Part 2, Criminal Homicide;
- 62 (v) Sections 76-5-301 through 76-5-304, which address kidnapping and related
- 63 offenses;
- 64 (vi) any felony offense under Title 76, Chapter 5, Part 4, Sexual Offenses;
- 65 (vii) Title 76, Chapter 6, Part 1, Property Destruction;
- 66 (viii) Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass;
- 67 (ix) Title 76, Chapter 6, Part 3, Robbery;
- 68 (x) any felony offense under Title 76, Chapter 6, Part 4, Theft, or under Title 76,
- 69 Chapter 6, Part 6, Retail Theft, except Sections 76-6-404.5, 76-6-405, 76-6-407, 76-6-408,
- 70 76-6-409, 76-6-409.1, 76-6-409.3, 76-6-409.6, 76-6-409.7, 76-6-409.8, 76-6-409.9, 76-6-410,
- 71 and 76-6-410.5;
- 72 (xi) Title 76, Chapter 6, Part 5, Fraud, except Sections 76-6-504, 76-6-505, 76-6-507,
- 73 76-6-508, 76-6-509, 76-6-510, 76-6-511, 76-6-512, 76-6-513, 76-6-514, 76-6-516, 76-6-517,
- 74 76-6-518, and 76-6-520;
- 75 (xii) Title 76, Chapter 6, Part 11, Identity Fraud Act;
- 76 (xiii) Title 76, Chapter 8, Part 3, Obstructing Governmental Operations, except
- 77 Sections 76-8-302, 76-8-303, 76-8-304, 76-8-307, 76-8-308, and 76-8-312;
- 78 (xiv) Section 76-8-508, which includes tampering with a witness;
- 79 (xv) Section 76-8-508.3, which includes retaliation against a witness or victim;
- 80 (xvi) Section 76-8-509, which includes extortion or bribery to dismiss a criminal
- 81 proceeding;
- 82 (xvii) Title 76, Chapter 10, Part 3, Explosives;
- 83 (xviii) Title 76, Chapter 10, Part 5, Weapons;
- 84 (xix) Title 76, Chapter 10, Part 15, Bus Passenger Safety Act;
- 85 (xx) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;
- 86 (xxi) Section 76-10-1801, which addresses communications fraud;
- 87 (xxii) Title 76, Chapter 10, Part 19, Money Laundering and Currency Transaction
- 88 Reporting Act; or
- 89 (xxiii) Section 76-10-2002, which addresses burglary of a research facility.

90 (b) "Predicate gang crime" also includes:
91 (i) any state or federal criminal offense that by its nature involves a substantial risk that
92 physical force may be used against another in the course of committing the offense; and
93 (ii) any felony violation of a criminal statute of any other state, the United States, or
94 any district, possession, or territory of the United States which would constitute a violation of
95 any offense in Subsection (4)(a) if committed in this state.

Legislative Review Note
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Office of Legislative Research and General Counsel