

Superseded 5/12/2020

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:
 - (a) that is currently in operation;
 - (b) that has as one of its primary activities the commission of one or more predicate gang crimes;
 - (c) that has, as a group, an identifying name or identifying sign or symbol, or both; and
 - (d) whose members, acting individually or in concert with other members, engage in or have engaged in a pattern of criminal gang activity.
- (2) "Intimidate" means the use of force, duress, violence, coercion, menace, or threat of harm for the purpose of causing an individual to act or refrain from acting.
- (3) "Minor" means a person younger than 18 years of age.
- (4) "Pattern of criminal gang activity" means:
 - (a) committing, attempting to commit, conspiring to commit, or soliciting the commission of two or more predicate gang crimes within five years;
 - (b) the predicate gang crimes are:
 - (i) committed by two or more persons; or
 - (ii) committed by an individual at the direction of, or in association with a criminal street gang; and
 - (c) the criminal activity was committed with the specific intent to promote, further, or assist in any criminal conduct by members of the criminal street gang.
- (5)
 - (a) "Predicate gang crime" means any of the following offenses:
 - (i) Title 41, Chapter 1a, Motor Vehicle Act:
 - (A) Section 41-1a-1313, regarding possession of a motor vehicle without an identification number;
 - (B) Section 41-1a-1315, regarding false evidence of title and registration;
 - (C) Section 41-1a-1316, regarding receiving or transferring stolen vehicles;
 - (D) Section 41-1a-1317, regarding selling or buying a motor vehicle without an identification number; or
 - (E) Section 41-1a-1318, regarding the fraudulent alteration of an identification number;
 - (ii) any criminal violation of the following provisions:
 - (A) Title 58, Chapter 37, Utah Controlled Substances Act;
 - (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
 - (C) Title 58, Chapter 37b, Imitation Controlled Substances Act; or
 - (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;
 - (iii) Sections 76-5-102 through 76-5-103.5, which address assault offenses;
 - (iv) Title 76, Chapter 5, Part 2, Criminal Homicide;
 - (v) Sections 76-5-301 through 76-5-304, which address kidnapping and related offenses;
 - (vi) any felony offense under Title 76, Chapter 5, Part 4, Sexual Offenses;
 - (vii) Title 76, Chapter 6, Part 1, Property Destruction;
 - (viii) Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass;
 - (ix) Title 76, Chapter 6, Part 3, Robbery;
 - (x) any felony offense under Title 76, Chapter 6, Part 4, Theft, or under Title 76, Chapter 6, Part 6, Retail Theft, except Sections 76-6-404.5, 76-6-405, 76-6-407, 76-6-408, 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, and 76-6-410.5;

- (xi) Title 76, Chapter 6, Part 5, Fraud, except Sections 76-6-504, 76-6-505, 76-6-507, 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, 76-6-518, and 76-6-520;
 - (xii) Title 76, Chapter 6, Part 11, Identity Fraud Act;
 - (xiii) Title 76, Chapter 8, Part 3, Obstructing Governmental Operations, except Sections 76-8-302, 76-8-303, 76-8-304, 76-8-307, 76-8-308, and 76-8-312;
 - (xiv) Section 76-8-508, which includes tampering with a witness;
 - (xv) Section 76-8-508.3, which includes retaliation against a witness or victim;
 - (xvi) Section 76-8-509, which includes extortion or bribery to dismiss a criminal proceeding;
 - (xvii) Title 76, Chapter 10, Part 3, Explosives;
 - (xviii) Title 76, Chapter 10, Part 5, Weapons;
 - (xix) Title 76, Chapter 10, Part 15, Bus Passenger Safety Act;
 - (xx) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;
 - (xxi) Section 76-10-1801, which addresses communications fraud;
 - (xxii) Title 76, Chapter 10, Part 19, Money Laundering and Currency Transaction Reporting Act;
or
 - (xxiii) Section 76-10-2002, which addresses burglary of a research facility.
- (b) "Predicate gang crime" also includes:
- (i) any state or federal criminal offense that by its nature involves a substantial risk that physical force may be used against another in the course of committing the offense; and
 - (ii) any felony violation of a criminal statute of any other state, the United States, or any district, possession, or territory of the United States which would constitute a violation of any offense in Subsection (4)(a) if committed in this state.