

**76-9-902 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 substantial activities the commission of one or more predicate gang crimes;
  - (c) that has, as a group, an identifying name or an 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) "Gang loitering" means a person remains in one place under circumstances that would cause a reasonable person to believe that the purpose or effect of that behavior is to enable or facilitate a criminal street gang to:
  - (a) establish control over one or more identifiable areas;
  - (b) intimidate others from entering those areas; or
  - (c) conceal illegal activities.
- (3) "Pattern of criminal gang activity" means committing, attempting to commit, conspiring to commit, or soliciting the commission of two or more predicate gang crimes within five years, if the predicate gang crimes are committed:
  - (a)
    - (i) by two or more persons; or
    - (ii) by an individual at the direction of or in association with a criminal street gang; and
  - (b) with the specific intent to promote, further, or assist in any criminal conduct by members of a criminal street gang.
- (4)
  - (a) "Predicate gang crime" means any of the following offenses:
    - (i) any criminal violation of:
      - (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;
    - (ii) Sections 76-5-102 through 76-5-103.5, which address assault offenses;
    - (iii) Title 76, Chapter 5, Part 2, Criminal Homicide;
    - (iv) Sections 76-5-301 through 76-5-304, which address kidnapping and related offenses;
    - (v) any felony offense under Title 76, Chapter 5, Part 4, Sexual Offenses;
    - (vi) Title 76, Chapter 6, Part 1, Property Destruction;
    - (vii) Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass;
    - (viii) Title 76, Chapter 6, Part 3, Robbery;
    - (ix) any felony offense under Title 76, Chapter 6, Part 4, 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;
    - (x) 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;
    - (xi) Title 76, Chapter 6, Part 11, Identity Fraud Act;
    - (xii) 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;
    - (xiii) Section 76-8-508, which includes tampering with a witness;

- (xiv) Section 76-8-508.3, which includes retaliation against a witness or victim;
- (xv) Section 76-8-509, which includes extortion or bribery to dismiss a criminal proceeding;
- (xvi) Title 76, Chapter 10, Part 3, Explosives;
- (xvii) Title 76, Chapter 10, Part 5, Weapons;
- (xviii) Title 76, Chapter 10, Part 15, Bus Passenger Safety Act;
- (xix) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;
- (xx) Section 76-10-1801, which addresses communications fraud;
- (xxi) Title 76, Chapter 10, Part 19, Money Laundering and Currency Transaction Reporting Act;
- (xxii) Section 76-10-2002, which addresses burglary of a research facility; and
- (xxiii) 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 vehicle without an identification number; and
  - (E) Section 41-1a-1318, regarding the fraudulent alteration of an identification number.
- (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 any offense in Subsection (4)(a) if committed in this state.
- (5)
  - (a) "Public place" means any location or structure to which the public or a substantial group of the public has access, and includes:
    - (i) a sidewalk, street, or highway;
    - (ii) a public park, public recreation facility, or any other area open to the public;
    - (iii) a shopping mall, sports facility, stadium, arena, theater, movie house, or playhouse, or the parking lot or structure adjacent to any of these; and
    - (iv) the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and businesses.
  - (b) "Public place" includes the lobbies, hallways, elevators, restaurants and other dining areas, and restrooms of any of the locations or structures under Subsection (5)(a).

Enacted by Chapter 86, 2009 General Session