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Title XLVI
CRIMES

Chapter 874
CRIMINAL GANG ENFORCEMENT AND PREVENTION

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CHAPTER 874
CRIMINAL GANG ENFORCEMENT AND PREVENTION

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874.01 Short title.—This chapter may be cited as the "Criminal Gang Prevention Act."
History.—s. 1, ch. 90-207; s. 34, ch. 96-388; s. 5, ch. 2008-238.

874.02 Legislative findings and intent.—

(1) The Legislature finds that it is the right of every person, regardless of race, color, creed, religion, national origin, sex, age, sexual orientation, or handicap, to be secure and protected from fear, intimidation, and physical harm caused by the activities of criminal gangs and their members. It is not the intent of this chapter to interfere with the exercise of the constitutionally protected rights of freedom of expression and association. The Legislature recognizes the constitutional right of every citizen to harbor and express beliefs on any lawful subject whatsoever, to lawfully associate with others who share similar beliefs, to petition lawfully constituted authority for a redress of perceived grievances, and to participate in the electoral process.

(2) The Legislature finds, however, that the state is facing a mounting crisis caused by criminal gangs whose members threaten and terrorize peaceful citizens and commit a multitude of crimes. These criminal gang activities, both individually and collectively, present a clear and present danger. Street

gangs, terrorist organizations, and hate groups have evolved into increasingly sophisticated and complex organized crime groups in their criminal tactics, schemes, and brutality. The state has a compelling interest in preventing criminal gang activity and halting the real and present danger posed by the proliferation of criminal gangs and the graduation from more primitive forms of criminal gangs to highly sophisticated criminal gangs. For these reasons, the Legislature finds that the provisions of this chapter are essential to maintain public order and safety.

(3) It is the intent of the Legislature to outlaw certain conduct associated with the existence and proliferation of criminal gangs, provide enhanced criminal penalties, and eliminate the patterns, profits, proceeds, instrumentalities, and property facilitating criminal gang activity, including criminal gang recruitment.

(4) The Legislature finds that the timely reporting and exchange of criminal gang information facilitates the ability of law enforcement agencies to monitor and anticipate criminal activities of gangs and their members. Additionally, the timely and standardized reporting of such criminal gang information supports the identification of gang members via the criminal justice information system and directly contributes to law enforcement officers' safety. For these reasons, it is the intent of the Legislature to encourage state and local law enforcement agencies to facilitate the exchange of crime data information through the statewide criminal gang database as provided in s. 874.09.

History.—s. 1, ch. 90-207; s. 74, ch. 94-209; s. 56, ch. 95-267; s. 35, ch. 96-388; s. 6, ch. 2008-238.

874.03 Definitions.—As used in this chapter:

(1) "Criminal gang" means a formal or informal ongoing organization, association, or group that has as one of its primary activities the commission of criminal or delinquent acts, and that consists of three or more persons who have a common name or common identifying signs, colors, or symbols, including, but not limited to, terrorist organizations, transnational crime organizations, and hate groups.

(a) As used in this subsection, "ongoing" means that the organization was in existence during the time period charged in a petition, information, indictment, or action for civil injunctive relief.

(b) As used in this subsection, "primary activities" means that a criminal gang spends a substantial amount of time engaged in such activity, although such activity need not be the only, or even the most important, activity in which the criminal gang engages.

(2) "Criminal gang associate" means a person who:

(a) Admits to criminal gang association; or

(b) Meets any single defining criterion for criminal gang membership described in subsection (3).

(3) "Criminal gang member" means a person who meets two or more of the following criteria:

(a) Admits in person or on an online platform or social media that he or she is a criminal gang member.

(b) Is identified or claimed by a criminal gang as one of its members.

(c) Is identified as a criminal gang member by a parent, guardian, or spouse living with the person.

(d) Is identified as a criminal gang member by a documented reliable informant.

(e) Adopts the style of dress of a criminal gang.

(f) Adopts the use of a hand sign identified as used by a criminal gang.

(g) Has a tattoo identified as used by a criminal gang.

(h) Associates with one or more known criminal gang members.

(i) Is identified as a criminal gang member by an informant of previously untested reliability and such identification is corroborated by independent information.

(j) Is identified as a criminal gang member by physical evidence.

(k) Has been observed in the company of one or more known criminal gang members two or more times. Observation in a custodial setting requires a willful association. It is the intent of the Legislature to allow this criterion to be used to identify gang members who recruit and organize in jails, prisons, and other detention settings.

(l) Has authored any communication indicating gang affiliation or gang activity or accepting responsibility for the commission of any crime by a criminal gang member.

(m) Uses gang-related language in furtherance of criminal gang-related activity on an online platform or social media.

Where a single act or factual transaction satisfies the requirements of more than one of the criteria in this subsection, each of those criteria has thereby been satisfied for the purposes of this subsection.

(4) "Criminal gang-related activity" means:

(a) An activity committed with the intent to benefit, promote, or further the interests of a criminal gang, or for the purposes of increasing a person's own standing or position within a criminal gang;

(b) An activity in which the participants are identified as criminal gang members or criminal gang associates acting individually or collectively to further any criminal purpose of a criminal gang;

(c) An activity that is identified as criminal gang activity by a documented reliable informant; or

(d) An activity that is identified as criminal gang activity by an informant of previously untested reliability and such identification is corroborated by independent information.

(5) "Electronic communication" has the meaning provided in s. 934.02 and includes, but is not limited to, photographs, video, telephone communications, text messages, facsimile, electronic mail messages as defined in s. 668.602, and instant message real-time communications with other individuals through the Internet or other means.

(6) "Gang-related language" means any verbal or written statement that signals gang affiliation, supports gang activity, or uses recognized gang codes, symbols, or terminology associated with criminal organizations. Written statements include any digital or electronic statements, including statements made on any online platform or social media.

(7) "Hate group" means an organization whose primary purpose is to promote animosity, hostility, and malice against a person or persons or against the property of a person or persons because of race, religion, disability, sexual orientation, ethnicity, or national origin.

(8) "Terrorist organization" means any organized group engaged in or organized for the purpose of engaging in terrorism as defined in s. 775.30. The term includes:

(a) A domestic terrorist organization whose designation as such has been published in the Florida Administrative Register in accordance with s. 943.03102.

(b) A foreign terrorist organization whose designation as such has been published in the Florida Administrative Register in accordance with s. 943.03102.

This definition does not prevent prosecution under this chapter of individuals acting alone.

(9) "Transnational crime organization" means any group, network, or association of persons, at least one of which is an unauthorized alien as defined in s. 908.111, that routinely facilitates the international trafficking of drugs, humans, or weapons or the international smuggling of humans.

History.—s. 1, ch. 90-207; s. 75, ch. 94-209; s. 36, ch. 96-388; s. 7, ch. 2008-238; s. 11, ch. 2017-37; s. 11, ch. 2025-1; s. 7, ch. 2026-28; s. 1, ch. 2026-156.

874.04 Gang-related offenses; enhanced penalties.—Upon a finding by the factfinder that the defendant committed the charged offense for the purpose of benefiting, promoting, or furthering the interests of a criminal gang, the penalty for any felony or misdemeanor, or any delinquent act or violation of law which would be a felony or misdemeanor if committed by an adult, may be enhanced. Penalty enhancement affects the applicable statutory maximum penalty only. Each of the findings required as a basis for such sentence shall be found beyond a reasonable doubt. The enhancement will be as follows:

(1)(a) A misdemeanor of the second degree may be punished as if it were a misdemeanor of the first degree.

(b) A misdemeanor of the first degree may be punished as if it were a felony of the third degree. For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, such offense is ranked in level 1 of the offense severity ranking chart. The criminal gang multiplier in s. 921.0024 does not apply to misdemeanors enhanced under this paragraph.

(2)(a) A felony of the third degree may be punished as if it were a felony of the second degree.

(b) A felony of the second degree may be punished as if it were a felony of the first degree.

(c) A felony of the first degree may be punished as if it were a life felony.

For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, such felony offense is ranked as provided in s. 921.0022 or s. 921.0023, and without regard to the penalty enhancement in this subsection.

History.—s. 1, ch. 90-207; s. 76, ch. 94-209; s. 23, ch. 95-184; s. 37, ch. 96-388; s. 21, ch. 97-194; s. 1, ch. 2001-126; s. 8, ch. 2008-238.

874.045 Arrest and prosecution under other provisions.—Nothing in this chapter shall prohibit the arrest and prosecution of a criminal gang member under chapter 876, chapter 895, chapter 896, s. 893.20, or any other applicable provision of law except to the extent otherwise prohibited pursuant to a statutory or constitutional provision.

History.—s. 9, ch. 2008-238.

874.05 Causing, encouraging, soliciting, or recruiting criminal gang membership.—

(1)(a) Except as provided in paragraph (b), a person who intentionally causes, encourages, solicits, or recruits another person to become a criminal gang member where a condition of membership or continued membership is the commission of any crime commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A person who commits a second or subsequent violation of this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2)(a) Except as provided in paragraph (b), a person who intentionally causes, encourages, solicits, or recruits another person under 13 years of age to become a criminal gang member where a condition of membership or continued membership is the commission of any crime commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A person who commits a second or subsequent violation of this subsection commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 38, ch. 96-388; s. 10, ch. 2008-238; s. 2, ch. 2013-80.

874.06 Civil cause of action.—

(1) A person or organization establishing, by clear and convincing evidence, coercion, intimidation, threats, or other harm to that person or organization in violation of this chapter has a civil cause of action for treble damages, an injunction, or any other appropriate relief in law or equity.

Upon prevailing, the plaintiff may recover attorney's fees in the trial and appellate courts and the costs of investigation and litigation that are reasonably incurred.

(2)(a) For purposes of this subsection, the term "state" includes any of the state's agencies, instrumentalities, subdivisions, or municipalities, and includes, but is not limited to, state attorneys and the Office of Statewide Prosecution of the Department of Legal Affairs.

(b) In addition to any remedies provided for by ss. 60.05 and 823.05, the state has a civil cause of action against any person or organization if it proves by clear and convincing evidence that it has been injured by reason of a violation of this chapter by the person or organization. The state has a civil cause of action for treble damages, injunctive relief, or any other relief in law or equity which the court deems appropriate. If the state prevails, it may also recover attorney's fees in the trial and appellate courts and the costs of investigation and litigation that are reasonably incurred. The state may not recover punitive damages. The defendant is entitled to recover reasonable attorney's fees and court costs if the court finds that the state raised a claim that was without factual or legal support and was vexatious, frivolous, or brought in bad faith.

(3) A prevailing plaintiff under subsection (1) has a right or claim that is superior to any right or claim that the state has in the same property or proceeds.

(4) A person who knowingly violates a temporary or permanent order issued under this section or s. 60.05 commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 1, ch. 90-207; s. 39, ch. 96-388; s. 11, ch. 2008-238.

874.08 Criminal gang activity and recruitment; forfeiture.—All profits, proceeds, and instrumentalities of criminal gang activity and all property used or intended or attempted to be used to facilitate the criminal activity of any criminal gang or of any criminal gang member; and all profits, proceeds, and instrumentalities of criminal gang recruitment and all property used or intended or attempted to be used to facilitate criminal gang recruitment are subject to seizure and forfeiture under the Florida Contraband Forfeiture Act, s. 932.704.

History.—s. 1, ch. 90-207; s. 77, ch. 94-209; s. 55, ch. 95-267; s. 40, ch. 96-388; s. 12, ch. 2008-238.

874.09 Crime data information.—

(1) The Department of Law Enforcement may:

(a) Develop and manage a statewide criminal gang database to facilitate the exchange of information pursuant to the intent and purpose of this chapter.

(b) Notify all law enforcement agencies that reports of criminal gang members or associates shall be entered into the database as soon as the minimum level of data specified by the department is available to the reporting agency and no waiting period for the entry of that data exists.

(c) Compile and retain information regarding criminal gangs and their members and associates in a manner that allows the information to be used by law enforcement and other agencies deemed appropriate for investigative purposes.

(d) Compile and maintain a data repository relating to criminal gangs and their members and associates in order to develop and improve techniques used by law enforcement agencies and prosecutors in the investigation, apprehension, and prosecution of members and affiliates of criminal gangs.

(2) Local law enforcement agencies may:

(a) After carrying out any arrest of any individual whom they believe is a member or associate of a criminal gang, create or update that individual's electronic file within the database.

(b) Notify the prosecutor of the accused individual's suspected criminal gang membership or associate status.

History.—s. 1, ch. 90-207; s. 41, ch. 96-388; s. 13, ch. 2008-238.

874.10 Directing the activities of a criminal gang.—Any person who knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity commits a felony of the first degree, punishable by imprisonment for a term of years not exceeding life or as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 14, ch. 2008-238.

874.11 Electronic communication.—Any person who, for the purpose of benefiting, promoting, or furthering the interests of a criminal gang, uses electronic communication to intimidate or harass other persons, or to advertise his or her presence in the community, including, but not limited to, such activities as distributing, selling, transmitting, or posting on the Internet any audio, video, or still image of criminal activity, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 15, ch. 2008-238.

874.12 Identification documents; unlawful possession or creation.—

(1) For purposes of this section, the term "identification document" includes, but is not limited to, a social security card or number, a birth certificate, a driver license, an identification card issued pursuant to s. 322.051, a naturalization certificate, an alien registration number, a passport, and any access credentials for a publicly operated facility or an infrastructure facility covered under 18 U.S.C. s. 2332f.

(2) Any person possessing or manufacturing any blank, forged, stolen, fictitious, fraudulent, counterfeit, or otherwise unlawfully issued identification document for the purpose of benefiting, promoting, or furthering the interests of a criminal gang commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 16, ch. 2008-238.

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