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LAW/RWH

P.L.2013, CHAPTER 202, *approved January 17, 2014*

Senate, No. 1479

1 AN ACT concerning criminal street gangs and amending P.L.1999,
2 c.160.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 1 of P.L.1999, c.160 (C.2C:33-28) is amended to
8 read as follows:

9 1. a. An actor who solicits or recruits another to join or
10 actively participate in a criminal street gang with the knowledge or
11 purpose that the person who is solicited or recruited will promote,
12 further, assist, plan, aid, agree, or attempt to aid in the commission
13 of criminal conduct by a member of a criminal street gang commits
14 a crime of the fourth degree. For purposes of this section, the actor
15 shall have the requisite knowledge or purpose if he knows that the
16 person who is solicited or recruited will engage in some form,
17 though not necessarily which form, of criminal activity. "Criminal
18 street gang" shall have the meaning set forth in **【**subsection h. of
19 N.J.S.2C:44-3**】** section 1 of P.L.2007, c.341 (C.2C:33-29).

20 b. An actor who, in the course of violating subsection a. of this
21 section, threatens another with bodily injury on two or more
22 separate occasions within a 30-day period commits a crime of the
23 third degree.

24 c. An actor who, in the course of violating subsection a. of this
25 section, inflicts significant bodily injury upon another commits a
26 crime of the second degree.

27 d. Any defendant convicted of soliciting, recruiting, coercing
28 or threatening a person under 18 years of age in violation of
29 subsection a. **【or】**, b. or g. of this section shall be guilty of a crime
30 of the second degree.

31 e. An actor who violates subsection a. of this section while
32 under official detention commits a crime of the second degree. As
33 used in this subsection, "official detention" means detention in any
34 facility for custody of persons under charge or conviction of a crime
35 or offense, or committed pursuant to chapter 4 of this Title, or
36 alleged or found to be delinquent; detention for extradition or
37 deportation; mandatory commitment to a residential treatment
38 facility imposed as a condition of special probation pursuant to
39 subsection d. of N.J.S.2C:35-14; or any other detention for law
40 enforcement purposes. "Official detention" also includes
41 supervision of probation or parole, or constraint incidental to
42 release on bail. Notwithstanding the provisions of N.J.S.2C:44-5 or

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】 in the above bill is not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 any other provision of law, the court shall order that the sentence
2 imposed upon a violation of this section be served consecutively to
3 the period or periods of detention the actor was serving at the time
4 of the violation.

5 f. Any defendant convicted of soliciting, recruiting, coercing
6 or threatening a person under 18 years of age in violation of
7 subsection c. or e. of this section shall be sentenced by the court to
8 an extended term of imprisonment as set forth in subsection a. of
9 N.J.S.2C:43-7.

10 g. An actor who in the course of violating subsection a. of this
11 section, does so on school property commits a crime of the third
12 degree.

13 Notwithstanding the provisions of N.J.S.2C:1-8, N.J.S.2C:44-5
14 or any other provision of law, a conviction arising under this section
15 shall not merge with a conviction for any criminal offense that the
16 actor committed while involved in criminal street gang related
17 activity, as defined in subsection h. of N.J.S.2C:44-3, nor shall the
18 conviction for any such offense merge with a conviction pursuant to
19 this section and the sentence imposed upon a violation of this
20 section shall be ordered to be served consecutively to that imposed
21 upon any other such conviction.

22 (cf: P.L.2007, c.234, s.1)

23

24 2. This act shall take effect immediately.

25

26

STATEMENT

27

28 This bill amends N.J.S.A.2C:33-28 which concerns soliciting or
29 recruiting another to join or actively participate in a criminal street
30 gang, to include a new upgraded offense where the actor commits
31 the violation on school property. Under this bill, an actor who
32 commits the offense on school property is guilty of a crime of the
33 third degree. Ordinarily a violation of subsection a. of
34 N.J.S.A.2C:33-28 is a crime of the fourth degree except as set forth
35 in subsections b. (bodily injury on two or more separate occasions
36 within a 30-day period is third degree) and c. (significant bodily
37 injury upon another is second degree).

38 A crime of the third degree is punishable by three to five years
39 imprisonment, a fine of up to \$15,000, or both. A crime of the
40 second degree is punishable by five to ten years imprisonment, a
41 fine of up to \$150,000, or both.

42 This bill also brings N.J.S.A.2C:33-28 into conformity with
43 current statutory law.

44

45

46

47 Upgrades crime of soliciting or recruiting for criminal street
48 gang while on school property.

SENATE, No. 1479

STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED FEBRUARY 9, 2012

Sponsored by:

Senator NICHOLAS J. SACCO

District 32 (Bergen and Hudson)

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Assemblywoman NANCY F. MUNOZ

District 21 (Morris, Somerset and Union)

Assemblyman JAY WEBBER

District 26 (Essex, Morris and Passaic)

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

Assemblywoman ANGELICA M. JIMENEZ

District 32 (Bergen and Hudson)

Co-Sponsored by:

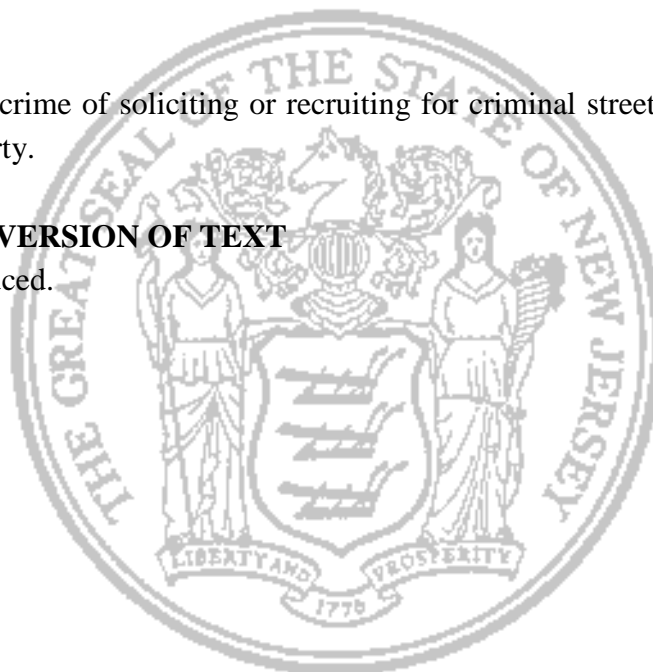
Senators Allen and Pou

SYNOPSIS

Upgrades crime of soliciting or recruiting for criminal street gang while on school property.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/14/2014)

1 AN ACT concerning criminal street gangs and amending P.L.1999,
2 c.160.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. Section 1 of P.L.1999, c.160 (C.2C:33-28) is amended to
8 read as follows:

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10 actively participate in a criminal street gang with the knowledge or
11 purpose that the person who is solicited or recruited will promote,
12 further, assist, plan, aid, agree, or attempt to aid in the commission
13 of criminal conduct by a member of a criminal street gang commits
14 a crime of the fourth degree. For purposes of this section, the actor
15 shall have the requisite knowledge or purpose if he knows that the
16 person who is solicited or recruited will engage in some form,
17 though not necessarily which form, of criminal activity. "Criminal
18 street gang" shall have the meaning set forth in **subsection h. of**
19 **N.J.S.2C:44-3** section 1 of P.L.2007, c.341 (C.2C:33-29).

20 b. An actor who, in the course of violating subsection a. of this
21 section, threatens another with bodily injury on two or more
22 separate occasions within a 30-day period commits a crime of the
23 third degree.

24 c. An actor who, in the course of violating subsection a. of this
25 section, inflicts significant bodily injury upon another commits a
26 crime of the second degree.

27 d. Any defendant convicted of soliciting, recruiting, coercing
28 or threatening a person under 18 years of age in violation of
29 subsection a. **[or]**, b. or g. of this section shall be guilty of a crime
30 of the second degree.

31 e. An actor who violates subsection a. of this section while
32 under official detention commits a crime of the second degree. As
33 used in this subsection, "official detention" means detention in any
34 facility for custody of persons under charge or conviction of a crime
35 or offense, or committed pursuant to chapter 4 of this Title, or
36 alleged or found to be delinquent; detention for extradition or
37 deportation; mandatory commitment to a residential treatment
38 facility imposed as a condition of special probation pursuant to
39 subsection d. of N.J.S.2C:35-14; or any other detention for law
40 enforcement purposes. "Official detention" also includes
41 supervision of probation or parole, or constraint incidental to
42 release on bail. Notwithstanding the provisions of N.J.S.2C:44-5 or
43 any other provision of law, the court shall order that the sentence
44 imposed upon a violation of this section be served consecutively to

EXPLANATION – Matter enclosed in bold-faced brackets **[thus] in the above bill is not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 the period or periods of detention the actor was serving at the time
2 of the violation.

3 f. Any defendant convicted of soliciting, recruiting, coercing
4 or threatening a person under 18 years of age in violation of
5 subsection c. or e. of this section shall be sentenced by the court to
6 an extended term of imprisonment as set forth in subsection a. of
7 N.J.S.2C:43-7.

8 g. An actor who in the course of violating subsection a. of this
9 section, does so on school property commits a crime of the third
10 degree.

11 Notwithstanding the provisions of N.J.S.2C:1-8, N.J.S.2C:44-5
12 or any other provision of law, a conviction arising under this section
13 shall not merge with a conviction for any criminal offense that the
14 actor committed while involved in criminal street gang related
15 activity, as defined in subsection h. of N.J.S.2C:44-3, nor shall the
16 conviction for any such offense merge with a conviction pursuant to
17 this section and the sentence imposed upon a violation of this
18 section shall be ordered to be served consecutively to that imposed
19 upon any other such conviction.

20 (cf: P.L.2007, c.234, s.1)

21

22 2. This act shall take effect immediately.

23

24

25 STATEMENT

26

27 This bill amends N.J.S.A.2C:33-28 which concerns soliciting or
28 recruiting another to join or actively participate in a criminal street
29 gang, to include a new upgraded offense where the actor commits
30 the violation on school property. Under this bill, an actor who
31 commits the offense on school property is guilty of a crime of the
32 third degree. Ordinarily a violation of subsection a. of
33 N.J.S.A.2C:33-28 is a crime of the fourth degree except as set forth
34 in subsections b. (bodily injury on two or more separate occasions
35 within a 30-day period is third degree) and c. (significant bodily
36 injury upon another is second degree).

37 A crime of the third degree is punishable by three to five years
38 imprisonment, a fine of up to \$15,000, or both. A crime of the
39 second degree is punishable by five to ten years imprisonment, a
40 fine of up to \$150,000, or both.

41 This bill also brings N.J.S.A.2C:33-28 into conformity with
42 current statutory law.

SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

SENATE, No. 1479

STATE OF NEW JERSEY

DATED: OCTOBER 11, 2012

The Senate Law and Public Safety Committee reports favorably Senate Bill No. 1479.

This bill amends section 1 of P.L.1999, c.160 (C.2C:33-28), which concerns soliciting or recruiting another to join or actively participate in a criminal street gang, to include a new upgraded offense when the actor commits the violation on school property. Under the provisions of this bill, an actor who commits the offense on school property is guilty of a crime of the third degree.

Soliciting or recruiting a person under the age of 18 to join or actively participate in a criminal street gang, regardless of where the recruiting occurs, would remain a crime of the second degree.

Ordinarily, a violation of subsection a. of the statute prohibiting the recruiting of someone to join a street gang is a crime of the fourth degree except: (1) if the actor threatens another with bodily injury on two or more separate occasions within a 30-day period, it is third degree, and (2) if the actor inflicts significant bodily injury upon another, it is second degree.

A crime of the third degree is punishable by three to five years imprisonment, a fine of up to \$15,000, or both. A crime of the second degree is punishable by five to ten years imprisonment, a fine of up to \$150,000, or both.

This bill also brings section 1 of P.L.1999, c.160 (C.2C:33-28) into conformity with current statutory law.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

SENATE, No. 1479

STATE OF NEW JERSEY

DATED: JANUARY 9, 2014

The Assembly Budget Committee reports favorably Senate Bill No. 1479.

This bill amends section 1 of P.L.1999, c.160 (C.2C:33-28), which concerns soliciting or recruiting another to join or actively participate in a criminal street gang, to include a new upgraded offense when the actor commits the violation on school property. The bill provides that an actor who commits the offense on school property is guilty of a crime of the third degree.

Soliciting or recruiting a person under the age of 18 to join or actively participate in a criminal street gang, regardless of where the recruiting occurs, remains a crime of the second degree.

Ordinarily, a violation of subsection a. of the statute prohibiting the recruiting of persons to join a criminal street gang is a crime of the fourth degree except: (1) if the actor threatens another with bodily injury on two or more separate occasions within a 30-day period, it is third degree, and (2) if the actor inflicts significant bodily injury upon another, it is second degree.

A crime of the third degree is punishable by three to five years imprisonment, a fine of up to \$15,000, or both. A crime of the second degree is punishable by five to ten years imprisonment, a fine of up to \$150,000, or both.

The bill also brings section 1 of P.L.1999, c.160 (C.2C:33-28) into conformity with current statutory law.

The bill takes effect immediately upon enactment.

As reported, this bill is identical to Assembly Bill No. 2114, as also reported by the committee.

FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.

ASSEMBLY, No. 2114

STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED JANUARY 30, 2012

Sponsored by:

Assemblywoman NANCY F. MUNOZ

District 21 (Morris, Somerset and Union)

Assemblyman JAY WEBBER

District 26 (Essex, Morris and Passaic)

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

Assemblywoman ANGELICA M. JIMENEZ

District 32 (Bergen and Hudson)

SYNOPSIS

Upgrades crime of soliciting or recruiting for criminal street gang while on school property.

CURRENT VERSION OF TEXT

As introduced.



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19 N.J.S.2C:44-3**]** section 1 of P.L.2007, c.341 (C.2C:33-29).

20 b. An actor who, in the course of violating subsection a. of this
21 section, threatens another with bodily injury on two or more
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4 or threatening a person under 18 years of age in violation of
5 subsection c. or e. of this section shall be sentenced by the court to
6 an extended term of imprisonment as set forth in subsection a. of
7 N.J.S.2C:43-7.

8 g. An actor who in the course of violating subsection a. of this
9 section, does so on school property commits a crime of the third
10 degree.

11 Notwithstanding the provisions of N.J.S.2C:1-8, N.J.S.2C:44-5
12 or any other provision of law, a conviction arising under this section
13 shall not merge with a conviction for any criminal offense that the
14 actor committed while involved in criminal street gang related
15 activity, as defined in subsection h. of N.J.S.2C:44-3, nor shall the
16 conviction for any such offense merge with a conviction pursuant to
17 this section and the sentence imposed upon a violation of this
18 section shall be ordered to be served consecutively to that imposed
19 upon any other such conviction.

20 (cf: P.L.2007, c.234, s.1)

21

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ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

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STATE OF NEW JERSEY

DATED: JANUARY 9, 2014

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As reported, this bill is identical to Senate Bill No. 1479, as also reported by the committee.

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