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RWH 5/23/08

P.L. 2007, CHAPTER 234, *approved January 3, 2008*
Assembly, No. 2667 (*First Reprint*)

1 AN ACT concerning criminal street gang activity and amending
2 P.L.1999, 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 actively
10 participate in a criminal street gang with the knowledge or purpose
11 that the person who is solicited or recruited will promote, further,
12 assist, plan, aid, agree, or attempt to aid in the commission of
13 criminal conduct by a member of a criminal street gang commits a
14 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.

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 or
28 threatening a person under 18 years of age in violation of
29 subsection a. **[,] or¹ b. ¹[or c.]¹** of this section shall be **[sentenced**
30 **by the court to] guilty of a crime of the second degree.¹**[Nothing**
31 **contained in this act shall prohibit the court from imposing]****

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

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SLP committee amendments adopted February 26, 2007.

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 or
6 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 to¹
8 an extended term of imprisonment as set forth in subsection a. of
9 N.J.S.2C:43-7.

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

19 (cf: P.L.1999, c.160, s.1)

20

21 2. This act shall take effect immediately.

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25

26 _____
27 Upgrades penalties for recruiting minors and confined persons to
be in criminal street gang.

ASSEMBLY, No. 2667

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED FEBRUARY 27, 2006

Sponsored by:

Assemblyman LOUIS M. MANZO

District 31 (Hudson)

Assemblyman REED GUSCIORA

District 15 (Mercer)

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington and Camden)

Assemblyman BRIAN P. STACK

District 33 (Hudson)

Co-Sponsored by:

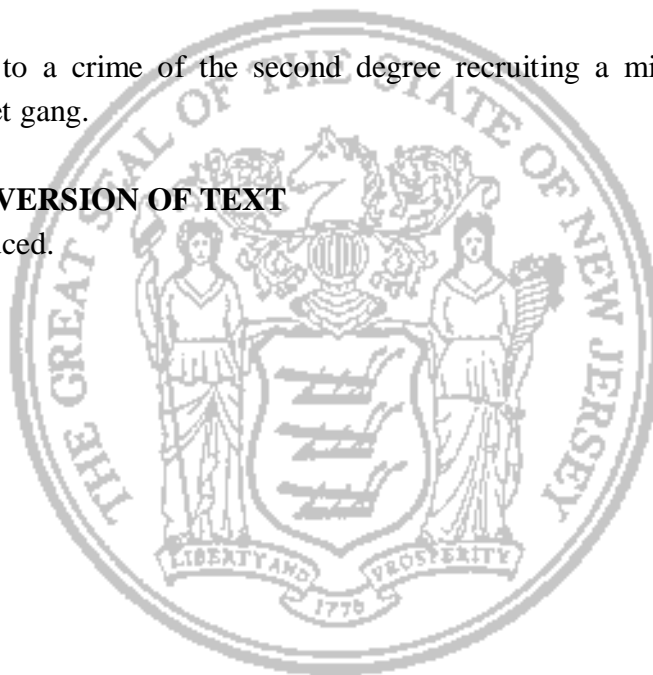
**Assemblymen Rumpf, Connors, Assemblywoman Greenstein,
Assemblymen Bramnick, Vas, Baroni and Payne**

SYNOPSIS

Upgrades to a crime of the second degree recruiting a minor to be in a criminal street gang.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/23/2006)

1 AN ACT concerning criminal street gang activity and amending
2 P.L.1999, 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 actively
10 participate in a criminal street gang with the knowledge or purpose
11 that the person who is solicited or recruited will promote, further,
12 assist, plan, aid, agree, or attempt to aid in the commission of
13 criminal conduct by a member of a criminal street gang commits a
14 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.

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 or
28 threatening a person under 18 years of age in violation of
29 subsection a., b. or c. of this section shall be **[sentenced by the**
30 **court to]** guilty of a crime of the second degree. Nothing contained
31 in this act shall prohibit the court from imposing an extended term
32 of imprisonment as set forth in subsection a. of N.J.S.2C:43-7.

33 Notwithstanding the provisions of N.J.S.2C:1-8, N.J.S.2C:44-5
34 or any other provision of law, a conviction arising under this section
35 shall not merge with a conviction for any criminal offense that the
36 actor committed while involved in criminal street gang related
37 activity, as defined in subsection h. of N.J.S.2C:44-3, nor shall the
38 conviction for any such offense merge with a conviction pursuant to
39 this section and the sentence imposed upon a violation of this
40 section shall be ordered to be served consecutively to that imposed
41 upon any other such conviction.

42 (cf: P.L.1999,c.160,s.1)

43

44 2. This act shall take effect immediately.

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.

STATEMENT

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This bill would make the crime of soliciting or recruiting a minor to join or actively participate in a criminal street gang a crime of the second degree, regardless of whether the actor inflicted significant bodily injury upon the minor or threatened the minor with bodily injury.

Under the current provisions of the law, a person convicted of soliciting or recruiting a minor to join a street gang that person is sentenced to an extended term of imprisonment pursuant to N.J.S.A.2C:43-7 depending upon whether the person threatened the minor with bodily injury or inflicted significant bodily injury upon the minor. For example, if the person *threatened* the minor with bodily injury on two or more separate occasions within a thirty day period then it would be a crime of the third degree which, under the *extended term* provisions of subsection d. of N.J.S.A.2C:33-28, punishable by a term of imprisonment between five and 10 years. If the person inflicts *significant bodily injury* upon the minor then it would be a crime of second degree which, under the *extended term* provisions of subsection d. of N.J.S.A.2C:33-28, punishable by a term of imprisonment between 10 and 20 years. If neither threats of bodily injury nor significant bodily injury is involved, then it would be a crime of the fourth degree which, under the extended term provisions of subsection d. of N.J.S.A.2C:33-28, punishable by a term of imprisonment between three and five years.

This bill would eliminate the requirement that injury must be sustained in order to upgrade the crime of soliciting or recruiting a minor. Under the provisions of the bill, it would be a crime of the second degree to solicit or recruit a person under 18 years of age to join or actively participate in a criminal street gang, regardless of any injury sustained by the minor. A crime of the second degree is punishable by a term of imprisonment of five and 10 years.

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2667

STATE OF NEW JERSEY

DATED: MAY 18, 2006

The Assembly Law and Public Safety Committee reports favorably Assembly Bill No. 2667.

Assembly Bill No. 2667 would make the crime of soliciting or recruiting a minor to join or actively participate in a criminal street gang a crime of the second degree.

Under current law, a person who solicits or recruits another to join a gang commits a crime of the fourth degree. A person who in the act of soliciting or recruiting another to join a gang threatens bodily injury on two or more separate occasions within a thirty day period commits a crime of the third degree. A person who in the act of soliciting or recruiting another to join a gang inflicts significant bodily injury commits a crime of the second degree. A person who does any of the above to a minor is subject to an extended term of imprisonment.

Under the provisions of this bill, it is be a crime of the second degree to solicit or recruit a person under 18 years of age to join or actively participate in a criminal street gang, regardless of any threats or injury sustained by the minor. A crime of the second degree is punishable by a fine of up to \$150,000, a term of imprisonment of five to 10 years or both.

SENATE LAW AND PUBLIC SAFETY AND VETERANS'
AFFAIRS COMMITTEE

STATEMENT TO
ASSEMBLY, No. 2667

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 26, 2007

The Senate Law and Public Safety and Veterans' Affairs Committee reports favorably and with committee amendments Assembly Bill No. 2667.

As amended and reported by the committee, this bill would make the crime of soliciting or recruiting a minor to join or actively participate in a criminal street gang a crime of the second degree. The bill also provides that a person who while soliciting or recruiting, threatens a person under 18 with bodily injury on two or more occasions within 30 days is guilty of a crime of the second degree. A crime of the second degree is punishable by a fine of up to \$150,000, a term of imprisonment of five to 10 years or both.

In addition, a person who in the act of soliciting or recruiting a person under 18 inflicts to join or actively participate in a street gang and who inflicts significant bodily injury is to be sentenced to an extended term.

The bill further provides that a person who solicits another to join or actively participate in a criminal street gang while under official detention commits a crime of the second degree. A person who solicits a person under 18 who is under official detention is to be sentenced to an extended term. The bill defines "official detention" as detention in any facility for custody of persons under charge or conviction of a crime or offense, or committed pursuant to chapter 4 of Title 2C, or alleged or found to be delinquent; detention for extradition or deportation; mandatory commitment to a residential treatment facility imposed as a condition of special probation; or any other detention for law enforcement purposes. "Official detention" also includes supervision of probation or parole, or constraint incidental to release on bail.

Under current law, a person who solicits or recruits another to join a gang commits a crime of the fourth degree. A person who in the act of soliciting or recruiting another to join a gang threatens bodily injury on two or more separate occasions within a thirty day period commits a crime of the third degree. A person who in the act of soliciting or recruiting another to join a gang inflicts significant bodily injury

commits a crime of the second degree. A person who does any of the above to a minor is subject to an extended term of imprisonment.

The committee amended the bill to provide that a person who solicits another to join or actively participate in a criminal street gang while under official detention commits a crime of the second degree. The amendments also make the crime of soliciting or recruiting a person under 18 to join or actively participate in a criminal street gang a crime of the second degree. Finally, the amendments provide that a person who solicits or recruits a person under 18 to join or actively participate in a street gang and who inflicts significant bodily injury in the course of such soliciting or recruiting is to be sentenced to an extended term.

As amended and reported by the committee, this bill is identical to Senate Bill No. 1756, which also was amended and reported by the committee on this same date.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 2667

STATE OF NEW JERSEY

DATED: MARCH 5, 2007

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 2667 (1R).

Assembly Bill No. 2667 (1R) upgrades the criminal sentences that are imposed for convictions of recruiting minors to be in a criminal street gang and upgrades criminal sentencing provisions for violations of soliciting members for criminal street gangs while in official detention.

The bill makes the crime of soliciting or recruiting a minor to join or actively participate in a criminal street gang a crime of the second degree. Currently, this crime, depending on specific related actions involved in its commission, may be a crime of the fourth, third or second degree, with mandatory extended terms of imprisonment imposed. In addition to the upgrading of the crime to the second degree, the bill requires an extended term of imprisonment be imposed if the person inflicts significant bodily injury while in the act of soliciting or recruiting a person under 18 to join or actively participate in a street gang, or if the person is under official detention when the person, solicits, recruits, coerces or threatens a person under 18 to join or actively participate in a criminal street gang. A crime of the second degree is punishable by a fine of up to \$150,000, a term of imprisonment of five to 10 years or both. An extended term of imprisonment for a crime of the second degree is 10 to 20 years.

Under current law, a person who solicits or recruits another to join a gang commits a crime of the fourth degree. A person who in the act of soliciting or recruiting another to join a gang threatens bodily injury on two or more separate occasions within a thirty day period commits a crime of the third degree. A person who in the act of soliciting or recruiting another to join a gang inflicts significant bodily injury commits a crime of the second degree. A person who does any of the above to a minor is subject to an extended term of imprisonment.

As reported, this bill is identical to S-1756 (1R) as also reported by the committee.

FISCAL IMPACT:

In the Fiscal Note for the bill as introduced, the Office of Legislative Services (OLS) noted that based on information provided by the Department of Corrections (DOC), in June, 2006, there were no inmates incarcerated for the offense of recruiting or soliciting a minor to join a street gang. As a result, there is no data upon which to project a specific cost increase in terms of increased inmate population due to the proposed increase in length-of-stay under the upgraded criminal sentencing provisions of the bill. According to the DOC, the cost of constructing one additional prison bed space range between \$60,000 and \$95,000 depending upon the security level of the bed. The ongoing operations expense of housing a State sentenced prison inmate is \$32,000 per year for the duration of that offender's incarceration.

FISCAL NOTE
ASSEMBLY, No. 2667
STATE OF NEW JERSEY
212th LEGISLATURE

DATED: MAY 30, 2006

SUMMARY

Synopsis: Upgrades to a crime of the second degree recruiting a minor to be in a criminal street gang.

Type of Impact: General Fund Expenditure.

Agencies Affected: Department of Corrections, Judiciary

Executive Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Corrections Cost	Indeterminate - See Comments Below		
Judiciary Cost	No Impact - See Comments Below		

- The Office of Legislative Services **concurs** with the Executive estimate and notes that according to the Department of Corrections (DOC), for every offender who is convicted under this bill, the cost of constructing one additional prison bed space range between \$60,000 and \$95,000 depending upon the security level of the bed. The ongoing operations expenses of housing a State sentenced prison inmate is \$32,000 per year for the duration of that offender's incarceration.
- The bill would make the crime of soliciting or recruiting a minor to join or actively participate in a criminal street gang a crime of the second degree, regardless of whether the actor inflicted significant bodily injury upon the minor or threatened the minor with bodily injury.
- The Administrative Office of the Courts states that this legislation will not create any additional costs nor generate additional revenue for the Judiciary.

BILL DESCRIPTION

Assembly Bill No. 2667 of 2006 would make the crime of soliciting or recruiting a minor to join or actively participate in a criminal street gang a crime of the second degree, regardless of

whether the actor inflicted significant bodily injury upon the minor or threatened the minor with bodily injury.

Under the current provisions of the law, a person convicted of soliciting or recruiting a minor to join a street gang is sentenced to an extended term of imprisonment pursuant to N.J.S.A.2C:43-7 depending upon whether the person threatened the minor with bodily injury or inflicted significant bodily injury upon the minor. For example, if the person threatened the minor with bodily injury on two or more separate occasions within a thirty day period then it would be a crime of the third degree which, under the extended term provisions of subsection d. of N.J.S.A.2C:33-28, is punishable by a term of imprisonment between five and 10 years. If the person inflicts significant bodily injury upon the minor then it would be a crime of second degree which, under the extended term provisions of subsection d. of N.J.S.A.2C:33-28, is punishable by a term of imprisonment between 10 and 20 years. If neither threats of bodily injury nor significant bodily injury is involved, then it would be a crime of the fourth degree which, under the extended term provisions of subsection d. of N.J.S.A.2C:33-28, is punishable by a term of imprisonment between three and five years.

This bill would eliminate the requirement that injury must be sustained in order to upgrade the crime of soliciting or recruiting a minor. Under the provisions of the bill, it would be a crime of the second degree to solicit or recruit a person under 18 years of age to join or actively participate in a criminal street gang, regardless of any injury sustained by the minor. A crime of the second degree is punishable by a term of imprisonment of five and ten years.

FISCAL ANALYSIS

EXECUTIVE BRANCH

Department of Corrections

The DOC states that there are currently no inmates incarcerated for the offense of recruiting or soliciting a minor to join a street gang, nor were there any admissions during calendar years 2005 and 2006 to date. As a result, there is no data upon which to project any possible impact in terms of increased population due to the proposed increase in length-of-stay.

The Judiciary

The Administrative Office of the Courts states that this legislation will not create any additional costs nor generate additional revenue for the Judiciary.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services concurs with the Executive estimate and notes that according to the DOC the cost of constructing one additional prison bed space is about \$80,000. The ongoing operations expenses of housing a State sentenced prison inmate is \$32,000 per year for the duration of that offender's incarceration.

Section: Judiciary

Analyst: Anne Raughley
Principal Fiscal Analyst

Approved: David J. Rosen
Legislative Budget and Finance Officer

This fiscal note has been prepared pursuant to P.L.1980, c.67.

FISCAL NOTE
 [First Reprint]
ASSEMBLY, No. 2667
STATE OF NEW JERSEY
212th LEGISLATURE

DATED: DECEMBER 18, 2007

SUMMARY

Synopsis: Upgrades to a crime of the second degree recruiting a minor to be in a criminal street gang.

Type of Impact: General Fund expenditure.

Agencies Affected: Department of Corrections, Judiciary

Executive Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Corrections Cost	Indeterminate - See Comments Below		
Judiciary Cost	No Impact - See Comments Below		

- The Office of Legislative Services **concurs** with the Executive estimate and notes that should it become necessary to add prison bed spaces to accommodate increased population, the Department Of Corrections (DOC) data indicates that the cost of constructing one additional prison bed space is about \$80,000. The ongoing operations expenses of housing a State sentenced prison inmate is \$32,000 per year for the duration of that offender's incarceration.
- The DOC states that it has no current residents with that offense or any admissions for that offense. The department also states that there is no way for it to determine how many prisoners would be recruited for gang activity and be subject to the bill's provisions should the bill be enacted. Therefore, it cannot project the possible impact in terms of increased population due to the proposed increase in length-of-stay.
- The Administrative Office of the Courts states that this legislation will not create any additional costs nor generate additional revenue.

BILL DESCRIPTION

Assembly Bill No. 2667 (1R) of 2006 upgrades the criminal sentences that are imposed for convictions of recruiting minors to be in a criminal street gang and upgrades criminal sentencing

provisions for violations of soliciting members for criminal street gangs while in official detention.

The bill makes the crime of soliciting or recruiting a minor to join or actively participate in a criminal street gang a crime of the second degree. Currently, this crime, depending on specific related actions involved in its commission, may be a crime of the fourth, third or second degree, with mandatory extended terms of imprisonment imposed. In addition to the upgrading of the crime to the second degree, the bill requires an extended term of imprisonment be imposed if the person inflicts significant bodily injury while in the act of soliciting or recruiting a person under 18 to join or actively participate in a street gang, or if the person is under official detention when the person, solicits, recruits, coerces or threatens a person under 18 to join or actively participate in a criminal street gang.

Under current law, a person who solicits or recruits another to join a gang commits a crime of the fourth degree. A person who in the act of soliciting or recruiting another to join a gang threatens bodily injury on two or more separate occasions within a thirty day period commits a crime of the third degree. A person who in the act of soliciting or recruiting another to join a gang inflicts significant bodily injury commits a crime of the second degree. A person who does any of the above to a minor is subject to an extended term of imprisonment.

FISCAL ANALYSIS

EXECUTIVE BRANCH

Department of Corrections

The DOC states that it has no current residents with that offense or any admissions for that offense. The department also states that there is no way for it to determine how many prisoners would be recruited for gang activity and be subject to the bill's provisions should the bill be enacted. Therefore, it cannot project the possible impact in terms of increased population due to the proposed increase in length-of-stay.

The Judiciary

The Administrative Office of the Courts states that this legislation will not create any additional costs nor generate additional revenue for the Judiciary.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services concurs with the Executive estimate and notes that should it become necessary to add prison bed spaces to accommodate increased population, the DOC data indicates that the cost of constructing one additional prison bed space is about \$80,000. The ongoing operations expenses of housing a State sentenced prison inmate is \$32,000 per year for the duration of that offender's incarceration.

Section: *Judiciary*

Analyst: *Anne Raughley*
 Principal Fiscal Analyst

Approved: *David J. Rosen*
 Legislative Budget and Finance Officer

SENATE, No. 1756

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED MARCH 21, 2006

Sponsored by:

Senator LEONARD T. CONNORS, JR.
District 9 (Atlantic, Burlington and Ocean)
Senator PETER A. INVERSO
District 14 (Mercer and Middlesex)

Co-Sponsored by:

Senators Girgenti and Karcher

SYNOPSIS

Upgrades to a crime of the second degree recruiting a minor to be in a criminal street gang.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/30/2007)

1 AN ACT concerning criminal street gang activity and amending
2 P.L.1999, 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 actively
10 participate in a criminal street gang with the knowledge or purpose
11 that the person who is solicited or recruited will promote, further,
12 assist, plan, aid, agree, or attempt to aid in the commission of
13 criminal conduct by a member of a criminal street gang commits a
14 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.

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 or
28 threatening a person under 18 years of age in violation of
29 subsection a., b. or c. of this section shall be **[sentenced by the**
30 **court to]** guilty of a crime of the second degree. Nothing contained
31 in this act shall prohibit the court from imposing an extended term
32 of imprisonment as set forth in subsection a. of N.J.S.2C:43-7.

33 Notwithstanding the provisions of N.J.S.2C:1-8, N.J.S.2C:44-5
34 or any other provision of law, a conviction arising under this section
35 shall not merge with a conviction for any criminal offense that the
36 actor committed while involved in criminal street gang related
37 activity, as defined in subsection h. of N.J.S.2C:44-3, nor shall the
38 conviction for any such offense merge with a conviction pursuant to
39 this section and the sentence imposed upon a violation of this
40 section shall be ordered to be served consecutively to that imposed
41 upon any other such conviction.

42 (cf: P.L.1999,c.160,s.1)

43

44 2. This act shall take effect immediately.

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.

STATEMENT

1

2

3 This bill would make the crime of soliciting or recruiting a minor
4 to join or actively participate in a criminal street gang a crime of the
5 second degree, regardless of whether the actor inflicted significant
6 bodily injury upon the minor or threatened the minor with bodily
7 injury.

8 Under the current provisions of the law, a person convicted of
9 soliciting or recruiting a minor to join a street gang that person is
10 sentenced to an extended term of imprisonment pursuant to
11 N.J.S.A.2C:43-7 depending upon whether the person threatened the
12 minor with bodily injury or inflicted significant bodily injury upon
13 the minor. For example, if the person *threatened* the minor with
14 bodily injury on two or more separate occasions within a thirty day
15 period then it would be a crime of the third degree which, under the
16 *extended term* provisions of subsection d. of N.J.S.A.2C:33-28,
17 punishable by a term of imprisonment between five and 10 years. If
18 the person inflicts *significant bodily injury* upon the minor then it
19 would be a crime of second degree which, under the *extended term*
20 provisions of subsection d. of N.J.S.A.2C:33-28, punishable by a
21 term of imprisonment between 10 and 20 years. If neither threats of
22 bodily injury nor significant bodily injury is involved, then it would
23 be a crime of the fourth degree which, under the extended term
24 provisions of subsection d. of N.J.S.A.2C:33-28, punishable by a
25 term of imprisonment between three and five years.

26 This bill would eliminate the requirement that injury must be
27 sustained in order to upgrade the crime of soliciting or recruiting a
28 minor. Under the provisions of the bill, it would be a crime of the
29 second degree to solicit or recruit a person under 18 years of age to
30 join or actively participate in a criminal street gang, regardless of
31 any injury sustained by the minor. A crime of the second degree is
32 punishable by a term of imprisonment of five and 10 years.

SENATE LAW AND PUBLIC SAFETY AND VETERANS'
AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 1756

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 26, 2007

The Senate Law and Public Safety and Veterans' Affairs Committee reports favorably and with committee amendments Senate Bill No. 1756.

As amended and reported by the committee, this bill would make the crime of soliciting or recruiting a minor to join or actively participate in a criminal street gang a crime of the second degree. The bill also provides that a person who while soliciting or recruiting, threatens a person under 18 with bodily injury on two or more occasions within 30 days is guilty of a crime of the second degree. A crime of the second degree is punishable by a fine of up to \$150,000, a term of imprisonment of five to 10 years or both.

In addition, a person who in the act of soliciting or recruiting a person under 18 inflicts to join or actively participate in a street gang and who inflicts significant bodily injury is to be sentenced to an extended term.

The bill further provides that a person who solicits another to join or actively participate in a criminal street gang while under official detention commits a crime of the second degree. A person who solicits a person under 18 who is under official detention is to be sentenced to an extended term. The bill defines "official detention" as detention in any facility for custody of persons under charge or conviction of a crime or offense, or committed pursuant to chapter 4 of Title 2C, or alleged or found to be delinquent; detention for extradition or deportation; mandatory commitment to a residential treatment facility imposed as a condition of special probation; or any other detention for law enforcement purposes. "Official detention" also includes supervision of probation or parole, or constraint incidental to release on bail.

Under current law, a person who solicits or recruits another to join a gang commits a crime of the fourth degree. A person who in the act of soliciting or recruiting another to join a gang threatens bodily injury on two or more separate occasions within a thirty day period commits a crime of the third degree. A person who in the act of soliciting or recruiting another to join a gang inflicts significant bodily injury

commits a crime of the second degree. A person who does any of the above to a minor is subject to an extended term of imprisonment.

The committee amended the bill to provide that a person who solicits another to join or actively participate in a criminal street gang while under official detention commits a crime of the second degree. The amendments also make the crime of soliciting or recruiting a person under 18 to join or actively participate in a criminal street gang a crime of the second degree. Finally, the amendments provide that a person who solicits or recruits a person under 18 to join or actively participate in a street gang and who inflicts significant bodily injury in the course of such soliciting or recruiting is to be sentenced to an extended term.

As amended and reported by the committee, this bill is identical to Assembly Bill No. 2667, which was amended and reported by the committee on this same date.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 1756

STATE OF NEW JERSEY

DATED: MARCH 5, 2007

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 1756 (1R).

Senate Bill No. 1756 (1R) upgrades the criminal sentences that are imposed for convictions of recruiting minors to be in a criminal street gang and upgrades criminal sentencing provisions for violations of soliciting members for criminal street gangs while in official detention.

The bill makes the crime of soliciting or recruiting a minor to join or actively participate in a criminal street gang a crime of the second degree. Currently, this crime, depending on specific related actions involved in its commission, may be a crime of the fourth, third or second degree, with mandatory extended terms of imprisonment imposed. In addition to the upgrading of the crime to the second degree, the bill requires an extended term of imprisonment be imposed if the person inflicts significant bodily injury while in the act of soliciting or recruiting a person under 18 to join or actively participate in a street gang, or if the person is under official detention when the person, solicits, recruits, coerces or threatens a person under 18 to join or actively participate in a criminal street gang. A crime of the second degree is punishable by a fine of up to \$150,000, a term of imprisonment of five to 10 years or both. An extended term of imprisonment for a crime of the second degree is 10 to 20 years.

Under current law, a person who solicits or recruits another to join a gang commits a crime of the fourth degree. A person who in the act of soliciting or recruiting another to join a gang threatens bodily injury on two or more separate occasions within a thirty day period commits a crime of the third degree. A person who in the act of soliciting or recruiting another to join a gang inflicts significant bodily injury commits a crime of the second degree. A person who does any of the above to a minor is subject to an extended term of imprisonment.

As reported, this bill is identical to A-2667 (1R) as also reported by the committee.

FISCAL IMPACT:

In the Fiscal Note for the bill as introduced, the Office of Legislative Services (OLS) noted that based on information provided by the Department of Corrections (DOC), in June, 2006, there were no inmates incarcerated for the offense of recruiting or soliciting a minor to join a street gang. As a result, there is no data upon which to project a specific cost increase in terms of increased inmate population due to the proposed increase in length-of-stay under the upgraded criminal sentencing provisions of the bill. According to the DOC, the cost of constructing one additional prison bed space range between \$60,000 and \$95,000 depending upon the security level of the bed. The ongoing operations expense of housing a State sentenced prison inmate is \$32,000 per year for the duration of that offender's incarceration.

FISCAL NOTE
SENATE, No. 1756
STATE OF NEW JERSEY
212th LEGISLATURE

DATED: JUNE 7, 2006

SUMMARY

Synopsis: Upgrades to a crime of the second degree recruiting a minor to be in a criminal street gang.

Type of Impact: General Fund Expenditure.

Agencies Affected: Department of Corrections, Judiciary

Executive Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Corrections Cost	Indeterminate - See Comments Below		
Judiciary Cost	No Impact - See Comments Below		

- The Office of Legislative Services **concurs** with the Executive estimate and notes that according to the Department of Corrections (DOC), for every offender who is convicted under this bill, the cost of constructing one additional prison bed space range between \$60,000 and \$95,000 depending upon the security level of the bed. The ongoing operations expenses of housing a State sentenced prison inmate is \$32,000 per year for the duration of that offender's incarceration.
- The bill would make the crime of soliciting or recruiting a minor to join or actively participate in a criminal street gang a crime of the second degree, regardless of whether the actor inflicted significant bodily injury upon the minor or threatened the minor with bodily injury.
- The Administrative Office of the Courts states that this legislation will not create any additional costs nor generate additional revenue for the Judiciary.

BILL DESCRIPTION

Senate Bill No. 1756 of 2006 would make the crime of soliciting or recruiting a minor to join or actively participate in a criminal street gang a crime of the second degree, regardless of whether the actor inflicted significant bodily injury upon the minor or threatened the minor with bodily injury.

Under the current provisions of the law, a person convicted of soliciting or recruiting a minor to join a street gang is sentenced to an extended term of imprisonment pursuant to N.J.S.A.2C:43-7 depending upon whether the person threatened the minor with bodily injury or inflicted significant bodily injury upon the minor. For example, if the person threatened the minor with bodily injury on two or more separate occasions within a thirty day period then it would be a crime of the third degree which, under the extended term provisions of subsection d. of N.J.S.A.2C:33-28, is punishable by a term of imprisonment between five and ten years. If the person inflicts significant bodily injury upon the minor then it would be a crime of second degree which, under the extended term provisions of subsection d. of N.J.S.A.2C:33-28, is punishable by a term of imprisonment between 10 and 20 years. If neither threats of bodily injury nor significant bodily injury is involved, then it would be a crime of the fourth degree which, under the extended term provisions of subsection d. of N.J.S.A.2C:33-28, is punishable by a term of imprisonment between three and five years.

This bill would eliminate the requirement that injury must be sustained in order to upgrade the crime of soliciting or recruiting a minor. Under the provisions of the bill, it would be a crime of the second degree to solicit or recruit a person under 18 years of age to join or actively participate in a criminal street gang, regardless of any injury sustained by the minor. A crime of the second degree is punishable by a term of imprisonment of five and ten years.

FISCAL ANALYSIS

EXECUTIVE BRANCH

Department of Corrections

The DOC states that there are currently no inmates incarcerated for the offense of recruiting or soliciting a minor to join a street gang, nor were there any admissions during calendar years 2005 and 2006 to date. As a result, there is no data upon which to project any possible impact in terms of increased population due to the proposed increase in length-of-stay.

The Judiciary

The Administrative Office of the Courts states that this legislation will not create any additional costs nor generate additional revenue for the Judiciary.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services concurs with the Executive estimate and notes that according to the DOC, for every offender who is convicted under this bill, the cost of constructing one additional prison bed space range between \$60,000 and \$95,000 depending upon the security level of the bed. The ongoing operations expenses of housing a State sentenced prison inmate is \$32,000 per year for the duration of that offender's incarceration.

Section: *Judiciary*

Analyst: *Anne Raughley*
 Principal Fiscal Analyst

Approved: *David J. Rosen*
 Legislative Budget and Finance Officer

This fiscal note has been prepared pursuant to P.L.1980, c.67.

FISCAL NOTE
 [First Reprint]
SENATE, No. 1756
STATE OF NEW JERSEY
212th LEGISLATURE

DATED: DECEMBER 18, 2007

SUMMARY

Synopsis: Upgrades to a crime of the second degree recruiting a minor to be in a criminal street gang.

Type of Impact: General Fund expenditure.

Agencies Affected: Department of Corrections, Judiciary

Executive Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Corrections Cost	Indeterminate - See Comments Below		
Judiciary Cost	No Impact - See Comments Below		

- The Office of Legislative Services **concurs** with the Executive estimate and notes that should it become necessary to add prison bed spaces to accommodate increased population, the Department of Corrections (DOC) data indicates that the cost of constructing one additional prison bed space is about \$80,000. The ongoing operations expenses of housing a State sentenced prison inmate is \$32,000 per year for the duration of that offender's incarceration.
- The DOC states that it has no current residents with that offense or any admissions for that offense. The department also states that there is no way for it to determine how many prisoners would be recruited for gang activity and be subject to the bill's provisions should the bill be enacted. Therefore, it cannot project the possible impact in terms of increased population due to the proposed increase in length-of-stay.
- The Administrative Office of the Courts states that this legislation will not create any additional costs nor generate additional revenue.

BILL DESCRIPTION

Senate Bill No. 1756 (1R) of 2006 upgrades the criminal sentences that are imposed for convictions of recruiting minors to be in a criminal street gang and upgrades criminal sentencing provisions for violations of soliciting members for criminal street gangs while in official detention.

The bill makes the crime of soliciting or recruiting a minor to join or actively participate in a criminal street gang a crime of the second degree. Currently, this crime, depending on specific related actions involved in its commission, may be a crime of the fourth, third or second degree, with mandatory extended terms of imprisonment imposed. In addition to the upgrading of the crime to the second degree, the bill requires an extended term of imprisonment be imposed if the person inflicts significant bodily injury while in the act of soliciting or recruiting a person under 18 to join or actively participate in a street gang, or if the person is under official detention when the person, solicits, recruits, coerces or threatens a person under 18 to join or actively participate in a criminal street gang.

Under current law, a person who solicits or recruits another to join a gang commits a crime of the fourth degree. A person who in the act of soliciting or recruiting another to join a gang threatens bodily injury on two or more separate occasions within a thirty day period commits a crime of the third degree. A person who in the act of soliciting or recruiting another to join a gang inflicts significant bodily injury commits a crime of the second degree. A person who does any of the above to a minor is subject to an extended term of imprisonment.

FISCAL ANALYSIS

EXECUTIVE BRANCH

Department of Corrections

The DOC states that it has no current residents with that offense or any admissions for that offense. The department also states that there is no way for it to determine how many prisoners would be recruited for gang activity and be subject to the bill's provisions should the bill be enacted. Therefore, it cannot project the possible impact in terms of increased population due to the proposed increase in length-of-stay.

The Judiciary

The Administrative Office of the Courts states that this legislation will not create any additional costs nor generate additional revenue for the Judiciary.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services concurs with the Executive estimate and notes that should it become necessary to add prison bed spaces to accommodate increased population, the DOC data indicates that the cost of constructing one additional prison bed space is about \$80,000. The ongoing operations expenses of housing a State sentenced prison inmate is \$32,000 per year for the duration of that offender's incarceration.

S1756 [1R]

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Section: Judiciary

*Analyst: Anne Raughley
Principal Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L.1980, c.67 (C. 52:13B-1 et seq.).