

Senate Bill 58

By: Senators Hamrick of the 30th, Cagle of the 49th, Smith of the 52nd, Unterman of the 45th, Pearson of the 51st and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 16-15-3 of the Official Code of Georgia Annotated, relating to
2 definitions relating to street gang terrorism and prevention, so as to change and add certain
3 definitions; to provide for related matters; to provide an effective date; to repeal conflicting
4 laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Code Section 16-15-3 of the Official Code of Georgia Annotated, relating to definitions
8 relating to street gang terrorism and prevention, is amended by striking the Code section and
9 inserting in lieu thereof a new Code Section 16-15-3 to read as follows:

10 "16-15-3.

11 As used in this chapter, the term:

12 (1) 'Criminal street gang' means any organization, association, or group of three or more
13 persons associated in fact, whether formal or informal, ~~which engages in a pattern of~~
14 ~~criminal gang activity as defined~~ at least one of whom has committed one or more of the
15 offenses enumerated in paragraph (2) of this Code section within the past three years.
16 The existence of such organization, association, or group of individuals associated in fact
17 may be established by evidence of such things as, but not limited to, a common name or
18 common identifying signs, symbols, tattoos, graffiti, ~~or attire,~~ actions, words, or other
19 distinguishing characteristics.

20 (2) 'Pattern of criminal gang activity' means the commission, attempted commission,
21 conspiracy to commit, or solicitation, coercion, or intimidation of another person to
22 commit at least ~~two~~ one of the following offenses, ~~provided that at least one of these~~
23 ~~offenses occurred after July 1, 1998, and the last of such offenses occurred within three~~
24 ~~years, excluding any periods of imprisonment, of prior criminal gang activity~~ while a
25 member of a criminal street gang:

26 (A) Any offense defined as racketeering activity by Code Section 16-14-3;

27 (B) Any offense defined in Article 7 of Chapter 5 of this title, relating to stalking;

1 (C) Any offense defined in Code Section 16-6-1 as rape, 16-6-2 as aggravated sodomy,
2 16-6-3 as statutory rape, or 16-6-22.2 as aggravated sexual battery;

3 (D) Any offense defined in Article 3 of Chapter 10 of this title, relating to escape and
4 other offenses related to confinement;

5 (E) Any offense defined in Article 4 of Chapter 11 of this title, relating to dangerous
6 instrumentalities and practices;

7 (F) Any offense defined in Code Section 42-5-15, 42-5-16, 42-5-17, 42-5-18, or
8 42-5-19, relating to the security of state or county correctional facilities; and

9 (G) Any offense defined in Code Section 49-4A-11, relating to aiding or encouraging
10 a child to escape from custody;

11 (H) Any offense of criminal trespass or criminal damage to property resulting from any
12 act of painting on, tagging, marking on, writing on, or creating any form of graffiti on
13 the property of another;

14 (I) Any criminal offense designated a felony in the State of Georgia, any criminal
15 offense designated a felony in any other state or the United States, any criminal offense
16 punishable by one year or more imprisonment in any state or the United States, or any
17 act committed in any other state or the United States which, if committed in the State
18 of Georgia, would constitute a felony or would be punished by one year or more
19 imprisonment; and

20 (J) Any criminal offense in the State of Georgia, any other state, or the United States
21 that involved violence, possession of a weapon, or use of a weapon, whether designated
22 as a felony or not, and regardless of the maximum sentence that could be imposed or
23 actually was imposed.

24 The commission of any offense enumerated in this paragraph by any member of a
25 criminal street gang shall be admissible in any trial or proceeding for the purpose of
26 proving the existence of the criminal street gang and the pattern of criminal gang
27 activity."

28 SECTION 2.

29 This Act shall become effective upon its approval by the Governor or upon its becoming law
30 without such approval.

31 SECTION 3.

32 All laws and parts of laws in conflict with this Act are repealed.