

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

**AS PASSED SENATE**

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 **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 ~~(2)~~(1) 'Pattern of criminal Criminal gang activity' means the commission, attempted  
13 commission, conspiracy to commit, or solicitation, coercion, or intimidation of another  
14 person to commit at least ~~two~~ one of the following offenses; ~~provided that at least one of~~  
15 ~~these offenses occurred after July 1, 1998, and the last of such offenses occurred within~~  
16 ~~three years, excluding any periods of imprisonment, of prior criminal gang activity~~ while  
17 a member of a criminal street gang:

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

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

20 (C) Any offense defined in Code Section 16-6-1 as rape, 16-6-2 as aggravated sodomy,  
21 16-6-3 as statutory rape, or 16-6-22.2 as aggravated sexual battery;

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

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

1 (F) Any offense defined in Code Section 42-5-15, 42-5-16, 42-5-17, 42-5-18, or  
2 42-5-19, relating to the security of state or county correctional facilities; and

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

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

8 (I) Any criminal offense committed in violation of the laws of the United States or its  
9 territories, dominions, or possessions, any of the several states, or any foreign nation  
10 which, if committed in this state, would be considered criminal gang activity under this  
11 Code section; and

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

16 The commission of any offense enumerated in this paragraph by any member of a  
17 criminal street gang shall be admissible in any trial or proceeding for the purpose of  
18 proving the existence of the criminal street gang and the pattern of criminal gang activity.

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

## 27 SECTION 2.

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

## 30 SECTION 3.

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