

The Senate Judiciary Committee offered the following substitute to HB 1302:

A BILL TO BE ENTITLED
AN ACT

1 To provide for public safety measures for and from young people; to amend Chapter 15 of
2 Title 16 of the Official Code of Georgia Annotated, the "Georgia Street Gang Terrorism and
3 Prevention Act," so as to change certain definitions; to change certain provisions relating to
4 the prohibition against participation in criminal street gang activity; to provide for enhanced
5 penalties for participation in criminal street gang activity; to provide for the admissibility of
6 certain evidence at trial; to provide for the Criminal Street Gang Reward Fund administered
7 by the Prosecuting Attorney's Council; to amend Title 20 of the Official Code of Georgia
8 Annotated, relating to education, so as to change certain provisions relating to failure to leave
9 school premises after being requested to leave; to change certain provisions relating to
10 check-in requirements and exceptions; to provide for related matters; to amend Code Section
11 45-12-35 of the Official Code of Georgia Annotated, relating to rewards for the detection or
12 apprehension of perpetrators of felonies, so as to remove certain limitations with respect to
13 the offering of such rewards by the governing authority of a county or municipality; to
14 provide for applicability; to provide effective dates; to repeal conflicting laws; and for other
15 purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

17 Chapter 15 of Title 16 of the Official Code of Georgia Annotated, the "Georgia Street Gang
18 Terrorism and Prevention Act," is amended by striking in its entirety Code Section 16-15-3,
19 relating to definitions, and inserting in lieu thereof the following:

20 "16-15-3.

21 As used in this chapter, the term:

22 (1) 'Criminal gang activity' means the commission, attempted commission, conspiracy
23 to commit, or solicitation, coercion, or intimidation of another person to commit any of
24 the following offenses on or after July 1, 2006:

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

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

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

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

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

8 (F) Any offense defined in Code Section 42-5-15, 42-5-16, 42-5-17, 42-5-18, or
 9 42-5-19, relating to the security of state or county correctional facilities;

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

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

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

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

23 ~~(1)~~(2) 'Criminal street gang' means any organization, association, or group of three or
 24 more persons associated in fact, whether formal or informal, which engages in a pattern
 25 of criminal gang activity as defined in paragraph ~~(2)~~(1) of this Code section. The
 26 existence of such organization, association, or group of individuals associated in fact may
 27 be established by evidence of a common name or common identifying signs, symbols,
 28 tattoos, graffiti, or attire or other distinguishing characteristics. Such term shall not
 29 include three or more persons, associated in fact, whether formal or informal, who are not
 30 engaged in criminal gang activity.

31 ~~(2)~~ 'Pattern of criminal gang activity' means the commission, attempted commission,
 32 conspiracy to commit, or solicitation, coercion, or intimidation of another person to
 33 commit at least two of the following offenses, provided that at least one of these offenses
 34 occurred after July 1, 1998, and the last of such offenses occurred within three years,
 35 excluding any periods of imprisonment, of prior criminal gang activity:

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

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

1 ~~(e)~~(g) It shall be unlawful for any person to communicate, directly or indirectly, with
 2 another any threat of injury or damage to the person or property of the other person or to
 3 any associate or relative of the other person with the intent to deter such person from
 4 assisting a member or associate of a criminal street gang to withdraw from such criminal
 5 street gang.

6 ~~(f)~~(h) It shall be unlawful for any person to communicate, directly or indirectly, with
 7 another any threat of injury or damage to the person or property of the other person or to
 8 any associate or relative of the other person with the intent to punish or retaliate against
 9 such person for having withdrawn from a criminal street gang.

10 ~~(g)~~(i)(1) Any person who violates subsection (a), (b), (c), or ~~(b)~~ (d) of this Code section
 11 shall, in addition to any other penalty imposed by law, be punished by imprisonment for
 12 not less than ~~three~~ five nor more than 15 years or by a fine of not less than \$5,000.00
 13 \$10,000.00 nor more than ~~\$10,000.00~~ \$15,000.00, or both.

14 (2) Any person who violates subsection ~~(e)~~(e) of this Code section may, in addition to
 15 any other penalty provided by law, be punished by imprisonment for an additional ten
 16 years which shall be served consecutively to any other sentence imposed on such person
 17 by law.

18 (3) Any person who violates subsection ~~(d)~~, ~~(e)~~, or (f), (g), or (h) of this Code section
 19 shall, in addition to any other penalty provided by law, be punished by imprisonment for
 20 not less than ~~one~~ three nor more than ten years.

21 ~~(h)~~(j) Any crime committed in violation of this Code section shall be considered a separate
 22 offense."

23 SECTION 3.

24 Said chapter is further amended by inserting at the end thereof the following:

25 "16-15-9.

26 The commission of any offense enumerated in paragraph (1) of Code Section 16-15-3 by
 27 any member of a criminal street gang shall be admissible in any trial or proceeding for the
 28 purpose of proving the existence of the criminal street gang and criminal gang activity.

29 16-15-10.

30 There shall be established as part of the Prosecuting Attorney's Council the Criminal Street
 31 Gang Reward Fund. The chief of police, sheriff, or chairperson of any county governing
 32 authority may request the posting of up to \$5,000.00 reward for information leading to the
 33 arrest and conviction of any person involved in criminal street gang activity that leads to
 34 the death or maiming of another person or property damage in the amount of \$2,500.00 or
 35 more."

SECTION 5.

Code Section 45-12-35 of the Official Code of Georgia Annotated, relating to rewards for the detection or apprehension of perpetrators of felonies, is amended by striking subsection (b) and inserting in its place a new subsection (b) to read as follows:

"(b) The Governor and any county or municipal governing authority shall, in their discretion, offer and cause to be paid rewards for the detection or apprehension of the perpetrator of any felony committed within this state, such reward not to exceed the sum of \$1,000.00 in felonies not capital, including arson, and not to exceed the sum of \$10,000.00 in capital felonies and arson; provided, however, that ~~the governing authority of a county or municipality may offer and pay such a reward only in cases in which the Governor has first offered a reward and, in such cases,~~ the amount offered by any local governing authority shall not exceed the aggregate amount of \$25,000.00."

SECTION 6.

This section and Sections 5 and 7 of this Act shall become effective upon their approval by the Governor or upon their becoming law without such approval. The remaining sections of this Act shall become effective on July 1, 2006, and shall apply to all crimes committed on or after such date. Any offense committed before July 1, 2006, shall be punishable as provided by the statute in effect at the time the offense was committed.

SECTION 7.

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