S T A T E O F N E W Y O R K

11475--A

I N A S S E M B L Y

June 16, 2010

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Ramos, Skartados) -- read once and referred to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the judiciary law, in relation to establishing gang courts; and providing for the repeal of such provisions upon expiration thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Findings. The legislature hereby finds and declares that the growth of criminal gang activities have created a public safety crisis and social disorder in many communities across our state. To this point, our system of justice has failed to successfully deter the spread of this criminality. Whether it is the distribution and sale of controlled substances, street crime, gun violence, prostitution or simply the climate of fear, intimidation, and disorder that poison our neighborhoods, many afflicted localities appear to be under siege. To address this problem, the state should be flexible and seek integrated ways of employing the resources of our judicial and criminal justice system and other state and local entities.

Based on the foregoing findings the legislature hereby declares that the New York unified court system should be empowered to establish a gang court pilot program within available appropriations, to help address these broad based issues. The legislature contemplates that the program authorized in this act may consist of two special gang courts, one in the county of Orange and one in the county of Suffolk, to hear and determine gang related criminal cases, properly venued in compliance with the criminal procedure law, from within each respective county, commencing no later than January first, two thousand eleven and continuing, at least, until January first, two thousand sixteen.

The legislature declares that the resources necessary for these special gang parts of the courts of Orange county and the courts of Suffolk county can be made available only through a combination of federal funds from the law enforcement assistance administration of the

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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United States department of justice, and state and local funds, services and facilities.

S 2. The judiciary law is amended by adding a new article 5-C to read as follows:

ARTICLE 5-C

GANG COURT PILOT PROGRAM

SECTION 178. SPECIAL GANG PARTS; ESTABLISHMENT.

178-A. TRANSFER OF CASES TO SPECIAL GANG PARTS.

178-B. PROCEDURE IN A SPECIAL GANG PART.

S 178. SPECIAL GANG PARTS; ESTABLISHMENT. 1. THERE MAY BE ESTABLISHED IN THE COURTS OF ORANGE COUNTY AND THE COURTS OF SUFFOLK COUNTY SPECIAL GANG PARTS IN SUCH NUMBERS AND AT SUCH LOCATIONS AS SHALL BE DESIGNATED BY THE CHIEF ADMINISTRATOR OF THE COURTS, BY ADMINISTRATIVE ORDER, TO EFFECTUATE THE PURPOSES OF THIS ARTICLE SUBJECT TO AVAILABILITY OF ADEQUATE FUNDING WITHIN MONEY APPROPRIATED WITHIN A GIVEN FISCAL YEAR. SUCH PARTS SHALL HEAR AND DETERMINE GANG RELATED CRIMINAL CASES ASSIGNED THERETO FROM ANY COURT WITHIN SUCH COUNTIES.

2. THE CHIEF ADMINISTRATOR FOR THE COURTS, IN CONSULTATION WITH ALL APPROPRIATE STATE AND COUNTY AGENCIES, MAY REQUEST THAT ALL CURRENTLY AVAILABLE RESOURCES BE MADE AVAILABLE TO THE SPECIAL GANG COURT PARTS AND AUTHORIZE THESE SPECIAL PARTS TO DEVELOP AND IMPLEMENT NEW PROGRAMS AS DEEMED NECESSARY TO FURTHER THE ADMINISTRATION OF JUSTICE.

FOR PURPOSES OF THIS ARTICLE, "CRIMINAL GANG" IS DEFINED AS A GROUP OF THREE OF MORE PERSONS WHO, THROUGH THE ORGANIZATION, FORMATION AND, ESTABLISHMENT OF AN ASSEMBLAGE, SHARE A COMMON IDENTITY AND, WHOSE MEMBERS, AS A CORE UNDERTAKING OF THEIR GROUP, ACTIVELY ENGAGE IN CRIMINAL CONDUCT IN VIOLATION OF THE PENAL LAW.

S 178-A. TRANSFER OF CASES TO SPECIAL GANG PARTS. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, UPON OR AFTER ARRAIGNMENT ON AN ACCUSATORY INSTRUMENT CHARGING A CRIMINAL OFFENSE COMMITTED BY A MEMBER OF A CRIMINAL GANG AS PART OF, OR IN THE COURSE OF SUCH ILLEGAL ACTIVITIES AND CONDUCT IN WHICH SUCH GANG IS PURPORTEDLY ENGAGING FILED IN A CRIMINAL COURT WITHIN ORANGE COUNTY OR WITHIN SUFFOLK COUNTY AND BEFORE ENTRY OF A PLEA OF GUILTY OR COMMENCEMENT OF TRIAL, SUCH COURT MAY ORDER THAT THE ACCUSATORY INSTRUMENT AND ACTION BE ASSIGNED TO THE RESPECTIVE SPECIAL GANG PART OF THE ORANGE COUNTY OR SUFFOLK COUNTY COURT SYSTEMS.

S 178-B. PROCEDURE IN A SPECIAL GANG PART. THE TRIAL OF ANY ACCUSATORY INSTRUMENT IN A SPECIAL GANG PART SHALL FOR ALL PURPOSES BE DEEMED TO BE A TRIAL, LIKE ANY OTHER CRIMINAL PROCEEDING CONDUCTED IN ORANGE COUNTY AND SUFFOLK COUNTY RESPECTIVELY, IN WHICH THE ACCUSATORY INSTRUMENT WAS FILED, BUT THE CHIEF ADMINISTRATOR OF THE COURTS MAY PROMULGATE RULES, ORDERS OR REGULATIONS TO BE APPLICABLE TO SUCH PARTS IN PLACE AND INSTEAD OF THE RULES, ORDERS OR REGULATIONS APPLICABLE TO COURTS IN THE COUNTY WHERE THE INDICTMENT WAS FILED. THE CHIEF ADMINISTRATOR SHALL PROVIDE BY RULE, ORDER OR REGULATION FOR AT LEAST THE FOLLOWING MATTERS: THE PROCEDURE OF THE PART; ITS AUXILIARY SERVICES; THE ASSIGNMENT OF JUDICIAL PERSONNEL; THE APPOINTMENT OF TERMS; AND TRANSMITTAL OF ALL PAPERS IN THE ACTION, INCLUDING ALL UNDERTAKINGS FOR APPEARANCES OF THE DEFENDANT AND OF THE WITNESSES, TO THE PART OF THE SUPREME COURT TO WHICH THE ACTION HAS BEEN ASSIGNED CONSISTENT WITH THE CRIMINAL PROCEDURE LAW.

S 3. This act shall take effect on the first of January next succeeding the date on which it shall have become a law and shall expire and be deemed repealed 5 years after such effective date.