

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

8247--A

I N S E N A T E

June 17, 2010

Introduced by Sens. FOLEY, LARKIN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- 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:

1 Section 1. Findings. The legislature hereby finds and declares that
2 the growth of criminal gang activities have created a public safety
3 crisis and social disorder in many communities across our state. To this
4 point, our system of justice has failed to successfully deter the spread
5 of this criminality. Whether it is the distribution and sale of
6 controlled substances, street crime, gun violence, prostitution or
7 simply the climate of fear, intimidation, and disorder that poison our
8 neighborhoods, many afflicted localities appear to be under siege. To
9 address this problem, the state should be flexible and seek integrated
10 ways of employing the resources of our judicial and criminal justice
11 system and other state and local entities.
12 Based on the foregoing findings the legislature hereby declares that
13 the New York unified court system should be empowered to establish a
14 gang court pilot program within available appropriations, to help
15 address these broad based issues. The legislature contemplates that the
16 program authorized in this act may consist of two special gang courts,
17 one in the county of Orange and one in the county of Suffolk, to hear
18 and determine gang related criminal cases, properly venued in compliance
19 with the criminal procedure law, from within each respective county,
20 commencing no later than January first, two thousand eleven and continu-
21 ing, at least, until January first, two thousand sixteen.
22 The legislature declares that the resources necessary for these
23 special gang parts of the courts of Orange county and the courts of
24 Suffolk county can be made available only through a combination of
25 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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1 United States department of justice, and state and local funds, services
2 and facilities.

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

5 ARTICLE 5-C

6 GANG COURT PILOT PROGRAM

7 SECTION 178. SPECIAL GANG PARTS; ESTABLISHMENT.

8 178-A. TRANSFER OF CASES TO SPECIAL GANG PARTS.

9 178-B. PROCEDURE IN A SPECIAL GANG PART.

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

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

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

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

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

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