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

2561

2009-2010 Regular Sessions

I N S E N A T E

February 24, 2009

Introduced by Sen. DeFRANCISCO -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to creating the crimes of solicitation or recruitment of persons in criminal street gang activity

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

Section 1. The penal law is amended by adding two new sections 100.23 and 100.25 to read as follows:

S 100.23 SOLICITATION OR RECRUITMENT OF PERSONS IN CRIMINAL STREET GANG ACTIVITY.

A PERSON IS GUILTY OF SOLICITATION OR RECRUITMENT OF PERSONS IN CRIMINAL STREET GANG ACTIVITY WHEN HE OR SHE RECRUITS, EMPLOYS, SOLICITS, INDUCES, COMMANDS OR OTHERWISE ATTEMPTS TO CAUSE SUCH OTHER PERSON TO BE OR REMAIN AS A MEMBER OF A CRIMINAL STREET GANG OR CONSPIRE TO DO SO, WITH THE INTENT THAT THE PERSON BEING RECRUITED, SOLICITED, INDUCED, COMMANDED OR CAUSED TO BE OR REMAIN A MEMBER OF SUCH GANG PARTICIPATE IN CONDUCT CONSTITUTING A CRIME.

FOR PURPOSES OF THIS SECTION, "CRIMINAL STREET GANG" MEANS A FORMAL OR INFORMAL GROUP, CLUB, ORGANIZATION, OR ASSOCIATION OF THREE OR MORE INDIVIDUALS, WHO ACT IN CONCERT, OR AGREE TO ACT IN CONCERT, WITH A PURPOSE THAT ANY OF THESE PERSONS ALONE, OR IN ANY COMBINATION, COMMIT OR WILL COMMIT, TWO OR MORE CRIMES UNDER THIS CHAPTER.

SOLICITATION OR RECRUITMENT OF PERSONS IN CRIMINAL STREET GANG ACTIVITY IS A CLASS E FELONY.

S 100.25 SOLICITATION OR RECRUITMENT OF MINORS IN CRIMINAL STREET GANG ACTIVITY.

A PERSON IS GUILTY OF SOLICITATION OR RECRUITMENT OF MINORS IN CRIMINAL STREET GANG ACTIVITY WHEN HE OR SHE RECRUITS, EMPLOYS, SOLICITS, INDUCES, COMMANDS OR OTHERWISE ATTEMPTS TO CAUSE ANOTHER PERSON UNDER EIGHTEEN YEARS OF AGE, TO BE OR REMAIN AS A MEMBER OF A CRIMINAL STREET

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

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GANG OR CONSPIRE TO DO SO, WITH THE INTENT THAT THE PERSON UNDER EIGHTEEN YEARS OF AGE BEING RECRUITED, SOLICITED, INDUCED, COMMANDED OR CAUSED TO BE OR REMAIN A MEMBER OF SUCH GANG PARTICIPATE IN CONDUCT CONSTITUTING A CRIME.

FOR PURPOSES OF THIS SECTION, "CRIMINAL STREET GANG" MEANS A FORMAL OR INFORMAL GROUP, CLUB, ORGANIZATION, OR ASSOCIATION OF THREE OR MORE INDIVIDUALS, WHO ACT IN CONCERT, OR AGREE TO ACT IN CONCERT, WITH A PURPOSE THAT ANY OF THESE PERSONS ALONE, OR IN ANY COMBINATION, COMMIT OR WILL COMMIT, TWO OR MORE CRIMES UNDER THIS CHAPTER.

SOLICITATION OR RECRUITMENT OF MINORS IN CRIMINAL STREET GANG ACTIVITY IS A CLASS D FELONY.

S 2. Local laws; preemption. Nothing in this act shall prevent a local governing body from adopting and enforcing laws consistent with this act relating to criminal street gang activity and criminal street gang violence. Where local laws duplicate or supplement this act, this act shall be construed as providing alternative remedies and not as preempting such local laws.

S 3. Severability. If any provision of this act, or the application thereof to any person or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the provision of this act, or in its application to the person or circumstance, directly involved in the controversy in which such judgment shall have been rendered.

S 4. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.