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

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I N A S S E M B L Y

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Introduced by M. of A. P. RIVERA, HEVESI, WEISENBERG, ABBATE, MAISEL, HOOPER, SCHROEDER, CALHOUN, KOLB, THIELE, TITUS, TOBACCO -- Multi-Sponsored by -- M. of A. ARROYO, BURLING, CONTE, GIGLIO, GUNTHER, MAGEE, McKEVITT, MILLMAN, PHEFFER, RAIA, SWEENEY -- read once and referred to the Committee on Codes

AN ACT to amend the penal law and the criminal procedure law, in relation to the crime of engaging 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 a new section 240.75 to read as follows:

S 240.75 ENGAGING IN CRIMINAL STREET GANG ACTIVITY.

1. AS USED IN THIS SECTION, "CRIMINAL STREET GANG" MEANS A GROUP OF THREE OR MORE PERSONS HAVING AS ONE OF ITS SUBSTANTIAL ACTIVITIES OR PURPOSES THE COMMISSION OF ONE OR MORE OF THE FOLLOWING CRIMES:

(A) ANY MISDEMEANOR OR FELONY OFFENSE DEFINED IN ARTICLE ONE HUNDRED TWENTY, ONE HUNDRED TWENTY-FIVE, ONE HUNDRED THIRTY, ONE HUNDRED THIRTY-FIVE, ONE HUNDRED FORTY, ONE HUNDRED FORTY-FIVE, ONE HUNDRED FIFTY, ONE HUNDRED FIFTY-FIVE, ONE HUNDRED SIXTY, ONE HUNDRED SIXTY-FIVE, TWO HUNDRED FIFTEEN, TWO HUNDRED TWENTY, TWO HUNDRED TWENTY-ONE, TWO HUNDRED TWENTY-FIVE, TWO HUNDRED THIRTY OR TWO HUNDRED SIXTY-FIVE OF THIS CHAPTER; OR

(B) HARASSMENT IN THE FIRST OR SECOND DEGREE AS DEFINED IN SECTION 240.25 OR 240.26 OF THIS ARTICLE, RESPECTIVELY; OR

(C) AGGRAVATED HARASSMENT IN THE FIRST OR SECOND DEGREE AS DEFINED IN SECTION 240.30 OR 240.31 OF THIS ARTICLE, RESPECTIVELY.

2. A PERSON IS GUILTY OF ENGAGING IN CRIMINAL STREET GANG ACTIVITY WHEN HE OR SHE, BEING A MEMBER OF A CRIMINAL STREET GANG OR ACTING IN CONCERT WITH A MEMBER OF A CRIMINAL STREET GANG, ENGAGES IN ANY OF THE FOLLOWING ACTIVITIES:

(A) SOLICITATION OF ANOTHER TO JOIN A CRIMINAL STREET GANG;

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

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(B) DETERRING OR ATTEMPTING TO DETER ANOTHER FROM LEAVING A CRIMINAL STREET GANG;

(C) CONCEALING OR ATTEMPTING TO CONCEAL ANY OF THE FOLLOWING ACTIVITIES OR CRIMES OF ONE OR MORE MEMBERS OF A CRIMINAL STREET GANG: (I) ANY OF THE ACTIVITIES SET FORTH IN PARAGRAPHS (A) AND (B) OF THIS SUBDIVISION, (II) ANY OF THE CRIMES SET FORTH IN PARAGRAPH (A), (B) OR (C) OF SUBDIVISION ONE OF THIS SECTION, (III) COMMERCE IN ANY CONTROLLED SUBSTANCE OR MARIHUANA, THE POSSESSION OF WHICH IS AN OFFENSE UNDER THE PUBLIC HEALTH LAW OR THIS CHAPTER, OR (IV) ANY OTHER UNLAWFUL ACTIVITY; OR

(D) EXERCISING OR ATTEMPTING TO EXERCISE CONTROL OVER AN IDENTIFIABLE GEOGRAPHIC AREA BY TAKING ACTIONS REASONABLY CONSTRUED TO INTIMIDATE OR PREVENT PERSONS FROM ENTERING SUCH AN AREA OR AN ADJACENT AREA, INCLUDING WITHOUT LIMITATION MARKING SUCH AREA IN A MANNER TO INDICATE THE INTENT TO EXERCISE CONTROL OVER THE AREA.

ENGAGING IN CRIMINAL STREET GANG ACTIVITY IS A CLASS A MISDEMEANOR.

S 2. Subdivision 8 of section 700.05 of the criminal procedure law is amended by adding a new paragraph (u) to read as follows:

(U) ENGAGING IN CRIMINAL STREET GANG ACTIVITY, AS DEFINED IN SECTION 240.75 OF THE PENAL LAW.

S 3. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.