

6136

2013-2014 Regular Sessions

I N A S S E M B L Y

March 15, 2013

Introduced by M. of A. RAMOS -- read once and referred to the Committee on Judiciary

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 fourteen and  
21 continuing, at least, until January first, two thousand nineteen.

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

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

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1 federal funds from the law enforcement assistance administration of the  
2 United States department of justice, and state and local funds, services  
3 and facilities.

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

6 ARTICLE 5-C

7 GANG COURT PILOT PROGRAM

8 SECTION 178. SPECIAL GANG PARTS; ESTABLISHMENT.

9 178-A. TRANSFER OF CASES TO SPECIAL GANG PARTS.

10 178-B. PROCEDURE IN A SPECIAL GANG PART.

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

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

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

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

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

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