

STATE OF NEW YORK

6975

2019-2020 Regular Sessions

IN ASSEMBLY

March 29, 2019

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

AN ACT to amend the penal law, the civil practice law and rules, the state finance law, the correction law, the education law and the mental hygiene law, in relation to defining offenses involving criminal street gangs, creating the criminal street gang prevention fund, and providing for gang prevention services in schools; and to repeal sections 120.06 and 120.07 of the penal law, relating to offenses of gang assault

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Legislative findings and purpose. The legislature hereby
2 finds that New York laws are insufficient regarding the prosecution of
3 criminal street gangs and the protection of public order and individual
4 safety against gang-related violence, because of the lack of programs
5 and activities specifically designed to prevent the growth of criminal
6 street gangs, facilitate prosecution and punishment of members of criminal
7 street gangs, and punish those who solicit others to participate in
8 criminal street gangs and in acts of gang-related violence or who
9 provide support or resources to those who commit or encourage the
10 commission of such acts.

11 The legislature further finds that the threat of violence and the
12 disruption of public order and safety presented by criminal street gangs
13 have reached a crisis point that threatens the right of residents of
14 this state to be secure and protected from fear, intimidation, and physical
15 harm.

16 The legislature therefore finds and declares that it is in every sense
17 in the public interest to establish a comprehensive approach to the
18 protection of public order and individual safety against criminal street
19 gangs and gang-related violence, by severely criminalizing such activities,
20 by creating anti-crime programs that focus on patterns of criminal

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

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1 nal gang activity and organization, and by expanding education and
2 intervention to prevent the growth of criminal street gangs as provided
3 in this legislation.

4 § 2. Paragraph (a) of subdivision 2 of section 60.07 of the penal law,
5 as added by chapter 148 of the laws of 2000, is amended to read as
6 follows:

7 (a) the term "specified offense" shall mean an attempt to commit
8 murder in the second degree as defined in section 125.25 of this chap-
9 ter, gang assault in the first degree as defined in section [~~120.07~~]
10 495.06 of this chapter, gang assault in the second degree as defined in
11 section [~~120.06~~] 495.05 of this chapter, assault in the first degree as
12 defined in section 120.10 of this chapter, manslaughter in the first
13 degree as defined in section 125.20 of this chapter, manslaughter in the
14 second degree as defined in section 125.15 of this chapter, robbery in
15 the first degree as defined in section 160.15 of this chapter, robbery
16 in the second degree as defined in section 160.10 of this chapter, or
17 the attempted commission of any of the following offenses: gang assault
18 in the first degree as defined in section [~~120.07~~] 495.06, assault in
19 the first degree as defined in section 120.10, manslaughter in the first
20 degree as defined in section 125.20 or robbery in the first degree as
21 defined in section 160.15;

22 § 3. Paragraphs (a) and (b) of subdivision 1 of section 70.02 of the
23 penal law, paragraph (a) as amended by chapter 189 of the laws of 2018
24 and paragraph (b) as amended by chapter 476 of the laws of 2018, are
25 amended to read as follows:

26 (a) Class B violent felony offenses: an attempt to commit the class
27 A-I felonies of murder in the second degree as defined in section
28 125.25, kidnapping in the first degree as defined in section 135.25, and
29 arson in the first degree as defined in section 150.20; manslaughter in
30 the first degree as defined in section 125.20, aggravated manslaughter
31 in the first degree as defined in section 125.22, rape in the first
32 degree as defined in section 130.35, criminal sexual act in the first
33 degree as defined in section 130.50, aggravated sexual abuse in the
34 first degree as defined in section 130.70, course of sexual conduct
35 against a child in the first degree as defined in section 130.75;
36 assault in the first degree as defined in section 120.10, kidnapping in
37 the second degree as defined in section 135.20, burglary in the first
38 degree as defined in section 140.30, arson in the second degree as
39 defined in section 150.15, robbery in the first degree as defined in
40 section 160.15, sex trafficking as defined in paragraphs (a) and (b) of
41 subdivision five of section 230.34, sex trafficking of a child as
42 defined in section 230.34-a, incest in the first degree as defined in
43 section 255.27, criminal possession of a weapon in the first degree as
44 defined in section 265.04, criminal use of a firearm in the first degree
45 as defined in section 265.09, criminal sale of a firearm in the first
46 degree as defined in section 265.13, aggravated assault upon a police
47 officer or a peace officer as defined in section 120.11, gang assault in
48 the first degree as defined in section [~~120.07~~] 495.06, intimidating a
49 victim or witness in the first degree as defined in section 215.17,
50 hindering prosecution of terrorism in the first degree as defined in
51 section 490.35, criminal possession of a chemical weapon or biological
52 weapon in the second degree as defined in section 490.40, and criminal
53 use of a chemical weapon or biological weapon in the third degree as
54 defined in section 490.47.

55 (b) Class C violent felony offenses: an attempt to commit any of the
56 class B felonies set forth in paragraph (a) of this subdivision; aggra-

1 vated criminally negligent homicide as defined in section 125.11, aggra-
2 vated manslaughter in the second degree as defined in section 125.21,
3 aggravated sexual abuse in the second degree as defined in section
4 130.67, assault on a peace officer, police officer, firefighter or emer-
5 gency medical services professional as defined in section 120.08,
6 assault on a judge as defined in section 120.09, gang assault in the
7 second degree as defined in section [~~120.06~~] 495.05, strangulation in
8 the first degree as defined in section 121.13, burglary in the second
9 degree as defined in section 140.25, robbery in the second degree as
10 defined in section 160.10, criminal possession of a weapon in the second
11 degree as defined in section 265.03, criminal use of a firearm in the
12 second degree as defined in section 265.08, criminal sale of a firearm
13 in the second degree as defined in section 265.12, criminal sale of a
14 firearm with the aid of a minor as defined in section 265.14, aggravated
15 criminal possession of a weapon as defined in section 265.19, soliciting
16 or providing support for an act of terrorism in the first degree as
17 defined in section 490.15, hindering prosecution of terrorism in the
18 second degree as defined in section 490.30, and criminal possession of a
19 chemical weapon or biological weapon in the third degree as defined in
20 section 490.37.

21 § 4. Sections 120.06 and 120.07 of the penal law are REPEALED.

22 § 5. Subdivision 2 of section 130.91 of the penal law, as amended by
23 chapter 189 of the laws of 2018, is amended to read as follows:

24 2. A "specified offense" is a felony offense defined by any of the
25 following provisions of this chapter: assault in the second degree as
26 defined in section 120.05, assault in the first degree as defined in
27 section 120.10, gang assault in the second degree as defined in section
28 [~~120.06~~] 495.05, gang assault in the first degree as defined in section
29 [~~120.07~~] 495.06, stalking in the first degree as defined in section
30 120.60, strangulation in the second degree as defined in section 121.12,
31 strangulation in the first degree as defined in section 121.13,
32 manslaughter in the second degree as defined in subdivision one of
33 section 125.15, manslaughter in the first degree as defined in section
34 125.20, murder in the second degree as defined in section 125.25, aggra-
35 vated murder as defined in section 125.26, murder in the first degree as
36 defined in section 125.27, kidnapping in the second degree as defined in
37 section 135.20, kidnapping in the first degree as defined in section
38 135.25, burglary in the third degree as defined in section 140.20,
39 burglary in the second degree as defined in section 140.25, burglary in
40 the first degree as defined in section 140.30, arson in the second
41 degree as defined in section 150.15, arson in the first degree as
42 defined in section 150.20, robbery in the third degree as defined in
43 section 160.05, robbery in the second degree as defined in section
44 160.10, robbery in the first degree as defined in section 160.15,
45 promoting prostitution in the second degree as defined in section
46 230.30, promoting prostitution in the first degree as defined in section
47 230.32, compelling prostitution as defined in section 230.33, sex traf-
48 ficking of a child as defined in section 230.34-a, disseminating inde-
49 cent material to minors in the first degree as defined in section
50 235.22, use of a child in a sexual performance as defined in section
51 263.05, promoting an obscene sexual performance by a child as defined in
52 section 263.10, promoting a sexual performance by a child as defined in
53 section 263.15, or any felony attempt or conspiracy to commit any of the
54 foregoing offenses.

55 § 6. Title Y-2 of the penal law is redesignated title Y-3 and a new
56 title Y-2 is added to read as follows:

TITLE Y-2
OFFENSES INVOLVING CRIMINAL STREET GANGS

ARTICLE 495

CRIMINAL STREET GANGS ENFORCEMENT AND PREVENTION ACT

Section 495.01 Definitions.

495.02 Participation in a criminal street gang.

495.03 Participation in a criminal street gang related offense.

495.04 Solicitation for participation in a criminal street gang.

495.05 Gang assault in the second degree.

495.06 Gang assault in the first degree.

495.07 Abatement of premises used by a criminal street gang.

495.08 Preemption.

§ 495.01 Definitions.

As used in this article, the following terms shall have the following meanings:

1. "Criminal street gang member" shall mean an individual who is in possession of or exhibits criminal street gang paraphernalia, criminal street gang affiliated tattoos, criminal street gang clothing or colors, or any other indicia of criminal street gang membership, and

a. proclaims to be a criminal street gang member;

b. is identified as a criminal street gang member by a documented reliable witness or informant;

c. is identified as a criminal street gang member by a witness or informant of previously untested reliability if such identification is corroborated by independent information;

d. has been arrested more than once in the company of identified criminal street gang members for offenses that are consistent with usual criminal street gang activity; or

e. is identified as a criminal street gang member by physical evidence such as photographs or other written or electronic documentation.

2. "Criminal street gang" shall mean an ongoing formal or informal association of persons in which members or associates individually or collectively engage in the commission, attempted commission, facilitation, solicitation, or conspire to commit any specified offense and have at least one individual who is a criminal street gang member.

3. "Criminal street gang related offense" shall mean any specified offense, that is committed for any of the following reasons:

a. for the benefit of, at the direction of, or in association with any criminal street gang, or is committed with the intent to promote, further, or assist in any criminal conduct by the gang;

b. to gain admission, prestige, or promotion within the gang;

c. to increase or maintain the gang's size, membership, prestige, dominance, or control in a geographical area;

d. to exact revenge or retribution for the gang or any member of the gang;

e. to obstruct justice, or intimidate, or eliminate any witness against the gang or any member of the gang;

f. to directly or indirectly knowingly cause any benefit, aggrandizement, gain, profit or other advantage for a gang, its reputation, influence, or membership.

4. "Specified offense" shall mean any offense defined by any of the following provisions of this chapter: Offenses constituting a specified offense as defined in subdivision three of section 485.05 (hate crimes), article one hundred fifteen (criminal facilitation), one hundred thirty-five (kidnapping, coercion and related offenses), one hundred seventy

(forgery and related offenses), one hundred seventy-eight (criminal diversion of prescription medications and prescriptions), two hundred twenty-five (gambling offenses), two hundred thirty (prostitution offenses), two hundred thirty-five (obscenity and related offenses), two hundred sixty-five (firearms and other dangerous weapons), two hundred seventy (other offenses relating to public safety), four hundred (licensing and other provisions related to firearms), or four hundred seventy (money laundering).

§ 495.02 Participation in a criminal street gang.

A person is guilty of participation in a criminal street gang if such person is a criminal street gang member and has knowledge that other members engage in or have engaged in criminal street gang related offenses.

Participation in a criminal street gang is a class A misdemeanor.

§ 495.03 Participation in a criminal street gang related offense.

1. A person is guilty of participation in a criminal street gang related offense when he or she willfully and knowingly promotes, furthers, assists in, conducts, or participates in the affairs of a criminal street gang by participating in a criminal street gang related offense.

2. When a person is convicted of the crime of participation in a criminal street gang related offense pursuant to this article and the specified offense is a misdemeanor, class C, D, or E felony, the crime of participation in a criminal street gang related offense shall be deemed to be one category higher than the specified offense the defendant committed, or one category higher than the offense level applicable to the defendant's conviction for an attempt or conspiracy to commit a specified offense, whichever is applicable.

3. Notwithstanding any other provision of law, when a person is convicted of the crime of participation in a criminal street gang related offense pursuant to this article and the specified offense is a class B felony:

a. The maximum term of the indeterminate sentence must be at least six years of imprisonment if the defendant is sentenced pursuant to section 70.00 of this chapter;

b. The term of the determinate sentence must be at least eight years of imprisonment if the defendant is sentenced pursuant to section 70.02 of this chapter;

c. The term of determinate sentence must be at least twelve years of imprisonment if the defendant is sentenced pursuant to section 70.04 of this chapter;

d. The maximum term of the indeterminate sentence must be at least four years of imprisonment if the defendant is sentenced pursuant to section 70.05 of this chapter; or

e. The maximum term of the indeterminate sentence or the term of the determinate sentence must be at least ten years of imprisonment if the defendant is sentenced pursuant to section 70.06 of this chapter.

4. Any other provision of any other law to the contrary notwithstanding, when a person is convicted of the crime of participation in a criminal street gang related offense pursuant to this article and the specified offense is a class A-1 felony, the minimum period of the indeterminate sentence shall not be less than twenty years of imprisonment. Notwithstanding any other law, the court may strike the additional punishment for the enhancements provided in subdivisions two through five of this section or refuse to impose the minimum jail sentence for misdemeanors in an unusual case where the interests of justice would

1 best be served, if the court specifies on the record and enters into the
2 minutes the circumstances indicating the manner in which the interests
3 of justice would be served by such disposition. Notwithstanding the
4 foregoing, in the case of a minor found to be guilty of an offense
5 described in this article who is a first time offender, the court may
6 order that a parent or guardian retain custody of that minor, and may
7 order the parent or guardian to attend anti-gang violence parenting
8 classes established pursuant to standards of the division of criminal
9 justice services. The father, mother, spouse or other person liable for
10 the support of the minor, the estate of that person, and the estate of
11 the minor shall be liable for the cost of classes ordered pursuant to
12 this section, unless the court finds that the person or estate does not
13 have the financial ability to pay. In evaluating financial ability to
14 pay, the court shall take into consideration the combined household
15 income, the necessary obligations of the household, the number of
16 persons dependent on this income, and whether reduced monthly payments
17 would obviate the need to waive liability for the full costs.

18 5. When a person is convicted of the crime of participation in a crim-
19 inal street gang related offense pursuant to this section, and the spec-
20 ified crime is a violent felony offense, as defined in section 70.02 of
21 this chapter, the crime of participation in a criminal street gang
22 related offense shall be deemed a violent felony offense.

23 § 495.04 Solicitation for participation in a criminal street gang.

24 A person is guilty of solicitation for participation in a criminal
25 street gang if such person:

26 1. solicits or recruits another to actively participate in a criminal
27 street gang with the intent that the person solicited or recruited
28 participate in a pattern of criminal street gang related offenses, or
29 with the intent that such person promote, further, conduct, or assist in
30 any pattern of criminal street gang related offenses by members of the
31 criminal street gang; or

32 2. threatens a person with physical violence with the intent to
33 coerce, induce, or solicit such person or another to participate in a
34 criminal street gang; or

35 3. uses physical violence to coerce, induce, or solicit another person
36 to participate in a criminal street gang.

37 Solicitation for participation in a criminal street gang is a class E
38 felony.

39 § 495.05 Gang assault in the second degree.

40 A person is guilty of gang assault in the second degree when, with
41 intent to cause physical injury to another person and when aided by two
42 or more other persons actually present, he or she causes serious phys-
43 ical injury to such person or to a third person.

44 Gang assault in the second degree is a class C felony.

45 § 495.06 Gang assault in the first degree.

46 A person is guilty of gang assault in the first degree when, with
47 intent to cause serious physical injury to another person and when aided
48 by two or more other persons actually present, he or she causes serious
49 physical injury to such person or to a third person.

50 Gang assault in the first degree is a class B felony.

51 § 495.07 Abatement of premises used by a criminal street gang.

52 1. A building or place used by members of a criminal street gang for
53 the purpose of engaging in a pattern of criminal gang activity is a
54 nuisance which shall be enjoined, abated, and prevented, and for which
55 damages may be recovered, irrespective of whether it constitutes a
56 public or private nuisance.

1 2. Any action for an injunction or abatement filed pursuant to subdivi-
2 vision one of this section shall proceed according to the provisions of
3 the civil practice law and rules, except that all of the following shall
4 apply:

5 (a) the court shall not assess a civil penalty against any person
6 unless that person knew or should have known of the unlawful acts
7 committed on or in the premises;

8 (b) no order of eviction or closure may be entered;

9 (c) all injunctions issued shall be limited to those necessary to
10 protect the health and safety of the residents or the public or those
11 necessary to prevent further criminal activity; and

12 (d) suit may not be filed until a thirty day notice period of the
13 unlawful use or criminal conduct has been provided to the owner by mail,
14 return receipt requested, postage prepaid, to the last known address.

15 3. No not-for-profit or charitable organization which is conducting
16 its affairs with ordinary care and skill, and no governmental entity,
17 shall be abated pursuant to the provisions of subdivisions one and two
18 of this section.

19 4. Nothing in this section shall preclude any aggrieved person from
20 seeking any other remedy provided by law.

21 5. When an injunction is issued pursuant to this section for the
22 abatement of premises used for criminal street gang activities, the
23 attorney general or any district attorney or any prosecuting city attor-
24 ney may maintain an action for money damages on behalf of the community
25 or neighborhood injured by the nuisance. Any money damages awarded shall
26 be paid by or collected from assets of the criminal street gang or its
27 members that were derived from the pattern of criminal street gang
28 activity being abated or enjoined. Only persons who knew or should have
29 known of the unlawful acts shall be personally liable for the payment of
30 the damages awarded. In a civil action for damages brought pursuant to
31 this subdivision, the attorney general, district attorney, or city
32 attorney may use, but is not limited to the use of, the testimony of
33 experts to establish damages suffered by the community or neighborhood
34 injured by the nuisance. Damages recovered pursuant to this subdivision
35 shall be deposited into a separate segregated fund for payment to the
36 governing body of the city or county in whose political subdivision the
37 community or neighborhood is located, and that governing body shall use
38 those assets for the benefit of the community or neighborhood injured by
39 the nuisance.

40 § 495.08 Preemption.

41 Nothing in this article shall preempt an appropriate alternative or
42 additional charge pursuant to this chapter.

43 § 7. The opening paragraph of paragraph (h) of subdivision 2 of
44 section 1349 of the civil practice law and rules, as added by chapter
45 655 of the laws of 1990, is amended to read as follows:

46 ~~[All]~~ Except with respect to a circumstance to which paragraph (i) of
47 this subdivision applies, all moneys remaining after distributions
48 pursuant to paragraphs (a) through (g) of this subdivision shall be
49 distributed as follows:

50 § 8. Subdivision 2 of section 1349 of the civil practice law and rules
51 is amended by adding a new paragraph (i) to read as follows:

52 (i) If the defendant against whom a forfeiture action is commenced is
53 convicted of an offense listed in article four hundred ninety-five of
54 the penal law, all moneys remaining after distributions pursuant to
55 paragraphs (a) through (g) of this subdivision shall be distributed to

1 the criminal street gang prevention fund, established pursuant to
2 section ninety-seven-yyy of the state finance law.

3 § 9. The state finance law is amended by adding a new section 97-yyy
4 to read as follows:

5 § 97-yyy. Criminal street gang prevention fund. 1. There is hereby
6 established in the joint custody of the state comptroller and the
7 commissioner of taxation and finance an account of the miscellaneous
8 special revenue fund to be known as the criminal street gang prevention
9 fund.

10 2. The comptroller is authorized and directed to receive for deposit
11 to the credit of the cultural education account revenues designated for
12 such deposit by law or appropriation.

13 3. Moneys of the fund, following appropriation by the legislature,
14 shall be available to support the criminal street gang and violence
15 prevention partnership program established pursuant to section twelve
16 hundred thirteen of the education law.

17 § 10. The opening paragraph of section 15-b of the correction law, is
18 designated subdivision 1 and a new subdivision 2 is added to read as
19 follows:

20 2. The commissioner of education shall be empowered to develop and
21 implement an educational program, to be known as the department of
22 corrections gang education and prevention program, whereby inmates can
23 receive instruction concerning the impact of, and risks associated with,
24 gang affiliation and receive support services in relation to the cessa-
25 tion of gang membership. The commissioner shall be empowered to promul-
26 gate rules and regulations necessary to effectuate this program.

27 § 11. The education law is amended by adding a new article 25 to read
28 as follows:

29 ARTICLE 25

30 GANG PREVENTION

31 Section 1210. Gang prevention.

32 1211. Model gang violence curriculum; prevention activities.

33 1212. Dress code concerning gang-related apparel.

34 1213. Criminal street gang and violence prevention partnership
35 program.

36 § 1210. Gang prevention. The department shall prepare and distribute
37 to schools guidelines for incorporating in-service training in gang
38 violence for teachers, counselors, athletic directors, school board
39 members, and other educational personnel into the staff development
40 plans, and shall, upon request, assist any school in developing compre-
41 hensive gang violence in-service training programs. Such information and
42 guidelines, to the maximum extent possible, shall encourage schools to
43 avoid duplication of effort by sharing resources; adapting or adopting
44 model in-service training programs; developing joint and collaborative
45 programs; and coordinating efforts with existing state and local gang
46 violence staff development programs, county and city law enforcement
47 agencies, and other public and private agencies providing gang violence
48 prevention, or other related services at the local level.

49 The department shall additionally assist schools in qualifying for the
50 receipt of federal and state funds to support their gang violence
51 prevention in-service training programs. The department shall consult
52 with the division of criminal justice services regarding gang violence.

53 The term "gang violence prevention in-service training" as used in
54 this section means the presentation of programs, instruction, and
55 curricula that will help educators develop competencies in interacting
56 in a positive manner with children and youth to assist them in develop-

ing the positive values, self-esteem, knowledge, and skills to lead productive, gang-free, and drug-free lives, including the development of knowledge of the causes of gang violence and training regarding available information and resources concerning gang violence. It shall also include methods that will help educators interact with and educate parents of at-risk youth concerning the risks associated with, and warning signs of, gang affiliation.

§ 1211. Model gang violence curriculum; prevention activities. 1. The department, in collaboration with the division of criminal justice services, shall develop a model gang violence prevention curriculum for use in schools, and shall provide for an independent biennial evaluation of the curriculum and of pupil outcomes.

2. In developing the curriculum, the department, in conjunction with the division of criminal justice services, shall assess the current status of school crime committed on school campuses and at school-related functions, and identify appropriate strategies and programs that will provide or maintain a high level of school safety and address the school's procedures for complying with existing laws related to school safety.

3. Upon request, the department shall assist school districts in developing comprehensive gang violence and drug and alcohol abuse prevention in-service training programs. Such guidelines shall to the maximum extent possible encourage school districts to share resources, develop joint and collaborative programs, and coordinate efforts with other existing state and local programs.

4. The department shall prepare and distribute to school districts guidelines for incorporating in-service training in gang violence and drug and alcohol abuse prevention for teachers, counselors, athletic directors, school board members, and other educational personnel into the staff development plans of all school districts and county offices of education. Such training shall include instruction to teachers and administrators on the subtleties of identifying constantly changing gang regalia and gang affiliation.

§ 1212. Dress code concerning gang-related apparel. Any other provision of any other law to the contrary notwithstanding, the governing board of any school district may adopt or rescind a reasonable dress code policy that requires pupils to wear a schoolwide uniform or prohibits pupils from wearing "gang-related apparel" if the governing board of the school district approves a plan that may be initiated by an individual school's principal, staff, and parents and determines that the policy is necessary for the health and safety of the school environment. Individual schools may include the reasonable dress code policy. The governing board shall provide a method whereby parents may choose not to have their children comply with an adopted school uniform policy. No pupil shall be penalized academically or otherwise discriminated against nor denied attendance to school if the pupil's parents chose not to have the pupil comply with the school uniform policy. The governing board shall continue to have responsibility for the appropriate education of such pupils. The commissioner shall adopt rules and regulations to carry out the intent and purposes of this section.

§ 1213. Criminal street gang and violence prevention partnership program. 1. The department, in collaboration with the division of criminal justice services, shall evaluate requests for funding for programs from the criminal street gang prevention fund, established pursuant to section ninety-seven-yyy of the state finance law. All such funds shall

1 be disbursed to non-profit agencies that comply with the program
2 requirements and who meet funding criteria.

3 2. Grants disbursed pursuant to this section may enhance but shall not
4 supplant local, state, or federal funds that would otherwise be avail-
5 able for the prevention or intervention of youth involvement in gangs,
6 crime, or violence. Grants shall be awarded pursuant to a request for
7 proposals that informs applicants of the purposes and availability of
8 funds to be awarded and solicits proposals to provide services consist-
9 ent with this article. Agencies receiving funds pursuant to this section
10 shall utilize the funds to provide services and activities designed to
11 prevent or deter at-risk youth from participating in gangs, criminal
12 activity, or violent behavior. Such funds may not be used for services
13 or activities related to suppression, law enforcement, incarceration, or
14 other purposes not related to the prevention and deterrence of gangs,
15 crime, and violence. Nothing in this subdivision shall prevent funds
16 from being used for violence prevention and gang crime deterrence
17 services provided by nonprofit agencies to youths incarcerated in juve-
18 nile detention facilities. Services and activities provided with funds
19 under this section shall be used for at-risk youth who are defined as
20 persons from age five to twenty years of age and who are current or
21 former gang members, or who have one or more family members living at
22 home who are current or former members of a gang.

23 3. The department shall conduct an evaluation of the criminal street
24 gang and violence prevention partnership program after two years of
25 program operation and each year thereafter, to assess the effectiveness
26 and results of the program. The evaluation shall be conducted by staff
27 or an independent body that has experience in evaluating programs oper-
28 ated by community-based organizations or nonprofit agencies. After two
29 years of program operation, and each year thereafter, the department
30 shall prepare and submit an annual report to the legislature describing
31 in detail the operation of the program and the results obtained.

32 § 12. Subdivision (f) of section 10.03 of the mental hygiene law, as
33 amended by chapter 189 of the laws of 2018, is amended to read as
34 follows:

35 (f) "Designated felony" means any felony offense defined by any of the
36 following provisions of the penal law: assault in the second degree as
37 defined in section 120.05, assault in the first degree as defined in
38 section 120.10, gang assault in the second degree as defined in section
39 ~~[120.06]~~ 495.05, gang assault in the first degree as defined in section
40 ~~[120.07]~~ 495.06, stalking in the first degree as defined in section
41 120.60, strangulation in the second degree as defined in section 121.12,
42 strangulation in the first degree as defined in section 121.13,
43 manslaughter in the second degree as defined in subdivision one of
44 section 125.15, manslaughter in the first degree as defined in section
45 125.20, murder in the second degree as defined in section 125.25, aggra-
46 vated murder as defined in section 125.26, murder in the first degree as
47 defined in section 125.27, kidnapping in the second degree as defined in
48 section 135.20, kidnapping in the first degree as defined in section
49 135.25, burglary in the third degree as defined in section 140.20,
50 burglary in the second degree as defined in section 140.25, burglary in
51 the first degree as defined in section 140.30, arson in the second
52 degree as defined in section 150.15, arson in the first degree as
53 defined in section 150.20, robbery in the third degree as defined in
54 section 160.05, robbery in the second degree as defined in section
55 160.10, robbery in the first degree as defined in section 160.15,
56 promoting prostitution in the second degree as defined in section

1 230.30, promoting prostitution in the first degree as defined in section
2 230.32, compelling prostitution as defined in section 230.33, sex traf-
3 ficking of a child as defined in section 230.34-a, disseminating inde-
4 cent material to minors in the first degree as defined in section
5 235.22, use of a child in a sexual performance as defined in section
6 263.05, promoting an obscene sexual performance by a child as defined in
7 section 263.10, promoting a sexual performance by a child as defined in
8 section 263.15, or any felony attempt or conspiracy to commit any of the
9 foregoing offenses.

10 § 13. This act shall take effect on the first of January next succeed-
11 ing the date on which it shall have become a law.