

STATE OF NEW YORK

5079

2021-2022 Regular Sessions

IN ASSEMBLY

February 10, 2021

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.

LBD07959-01-1

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 94 of the laws of 2020, 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, aggravated strangulation
9 as defined in section 121.13-a, burglary in the second degree as defined
10 in section 140.25, robbery in the second degree as defined in section
11 160.10, criminal possession of a weapon in the second degree as defined
12 in section 265.03, criminal use of a firearm in the second degree as
13 defined in section 265.08, criminal sale of a firearm in the second
14 degree as defined in section 265.12, criminal sale of a firearm with the
15 aid of a minor as defined in section 265.14, aggravated criminal
16 possession of a weapon as defined in section 265.19, soliciting or
17 providing support for an act of terrorism in the first degree as defined
18 in section 490.15, hindering prosecution of terrorism in the second
19 degree as defined in section 490.30, and criminal possession of a chemi-
20 cal weapon or biological weapon in the third degree as defined in
21 section 490.37.

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 Sections 120.06 and 120.07 of the penal law are REPEALED.

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

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

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

3 TITLE Y-2
4 OFFENSES INVOLVING CRIMINAL STREET GANGS

5 ARTICLE 495
6 CRIMINAL STREET GANGS ENFORCEMENT AND PREVENTION ACT

7 Section 495.01 Definitions.

- 8 495.02 Participation in a criminal street gang.
- 9 495.03 Participation in a criminal street gang related offense.
- 10 495.04 Solicitation for participation in a criminal street gang.
- 11 495.05 Gang assault in the second degree.
- 12 495.06 Gang assault in the first degree.
- 13 495.07 Abatement of premises used by a criminal street gang.
- 14 495.08 Preemption.

15 § 495.01 Definitions.

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

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

- 22 a. proclaims to be a criminal street gang member;
- 23 b. is identified as a criminal street gang member by a documented
24 reliable witness or informant;
- 25 c. is identified as a criminal street gang member by a witness or
26 informant of previously untested reliability if such identification is
27 corroborated by independent information;
- 28 d. has been arrested more than once in the company of identified crim-
29 inal street gang members for offenses that are consistent with usual
30 criminal street gang activity; or
- 31 e. is identified as a criminal street gang member by physical evidence
32 such as photographs or other written or electronic documentation.

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

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

- 40 a. for the benefit of, at the direction of, or in association with any
41 criminal street gang, or is committed with the intent to promote,
42 further, or assist in any criminal conduct by the gang;
- 43 b. to gain admission, prestige, or promotion within the gang;
- 44 c. to increase or maintain the gang's size, membership, prestige,
45 dominance, or control in a geographical area;
- 46 d. to exact revenge or retribution for the gang or any member of the
47 gang;
- 48 e. to obstruct justice, or intimidate, or eliminate any witness
49 against the gang or any member of the gang;
- 50 f. to directly or indirectly knowingly cause any benefit, aggrandize-
51 ment, gain, profit or other advantage for a gang, its reputation, influ-
52 ence, or membership.

53 4. "Specified offense" shall mean any offense defined by any of the
54 following provisions of this chapter: Offenses constituting a specified
55 offense as defined in subdivision three of section 485.05 (hate crimes),

1 article one hundred fifteen (criminal facilitation), one hundred thir-
2 ty-five (kidnapping, coercion and related offenses), one hundred seventy
3 (forgery and related offenses), one hundred seventy-eight (criminal
4 diversion of prescription medications and prescriptions), two hundred
5 twenty-five (gambling offenses), two hundred thirty (prostitution
6 offenses), two hundred thirty-five (obscenity and related offenses), two
7 hundred sixty-five (firearms and other dangerous weapons), two hundred
8 seventy (other offenses relating to public safety), four hundred
9 (licensing and other provisions related to firearms), or four hundred
10 seventy (money laundering).

11 § 495.02 Participation in a criminal street gang.

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

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

17 § 495.03 Participation in a criminal street gang related offense.

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

23 2. When a person is convicted of the crime of participation in a crim-
24 inal street gang related offense pursuant to this article and the speci-
25 fied offense is a misdemeanor, class C, D, or E felony, the crime of
26 participation in a criminal street gang related offense shall be deemed
27 to be one category higher than the specified offense the defendant
28 committed, or one category higher than the offense level applicable to
29 the defendant's conviction for an attempt or conspiracy to commit a
30 specified offense, whichever is applicable.

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

35 a. The maximum term of the indeterminate sentence must be at least six
36 years of imprisonment if the defendant is sentenced pursuant to section
37 70.00 of this chapter;

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

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

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

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

50 4. Any other provision of any other law to the contrary notwithstand-
51 ing, when a person is convicted of the crime of participation in a crim-
52 inal street gang related offense pursuant to this article and the speci-
53 fied offense is a class A-1 felony, the minimum period of the
54 indeterminate sentence shall not be less than twenty years of imprison-
55 ment. Notwithstanding any other law, the court may strike the additional
56 punishment for the enhancements provided in subdivisions two through

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

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

25 § 495.04 Solicitation for participation in a criminal street gang.

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

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

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

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

39 Solicitation for participation in a criminal street gang is a class E
40 felony.

41 § 495.05 Gang assault in the second degree.

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

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

47 § 495.06 Gang assault in the first degree.

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

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

53 § 495.07 Abatement of premises used by a criminal street gang.

54 1. A building or place used by members of a criminal street gang for
55 the purpose of engaging in a pattern of criminal gang activity is a
56 nuisance which shall be enjoined, abated, and prevented, and for which

1 damages may be recovered, irrespective of whether it constitutes a
2 public or private nuisance.

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

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

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

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

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

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

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

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

42 § 495.08 Preemption.

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

45 § 7. The opening paragraph of paragraph (h) of subdivision 2 of
46 section 1349 of the civil practice law and rules, as added by chapter
47 655 of the laws of 1990, is amended to read as follows:

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

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

54 (i) If the defendant against whom a forfeiture action is commenced is
55 convicted of an offense listed in article four hundred ninety-five of
56 the penal law, all moneys remaining after distributions pursuant to

1 paragraphs (a) through (g) of this subdivision shall be distributed to
 2 the criminal street gang prevention fund, established pursuant to
 3 section ninety-seven-zzzz of the state finance law.

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

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

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

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

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

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

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

30 ARTICLE 25

31 GANG PREVENTION

32 Section 1210. Gang prevention.

33 1211. Model gang violence curriculum; prevention activities.

34 1212. Dress code concerning gang-related apparel.

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

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

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

54 The term "gang violence prevention in-service training" as used in
 55 this section means the presentation of programs, instruction, and
 56 curricula that will help educators develop competencies in interacting

1 in a positive manner with children and youth to assist them in develop-
2 ing the positive values, self-esteem, knowledge, and skills to lead
3 productive, gang-free, and drug-free lives, including the development of
4 knowledge of the causes of gang violence and training regarding avail-
5 able information and resources concerning gang violence. It shall also
6 include methods that will help educators interact with and educate
7 parents of at-risk youth concerning the risks associated with, and warn-
8 ing signs of, gang affiliation.

9 § 1211. Model gang violence curriculum; prevention activities. 1. The
10 department, in collaboration with the division of criminal justice
11 services, shall develop a model gang violence prevention curriculum for
12 use in schools, and shall provide for an independent biennial evaluation
13 of the curriculum and of pupil outcomes.

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

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

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

35 § 1212. Dress code concerning gang-related apparel. Any other
36 provision of any other law to the contrary notwithstanding, the govern-
37 ing board of any school district may adopt or rescind a reasonable dress
38 code policy that requires pupils to wear a schoolwide uniform or prohib-
39 its pupils from wearing "gang-related apparel" if the governing board of
40 the school district approves a plan that may be initiated by an individ-
41 ual school's principal, staff, and parents and determines that the poli-
42 cy is necessary for the health and safety of the school environment.
43 Individual schools may include the reasonable dress code policy. The
44 governing board shall provide a method whereby parents may choose not to
45 have their children comply with an adopted school uniform policy. No
46 pupil shall be penalized academically or otherwise discriminated against
47 nor denied attendance to school if the pupil's parents chose not to have
48 the pupil comply with the school uniform policy. The governing board
49 shall continue to have responsibility for the appropriate education of
50 such pupils. The commissioner shall adopt rules and regulations to carry
51 out the intent and purposes of this section.

52 § 1213. Criminal street gang and violence prevention partnership
53 program. 1. The department, in collaboration with the division of crim-
54 inal justice services, shall evaluate requests for funding for programs
55 from the criminal street gang prevention fund, established pursuant to
56 section ninety-seven-zzzz 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.