§ 460.00 Legislative findings.

The legislature finds and determines as follows:

Organized crime in New York state involves highly sophisticated, complex and widespread forms of criminal activity. The diversified illegal conduct engaged in by organized crime, rooted in the illegal use of force, fraud, and corruption, constitutes a major drain upon the state's economy, costs citizens and businesses of the state billions of dollars each year, and threatens the peace, security and general welfare of the people of the state.

Organized crime continues to expand its corrosive influence in the state through illegal enterprises engaged in such criminal endeavors as the theft and fencing of property, the importation and distribution of narcotics and other dangerous drugs, arson for profit, hijacking, labor racketeering, loansharking, extortion and bribery, the illegal disposal of hazardous wastes, syndicated gambling, trafficking in stolen securities, insurance and investment frauds, and other forms of economic and social exploitation.

The money and power derived by organized crime through its illegal enterprises and endeavors is increasingly being used to infiltrate and corrupt businesses, unions and other legitimate enterprises and to corrupt our democratic processes. This infiltration takes several forms with legitimate enterprises being employed as instrumentalities, injured as victims, or taken as prizes. Through such infiltration the power of an enterprise can be diverted to criminal ends, its resources looted, or it can be taken over entirely, either on paper or de facto. Thus, for purposes of making both criminal and civil remedies available to deal with the corruption of such enterprises, the concept of criminal enterprise should not be limited to traditional criminal syndicates or crime families, and may include persons who join together in a criminal enterprise, as defined by subdivision three of section 460.10 of this article, for the purpose of corrupting such legitimate enterprises or infiltrating and illicitly influencing industries.

One major cause of the continuing growth of organized criminal activities within the state is the inadequacy and limited nature of sanctions and remedies available to state and local law enforcement officials to deal with this intricate and varied criminal conduct. Existing penal law provisions are primarily concerned with the commission of specific and limited criminal acts without regard to the relationships of particular criminal acts or the illegal profits derived therefrom, to legitimate or illicit enterprises operated or controlled by organized crime. Further, traditional penal law provisions only provide for the imposition of conventional criminal penalties, including imprisonment, fines and probation, for entrenched organized crime enterprises. Such penalties are not adequate to enable the state to effectively fight organized crime. Instead, new penal prohibitions and enhanced sanctions, and new civil and criminal remedies are necessary to deal with the unlawful activities of persons and enterprises engaged in organized crime. Comprehensive statutes enacted at the federal level and in a number of other states with significant organized crime problems, have provided law enforcement agencies with an effective tool to fight organized crime. Such laws permit law enforcement authorities (i) to charge and prove patterns of criminal activity and their connection to ongoing enterprises, legitimate or illegal, that are controlled or operated by organized crime, and (ii) to apply criminal and civil penalties designed to prevent and eliminate organized crime's involvement with such enterprises. The organized crime control act is a statute of comparable purpose but tempered by reasonable limitations on its applicability, and by due regard for the rights of innocent persons. Because of its more rigorous definitions, this act will not apply to some situations encompassed within comparable statutes in other jurisdictions. This act is vital to the peace, security and general welfare of the state.

In part because of its highly diverse nature, it is impossible to precisely define what organized crime is. This article, however, does attempt to define and criminalize what organized crime does. This article focuses upon criminal enterprises because their sophistication and organization make them more effective at their criminal purposes and because their structure and insulation protect their leadership from

detection and prosecution.

At the same time, this article is not intended to be employed to prosecute relatively minor or isolated acts of criminality which, while related to an enterprise and arguably part of a pattern as defined in this article, can be adequately and more fairly prosecuted as separate offenses. Similarly, particular defendants may play so minor a role in a criminal enterprise that their culpability would be unfairly distorted by prosecution and punishment for participation in the enterprise.

The balance intended to be struck by this act cannot readily be codified in the form of restrictive definitions or a categorical list of exceptions. General, yet carefully drawn definitions of the terms "pattern of criminal activity" and "criminal enterprise" have been employed. Notwithstanding the provisions of section 5.00 of this chapter these definitions should be given their plain meaning, and should not be construed either liberally or strictly, but in the context of the legislative purposes set forth in these findings. Within the confines of these and other applicable definitions, discretion ought still be exercised. Once the letter of the law is complied with, including the essential showing that there is a pattern of conduct which is criminal under existing statutes, the question whether to prosecute under those statutes or for the pattern itself is essentially one of fairness. The answer will depend on the particular situation, and is best addressed by those institutions of government which have traditionally exercised that function: the grand jury, the public prosecutor, and an independent judiciary.