

FINAL BILL REPORT

SHB 2344

FULL VETO

Brief Description: Prescribing penalties for criminal street gang activities.

By House Committee on Judiciary (originally sponsored by Representatives Ludwig, Vance, Riley, Paris, Neher, Broback, Mielke, Scott, Tate, H. Myers, Rayburn, Roland, Orr, Lisk, Zellinsky, Dellwo, Dorn, Jacobsen, Winsley, Van Luven, Nealey, Forner, G. Fisher, Kremen, Heavey, Chandler, Fuhrman, Bray, Mitchell, Bowman, Horn, Carlson, Sprengle and Hochstatter).

House Committee on Judiciary
Senate Committee on Law & Justice

Background: There has been increasing concern in recent years about the phenomenon of "street gang" criminal activity. Street gangs are often associated with illegal drug activity and various crimes of violence, including "drive-by" shootings and inter-gang warfare.

A person who commits any of these crimes is, of course, subject to prosecution. A person may also be criminally liable for an "anticipatory" offense involving a crime. Anticipatory offenses include attempting to commit a crime or conspiring with another to commit a crime. However, anticipatory offenses require that the defendant, or a co-conspirator, has taken "a substantial step" toward the commission of the crime.

Generally, statutes that attempt to make mere membership in an organization illegal will be found unconstitutional as an infringement on the right of association. Some states, including California, have enacted street gang laws that make membership in gangs illegal when coupled with some element of intent to further criminal activity.

Summary: Committing any felony in association with, or at the direction of, or for the benefit of a criminal street gang is an aggravating circumstance under the Sentencing Reform Act. That aggravating circumstance may be used to justify an exceptional sentence beyond the standard range provided for the felony.

A "criminal street gang" is defined as an ongoing association of three or more persons that has crime as one

of its primary activities, that has a common name, and whose members individually or collectively engage in a pattern of criminal activity. A pattern of criminal gang activity means the commission, attempted commission, or solicitation of two or more crimes within one year when the crimes are committed on separate occasions or by two or more persons.

Votes on Final Passage:

House	90	7	
Senate	45	1	(Senate amended)
House			(House refused to concur)
Senate	45	2	(Senate receded)

FULL VETO (See VETO MESSAGE)