

SENATE BILL REPORT

SHB 2344

AS REPORTED BY COMMITTEE ON LAW & JUSTICE, FEBRUARY 27, 1992

Brief Description: Prescribing penalties for criminal street gang activities.

SPONSORS: 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

Majority Report: Do pass as amended.

Signed by Senators Nelson, Chairman; Thorsness, Vice Chairman; Erwin, Hayner, M. Kreidler, Newhouse, and A. Smith.

Staff: Ben Barnes (786-7465)

Hearing Dates: February 26, 1992; February 27, 1992

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 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.

Under the state's criminal profiteering law, a person may also be convicted of the crime of "leading organized crime." This offense is committed by a person who organizes or directs three or more others with the intent to engage in a pattern of criminal profiteering, or who incites others to violence in furtherance of a pattern of criminal profiteering. Criminal profiteering is defined as commission, attempt to commit, or conspiracy to commit any one of a number of crimes including murder, assault, theft, gambling, extortion, arson, promoting prostitution or pornography, and drug dealing. A "pattern" of profiteering means three such crimes within five years, not counting any time spent in prison, if all three crimes exhibit

the same or similar intent, results, accomplices, principals, victims, or methods, or are otherwise interrelated by distinguishing characteristics.

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, has a common name, and whose members individually or collectively engage in a pattern of criminal activity. A pattern of criminal gang activity means 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.

Appropriation: none

Revenue: none

Fiscal Note: none

Effective Date: July 1, 1992

SUMMARY OF PROPOSED SENATE AMENDMENT:

Clarifying language is added.

TESTIMONY FOR:

The occurrence of "drive-by" shootings and inter-gang warfare is increasing throughout the state.

TESTIMONY AGAINST:

The bill will disproportionately impact minority youth. Early intervention is a more appropriate way of dealing with juvenile gang activity.

TESTIFIED: Harriett Walden, Mothers Against Police Harassment; Simmie Bauer, Public Defender Assn. (con); Jim Shaver, Santiago Seafarers Society (con); Denise Harnly, Neighborhood Crime & Justice Center (con); Rep. Curt Ludwig (pro)