

# HB 994

## *Gang Legislation*

### Summary of HB 994 - Gang Legislation

This bill adds additional offenses to the Gang Act and expands the number of offenses for which a juvenile age 13-17 may be tried as an adult.

#### SECTION 1:

This section adds certain gang-related acts to the original jurisdiction of Superior Court, taking them out of Juvenile Court under 15-11-560. This is an expansion of the Original Jurisdiction of Superior Court. If passed, cases which are generally handled in Juvenile Court will, under this bill, be in Superior Court. We do not know the number of juveniles who will be subject to the sentencing provisions of the Street Gang Act if prosecuted in Superior Court.

#### SECTION 2:

This section is a re-write of the definition section of the Street Gang Act. These subsections add certain sex trafficking offenses and felony level obstruction of an officer to the definition of “criminal gang activity”. These additions to the Street Gang Act will result in more gang-related charges for the added offenses, noting that the sex trafficking offenses fall under the original jurisdiction of the Attorney General's Human Trafficking Unit. As a result, PAC may see more involvement and requests for assistance with these cases from the AG. The prostitution charges are already available as gang charges under the RICO incorporation of 16-14-3. If passed, the additional subsections become law after July 1, 2020. The expanded juvenile jurisdiction is included in the section.

#### SECTION 3:

This section re-writes and creates new criminal acts. Current law reads as follows: “It shall be unlawful for any person to commit any offense enumerated in paragraph (1) of Code Section 16-15-3 with the intent to obtain or earn membership or maintain or increase his or her status or position in a criminal street gang.”

The language in Section 3 expands existing Code into three separate offenses (obtain or earn membership; maintain status or position; and increase status of position) which could result in additional gang charges being brought for one underlying act if a prosecutor determines that the act was done to satisfy multiple subsections.

Additionally, a subsection was added for a non-merger provision which allows for consecutive sentencing.

**SECTION 4:**

This section extends the ability of State and local government as well as private citizens to bring civil actions against persons who commit gang activity as well as seeking injunctions against persons and properties.

**SECTION 5:**

This section expands venue for the prosecution of crimes and establishes venue for violations of the Street Gang Act the same as RICO cases. Essentially, anywhere you have venue in one, you have venue in all. Additionally, it adds a forfeiture provision (16-15-13) to the gang statute. This opens civil discovery issues and depositions. Like the RICO forfeiture statute, a gang conviction acts as proof of matters in the gang civil forfeiture.

**SECTION 6:**

This section adds Street Gang Act violations as an aggravating circumstance which would authorize the imposition of the death penalty in a murder case.

**SECTION 7:**

This section requires anyone who violates the Street Gang Act after June 30, 2020 with an underlying sexual offense or the intent to commit a sexual offense to be registered on the Sex Offender Registry.