

Bill No. SB 2704

Barcode 164840

CHAMBER ACTION

Senate

House

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

.
. .
. .
. .
. .
. .

The Committee on Judiciary (Geller) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Section 874.01, Florida Statutes, is amended to read:

874.01 Short title.--This chapter may be cited as the "Organized Crime Group ~~Criminal Street Gang~~ Prevention Act of 2007 ~~1996~~."

Section 2. Section 874.02, Florida Statutes, is amended to read:

874.02 Legislative findings and intent.--

(1) The Legislature finds that it is the right of every person, regardless of race, color, creed, religion, national origin, sex, age, sexual orientation, or handicap, to be secure and protected from fear, intimidation, and physical harm caused by the activities of organized crime groups ~~criminal street gangs~~ and their members. It is not the intent

Bill No. SB 2704

Barcode 164840

1 of this chapter to interfere with the exercise of the
 2 constitutionally protected rights of freedom of expression and
 3 association. The Legislature recognizes the constitutional
 4 right of every citizen to harbor and express beliefs on any
 5 lawful subject whatsoever, to lawfully associate with others
 6 who share similar beliefs, to petition lawfully constituted
 7 authority for a redress of perceived grievances, and to
 8 participate in the electoral process.

9 (2) The Legislature finds, however, that the state is
 10 facing a mounting crisis caused by organized crime groups
 11 ~~criminal street gangs~~ whose members threaten and terrorize
 12 peaceful citizens and commit a multitude of crimes. These
 13 organized crime group ~~criminal street gang~~ activities, both
 14 individually and collectively, present a clear and present
 15 danger. Street gangs, in particular, have evolved into
 16 increasingly sophisticated and complex organized crime groups
 17 in their criminal tactics, their schemes, and their brutality.
 18 The state has a compelling interest in preventing organized
 19 crime group ~~criminal street gang~~ activity and halting the real
 20 and present danger posed by the proliferation of organized
 21 crime groups and the graduation from more primitive forms of
 22 criminal organizations to highly sophisticated criminal
 23 organizations. For these reasons, ~~and~~ the Legislature finds
 24 that the provisions of this chapter ~~act~~ are essential
 25 necessary to maintain ~~the~~ public order and safety.

26 (3) It is the intent of the Legislature to outlaw
 27 certain conduct associated with the existence and
 28 proliferation of organized criminal activity, provide
 29 ~~eradicate the terror created by criminal street gangs and~~
 30 ~~their members by providing~~ enhanced criminal penalties, and
 31 eliminate ~~and by eliminating~~ the patterns, profits, proceeds,

Bill No. SB 2704

Barcode 164840

1 instrumentalities, and property facilitating organized crime
 2 group ~~criminal street gang~~ activity, including organized crime
 3 group ~~criminal street gang~~ recruitment.

4 Section 3. Section 874.03, Florida Statutes, is
 5 amended to read:

6 874.03 Definitions.--As used in this chapter:

7 (1) "Electronic communication" has the meaning
 8 provided in s. 934.02 and includes, but is not limited to,
 9 photographs, video, telephone communications, text messages,
 10 facsimile, electronic mail messages as defined in s. 668.602,
 11 and instant message real-time communications with other
 12 individuals through the Internet or other means.

13 (2)(1) "Organized crime group ~~Criminal street gang~~"
 14 means a formal or informal ongoing organization, association,
 15 or group that has as one of its primary activities the
 16 commission of criminal or delinquent acts, and that consists
 17 of three or more persons who have a common name or common
 18 identifying signs, colors, or symbols and have two or more
 19 members who, individually or collectively, engage in or have
 20 engaged in a pattern of organized criminal ~~street gang~~
 21 activity, including, but not limited to, organized criminal
 22 syndicates, street gangs, and terrorist organizations.

23 (3)(2) "Organized crime group ~~Criminal street gang~~
 24 member" is a person who ~~is a member of a criminal street gang~~
 25 ~~as defined in subsection (1) and who~~ meets two or more of the
 26 following criteria:

27 (a) Admits to organized crime group ~~criminal street~~
 28 ~~gang~~ membership.

29 (b) Is identified as an organized crime group ~~a~~
 30 ~~criminal street gang~~ member by a parent or guardian.

31 (c) Is identified as an organized crime group ~~a~~

Bill No. SB 2704

Barcode 164840

1 ~~criminal street gang~~ member by a documented reliable
2 informant.

3 (d) Resides in or frequents a particular organized
4 crime group's ~~criminal street gang's~~ area and adopts their
5 style of dress, their use of hand signs, or their tattoos, and
6 associates with known organized crime group ~~criminal street~~
7 ~~gang~~ members.

8 (e) Is identified as an organized crime group ~~a~~
9 ~~criminal street gang~~ member by an informant of previously
10 untested reliability and such identification is corroborated
11 by independent information.

12 (f) Has been arrested more than once in the company of
13 identified organized crime group ~~criminal street gang~~ members
14 for offenses that ~~which~~ are consistent with usual organized
15 crime group ~~criminal street gang~~ activity.

16 (g) Is identified as an organized crime group ~~a~~
17 ~~criminal street gang~~ member by physical evidence such as
18 photographs or other documentation.

19 (h) Has been stopped in the company of known organized
20 crime group ~~criminal street gang~~ members four or more times.

21 (i) Has authored any communication indicating
22 responsibility for the commission of any crime by the
23 organized crime group.

24 ~~(4)(3)~~ "Pattern of organized crime group ~~criminal~~
25 ~~street gang~~ activity" means the commission or attempted
26 commission of, or solicitation or conspiracy to commit, as an
27 organized crime group member, two or more felony or three or
28 more misdemeanor offenses, or one felony and two misdemeanor
29 offenses, or the comparable number of delinquent acts or
30 violations of law which would be felonies or misdemeanors if
31 committed by an adult, on separate occasions within a 3-year

Bill No. SB 2704

Barcode 164840

1 period, excluding any period of incarceration.

2 ~~(5)(4)~~ For purposes of law enforcement identification
3 and tracking only:

4 (a) "Organized crime group ~~Criminal street gang~~
5 associate" means a person who:

6 1. Admits to organized crime group ~~criminal street~~
7 ~~gang~~ association; or

8 2. Meets any single defining criterion for organized
9 crime group ~~criminal street gang~~ membership described in
10 subsection(3) ~~(2)~~.

11 (b) "Organized crime-related ~~Gang-related~~ incident"
12 means an incident where ~~that~~, upon investigation, ~~meets any of~~
13 ~~the following conditions~~:

14 1. The participants are identified as organized crime
15 group ~~criminal street gang~~ members or organized crime group
16 ~~criminal street gang~~ associates, acting, individually or
17 collectively, to further any criminal purpose of the organized
18 crime group ~~gang~~; or

19 2. ~~The~~ ~~A~~ ~~reliable informant identifies an incident is~~
20 identified as organized crime group ~~criminal street gang~~
21 activity by a reliable informant; or

22 ~~3-~~ an informant of previously untested reliability who
23 ~~identifies an incident as criminal street gang activity and it~~
24 is corroborated by independent information.

25 (6) "Street gangs" are formal or informal ongoing
26 organizations, entities, associations, or groups consisting of
27 three or more persons with a common name or common identifying
28 signs, colors, or symbols and two or more members who,
29 individually or collectively, have as one of their primary
30 activities the commission of criminal or delinquent acts and
31 engage in or have engaged in a pattern of organized criminal

Bill No. SB 2704

Barcode 164840

1 activity.

2 (7) "Terrorist organization" means any organized crime
3 group engaged in or organized for the purpose of engaging in
4 terrorism as defined in s. 775.30. This definition shall not
5 be construed to prevent prosecution of individuals acting
6 alone under this chapter.

7 Section 4. Section 874.04, Florida Statutes, is
8 amended to read:

9 874.04 Organized crime group ~~criminal street gang~~
10 activity; enhanced penalties.--Upon a finding ~~by the court at~~
11 ~~sentencing~~ that the defendant committed the charged offense
12 for the purpose of benefiting, promoting, or furthering the
13 interests of an organized crime group ~~a criminal street gang~~,
14 the penalty for any felony or misdemeanor, or any delinquent
15 act or violation of law which would be a felony or misdemeanor
16 if committed by an adult, may be enhanced. Penalty enhancement
17 affects the applicable statutory maximum penalty only. Each of
18 the findings required as a basis for such sentence shall be
19 found beyond a reasonable doubt ~~by a preponderance of the~~
20 ~~evidence~~. The enhancement will be as follows:

21 (1)(a) A misdemeanor of the second degree may be
22 punished as if it were a misdemeanor of the first degree.

23 (b) A misdemeanor of the first degree may be punished
24 as if it were a felony of the third degree. For purposes of
25 sentencing under chapter 921 and determining incentive
26 gain-time eligibility under chapter 944, such offense is
27 ranked in level 1 of the offense severity ranking chart. The
28 organized crime group ~~criminal street gang~~ multiplier in s.
29 921.0024 does not apply to misdemeanors enhanced under this
30 paragraph.

31 (2)(a) A felony of the third degree may be punished as

Bill No. SB 2704

Barcode 164840

1 if it were a felony of the second degree.

2 (b) A felony of the second degree may be punished as
3 if it were a felony of the first degree.

4 (c) A felony of the first degree may be punished as if
5 it were a life felony.

6
7 For purposes of sentencing under chapter 921 and determining
8 incentive gain-time eligibility under chapter 944, such felony
9 offense is ranked as provided in s. 921.0022 or s. 921.0023,
10 and without regard to the penalty enhancement in this
11 subsection. ~~For purposes of this section, penalty enhancement~~
12 ~~affects the applicable statutory maximum penalty only.~~

13 Section 5. Section 874.045, Florida Statutes, is
14 created to read:

15 874.045 Arrest and prosecution under other
16 provisions.--Nothing in this chapter shall prohibit the arrest
17 and prosecution of an organized crime group member under
18 chapter 876, chapter 895, chapter 896, s. 893.20, or any other
19 applicable provision of law except to the extent otherwise
20 prohibited pursuant to a statutory or constitutional
21 provision.

22 Section 6. Section 874.05, Florida Statutes, is
23 amended to read:

24 874.05 Causing, encouraging, soliciting, or recruiting
25 organized crime group ~~criminal street gang~~ membership.--

26 (1) Except as provided in subsection (2), a person who
27 intentionally causes, encourages, solicits, or recruits
28 another person to become an organized crime group member where
29 ~~join a criminal street gang that~~ ~~requires as~~ a condition of
30 membership or continued membership is the commission of any
31 crime commits a felony of the third degree, punishable as

Bill No. SB 2704

Barcode 164840

1 provided in s. 775.082, s. 775.083, or s. 775.084.

2 (2) A person who commits ~~Upon~~ a second or subsequent
3 violation ~~offense, the person~~ commits a felony of the second
4 degree, punishable as provided in s. 775.082, s. 775.083, or
5 s. 775.084.

6 Section 7. Section 874.06, Florida Statutes, is
7 amended to read:

8 874.06 Civil cause of action.--A person, municipality,
9 or organization establishing, by clear and convincing
10 evidence, coercion, intimidation, threats, or other harm to
11 that person, municipality, or organization in violation of
12 this chapter has a civil cause of action for treble damages,
13 an injunction, or any other appropriate relief in law or
14 equity. Upon prevailing, the plaintiff may recover reasonable
15 attorney's fees and costs.

16 Section 8. Section 874.08, Florida Statutes, is
17 amended to read:

18 874.08 Organized crime group activity and ~~Profits,~~
19 ~~proceeds, and instrumentalities of criminal street gangs or~~
20 ~~criminal street gang~~ recruitment; forfeiture.--All profits,
21 proceeds, and instrumentalities of organized crime group
22 ~~criminal street gang~~ activity and all property used or
23 intended or attempted to be used to facilitate the criminal
24 activity of any organized crime group ~~criminal street gang~~ or
25 of any group ~~criminal street gang~~ member; and all profits,
26 proceeds, and instrumentalities of organized crime group
27 ~~criminal street gang~~ recruitment and all property used or
28 intended or attempted to be used to facilitate organized crime
29 group ~~criminal street gang~~ recruitment are subject to seizure
30 and forfeiture under the Florida Contraband Forfeiture Act, s.
31 932.704.

Bill No. SB 2704

Barcode 164840

1 Section 9. Section 874.09, Florida Statutes, is
2 amended to read:

3 874.09 Crime data information.--

4 (1) The Department of Law Enforcement may:

5 (a) Develop and manage a statewide organized crime
6 group ~~criminal street gang~~ database to facilitate the exchange
7 of information pursuant to the intent and purpose of this
8 chapter.

9 (b) Notify all law enforcement agencies that reports
10 of arrested organized crime group members or associates shall
11 be entered into the database as soon as the minimum level of
12 data specified by the department is available to the reporting
13 agency and no waiting period for the entry of that data
14 exists.

15 (c) Compile and retain information regarding organized
16 crime groups and their members and associates in a manner that
17 allows the information to be used by law enforcement and other
18 agencies deemed appropriate for investigative purposes.

19 (d) Compile and maintain a history data repository
20 relating to organized crime groups and their members and
21 associates in order to develop and improve techniques used by
22 law enforcement agencies and prosecutors in the investigation,
23 apprehension, and prosecution of members and affiliates of
24 organized crime groups.

25 (2) Local law enforcement agencies may:

26 (a) After carrying out any arrest of any individual
27 who they believe is a member or associate of an organized
28 crime group, create or update that individual's electronic
29 file within the database.

30 (b) Notify the prosecutor of the accused individual's
31 suspected organized crime group membership or associate

Bill No. SB 2704

Barcode 164840

1 status.

2 Section 10. Section 874.10, Florida Statutes, is
3 created to read:

4 874.10 Electronic communication.--Any person who, for
5 the purpose of benefiting, promoting, or furthering the
6 interests of an organized crime group, uses electronic
7 communication to intimidate or harass other persons, or to
8 advertise his or her presence in the community, including, but
9 not limited to, such activities as distributing, selling,
10 transmitting, or posting on the Internet any audio, video, or
11 still image of criminal activity commits a felony of the third
12 degree, punishable as provided in s. 775.082, s. 775.083, or
13 s. 775.084.

14 Section 11. Section 874.11, Florida Statutes, is
15 created to read:

16 874.11 Identification documents; unlawful possession
17 or creation.--

18 (1) For purposes of this section, the term
19 "identification document" includes, but is not limited to, a
20 social security card or number, a birth certificate, a
21 driver's license, an identification card pursuant to s.
22 322.051, a naturalization certificate, an alien registration
23 number, a passport, and any access credentials for a publicly
24 operated facility or an infrastructure facility covered under
25 18 U.S.C. s. 2332f.

26 (2) Any person possessing or manufacturing any blank,
27 forged, stolen, fictitious, fraudulent, counterfeit, or
28 otherwise unlawfully issued identification document for the
29 purpose of benefiting, promoting, or furthering the interests
30 of an organized crime group commits a felony of the second
31 degree, punishable as provided in s. 775.082, s. 775.083, or

Bill No. SB 2704

Barcode 164840

1 s. 775.084.

2 Section 12. Section 874.12, Florida Statutes, is
3 created to read:

4 874.12 Grants.--

5 (1) The Department of Law Enforcement shall administer
6 a grant program to assist local efforts to prevent, detect,
7 and prosecute criminal activity committed by organized
8 criminal street gangs.

9 (2) Grants shall be awarded to local consortia which
10 must include the state attorney, local law enforcement, and
11 local crime prevention organizations. Local crime prevention
12 organizations may include, but are not limited to, local
13 juvenile justice boards, local not-for-profit community
14 service organizations, and local school boards. Each
15 consortium must identify a single organization to serve as the
16 primary point of contact between the department and the local
17 consortium. Proposals must include the three components of
18 enhanced law enforcement, prosecution, and prevention in order
19 to be eligible for a grant award. Grants shall be awarded on a
20 competitive basis and shall be subject to a 50-percent local
21 match that may be provided in the form of in-kind services.

22 Proposals shall be evaluated based on the following:

23 (a) The extent to which the three components of law
24 enforcement, prosecution, and prevention are appropriately
25 balanced and coordinated to reduce street-gang-related
26 activity.

27 (b) The amount of local match.

28 (c) The extent to which resources are targeted to
29 neighborhoods or areas that are most at risk of
30 street-gang-related crime.

31 Section 13. Section 874.13, Florida Statutes, is

Bill No. SB 2704

Barcode 164840

1 created to read:

2 874.13 Suspension of driver's license.--

3 (1) For purposes of this section:

4 (a) "Department" means the Department of Highway
5 Safety and Motor Vehicles.

6 (b) "Convicted" means a determination of guilt that is
7 the result of a trial or the entry of a plea of guilty or nolo
8 contendere, regardless of whether adjudication is withheld.

9 (2) In addition to any other penalty provided by law,
10 the court shall order the suspension of the driver's license
11 of each person convicted or adjudicated delinquent of any
12 offense contained in this chapter and of any person whose
13 penalty has been enhanced pursuant to s. 874.04. Upon ordering
14 the suspension of the driver's license, the court shall
15 forward the driver's license to the department in accordance
16 with s. 322.25.

17 (a) The first suspension of a driver's license under
18 this section shall be for a period of 6 months.

19 (b) A second or subsequent suspension of a driver's
20 license under this section shall be for 1 year.

21 (3) A court that suspends a driver's license pursuant
22 to subsection (2) shall, if the person is sentenced to a term
23 of incarceration, direct the department to commence the
24 suspension of the person's driver's license upon the person's
25 release from incarceration.

26 Section 14. Section 948.033, Florida Statutes, is
27 created to read:

28 948.033 Condition of probation or community control;
29 organized crime group.--Effective for a probationer or
30 community controllee whose crime was committed on or after
31 July 1, 2007, and who has been found to have committed the

Bill No. SB 2704

Barcode 164840

1 crime for the purpose of benefiting, promoting, or furthering
2 the interests of an organized crime group, the court shall, in
3 addition to any other conditions imposed, impose a condition
4 prohibiting the probationer or community controllee from
5 knowingly associating with other organized crime group members
6 or associates, except as authorized by law enforcement
7 officials, prosecutorial authorities, or the court, for the
8 purpose of aiding in the investigation of organized crime
9 group activity.

10 Section 15. Section 947.18, Florida Statutes, is
11 amended to read:

12 947.18 Conditions of parole.--No person shall be
13 placed on parole merely as a reward for good conduct or
14 efficient performance of duties assigned in prison. No person
15 shall be placed on parole until and unless the commission
16 finds that there is reasonable probability that, if the person
17 is placed on parole, he or she will live and conduct himself
18 or herself as a respectable and law-abiding person and that
19 the person's release will be compatible with his or her own
20 welfare and the welfare of society. No person shall be placed
21 on parole unless and until the commission is satisfied that he
22 or she will be suitably employed in self-sustaining employment
23 or that he or she will not become a public charge. The
24 commission shall determine the terms upon which such person
25 shall be granted parole. If the person's conviction was for a
26 controlled substance violation, one of the conditions must be
27 that the person submit to random substance abuse testing
28 intermittently throughout the term of supervision, upon the
29 direction of the correctional probation officer as defined in
30 s. 943.10(3). In addition to any other lawful condition of
31 parole, the commission may make the payment of the debt due

Bill No. SB 2704

Barcode 164840

1 and owing to the state under s. 960.17 or the payment of the
 2 attorney's fees and costs due and owing to the state under s.
 3 938.29 a condition of parole subject to modification based on
 4 change of circumstances. If the person's conviction was for a
 5 crime that was found to have been committed for the purpose of
 6 benefiting, promoting, or furthering the interests of an
 7 organized crime group, one of the conditions must be that the
 8 person be prohibited from knowingly associating with other
 9 organized crime group members or associates, except as
 10 authorized by law enforcement officials, prosecutorial
 11 authorities, or the court, for the purpose of aiding in the
 12 investigation of organized crime group activity.

13 Section 16. Subsection (11) is added to section
 14 947.1405, Florida Statutes, to read:

15 947.1405 Conditional release program.--

16 (11) Effective for a releasee whose crime was
 17 committed on or after July 1, 2007, and who has been found to
 18 have committed the crime for the purpose of benefiting,
 19 promoting, or furthering the interests of an organized crime
 20 group, the commission shall, in addition to any other
 21 conditions imposed, impose a condition prohibiting the
 22 releasee from knowingly associating with other organized crime
 23 group members or associates, except as authorized by law
 24 enforcement officials, prosecutorial authorities, or the
 25 court, for the purpose of aiding in the investigation of
 26 organized crime group activity.

27 Section 17. Paragraph (nn) of subsection (2) of
 28 section 435.04, Florida Statutes, is amended to read:

29 435.04 Level 2 screening standards.--

30 (2) The security background investigations under this
 31 section must ensure that no persons subject to the provisions

Bill No. SB 2704

Barcode 164840

1 of this section have been found guilty of, regardless of
 2 adjudication, or entered a plea of nolo contendere or guilty
 3 to, any offense prohibited under any of the following
 4 provisions of the Florida Statutes or under any similar
 5 statute of another jurisdiction:

6 (nn) Section 874.05(1), relating to encouraging or
 7 recruiting another to join an organized crime group ~~a criminal~~
 8 ~~gang~~.

9 Section 18. Paragraph (d) of subsection (2) of section
 10 893.138, Florida Statutes, is amended to read:

11 893.138 Local administrative action to abate
 12 drug-related, prostitution-related, or stolen-property-related
 13 public nuisances and criminal street gang activity.--

14 (2) Any place or premises that has been used:

15 (d) By a criminal street gang for the purpose of
 16 conducting a pattern of organized crime group ~~criminal street~~
 17 ~~gang~~ activity as defined by s. 874.03; or

18
 19 may be declared to be a public nuisance, and such nuisance may
 20 be abated pursuant to the procedures provided in this section.

21 Section 19. Paragraph (a) of subsection (1) and
 22 subsection (3) of section 895.02, Florida Statutes, are
 23 amended to read:

24 895.02 Definitions.--As used in ss. 895.01-895.08, the
 25 term:

26 (1) "Racketeering activity" means to commit, to
 27 attempt to commit, to conspire to commit, or to solicit,
 28 coerce, or intimidate another person to commit:

29 (a) Any crime that is chargeable by indictment or
 30 information under the following provisions of the Florida
 31 Statutes:

Bill No. SB 2704

Barcode 164840

- 1 1. Section 210.18, relating to evasion of payment of
- 2 cigarette taxes.
- 3 2. Section 403.727(3)(b), relating to environmental
- 4 control.
- 5 3. Section 409.920 or s. 409.9201, relating to
- 6 Medicaid fraud.
- 7 4. Section 414.39, relating to public assistance
- 8 fraud.
- 9 5. Section 440.105 or s. 440.106, relating to workers'
- 10 compensation.
- 11 6. Section 443.071(4), relating to creation of a
- 12 fictitious employer scheme to commit unemployment compensation
- 13 fraud.
- 14 7. Section 465.0161, relating to distribution of
- 15 medicinal drugs without a permit as an Internet pharmacy.
- 16 8. Sections 499.0051, 499.0052, 499.00535, 499.00545,
- 17 and 499.0691, relating to crimes involving contraband and
- 18 adulterated drugs.
- 19 9. Part IV of chapter 501, relating to telemarketing.
- 20 10. Chapter 517, relating to sale of securities and
- 21 investor protection.
- 22 11. Section 550.235, s. 550.3551, or s. 550.3605,
- 23 relating to dogracing and horseracing.
- 24 12. Chapter 550, relating to jai alai frontons.
- 25 13. Section 551.109, relating to slot machine gaming.
- 26 14. Chapter 552, relating to the manufacture,
- 27 distribution, and use of explosives.
- 28 15. Chapter 560, relating to money transmitters, if
- 29 the violation is punishable as a felony.
- 30 16. Chapter 562, relating to beverage law enforcement.
- 31 17. Section 624.401, relating to transacting insurance

Bill No. SB 2704

Barcode 164840

1 without a certificate of authority, s. 624.437(4)(c)1.,
 2 relating to operating an unauthorized multiple-employer
 3 welfare arrangement, or s. 626.902(1)(b), relating to
 4 representing or aiding an unauthorized insurer.

5 18. Section 655.50, relating to reports of currency
 6 transactions, when such violation is punishable as a felony.

7 19. Chapter 687, relating to interest and usurious
 8 practices.

9 20. Section 721.08, s. 721.09, or s. 721.13, relating
 10 to real estate timeshare plans.

11 21. Chapter 782, relating to homicide.

12 22. Chapter 784, relating to assault and battery.

13 23. Chapter 787, relating to kidnapping or human
 14 trafficking.

15 24. Chapter 790, relating to weapons and firearms.

16 25. Section 796.03, s. 796.035, s. 796.04, s. 796.045,
 17 s. 796.05, or s. 796.07, relating to prostitution and sex
 18 trafficking.

19 26. Chapter 806, relating to arson.

20 27. Section 810.02(2)(c), relating to specified
 21 burglary of a dwelling or structure.

22 28. Chapter 812, relating to theft, robbery, and
 23 related crimes.

24 29. Chapter 815, relating to computer-related crimes.

25 30. Chapter 817, relating to fraudulent practices,
 26 false pretenses, fraud generally, and credit card crimes.

27 31. Chapter 825, relating to abuse, neglect, or
 28 exploitation of an elderly person or disabled adult.

29 32. Section 827.071, relating to commercial sexual
 30 exploitation of children.

31 33. Chapter 831, relating to forgery and

Bill No. SB 2704

Barcode 164840

1 counterfeiting.

2 34. Chapter 832, relating to issuance of worthless
3 checks and drafts.

4 35. Section 836.05, relating to extortion.

5 36. Chapter 837, relating to perjury.

6 37. Chapter 838, relating to bribery and misuse of
7 public office.

8 38. Chapter 843, relating to obstruction of justice.

9 39. Section 847.011, s. 847.012, s. 847.013, s.
10 847.06, or s. 847.07, relating to obscene literature and
11 profanity.

12 40. Section 849.09, s. 849.14, s. 849.15, s. 849.23,
13 or s. 849.25, relating to gambling.

14 41. Chapter 874, relating to organized crime groups
15 ~~criminal street gangs~~.

16 42. Chapter 893, relating to drug abuse prevention and
17 control.

18 43. Chapter 896, relating to offenses related to
19 financial transactions.

20 44. Sections 914.22 and 914.23, relating to tampering
21 with a witness, victim, or informant, and retaliation against
22 a witness, victim, or informant.

23 45. Sections 918.12 and 918.13, relating to tampering
24 with jurors and evidence.

25 (3) "Enterprise" means any individual, sole
26 proprietorship, partnership, corporation, business trust,
27 union chartered under the laws of this state, or other legal
28 entity, or any unchartered union, association, or group of
29 individuals associated in fact although not a legal entity;
30 and it includes illicit as well as licit enterprises and
31 governmental, as well as other, entities. An organized crime

Bill No. SB 2704

Barcode 164840

1 ~~group A criminal street gang~~, as defined in s. 874.03,
2 constitutes an enterprise.

3 Section 20. Paragraphs (d) and (e) of subsection (3)
4 of section 921.0022, Florida Statutes, are amended to read:
5 921.0022 Criminal Punishment Code; offense severity
6 ranking chart.--

7 (3) OFFENSE SEVERITY RANKING CHART

8 Florida Statute	9 Felony Degree	Description
		(d) LEVEL 4
11 316.1935(3)(a)	2nd	Driving at high speed or with 12 wanton disregard for safety while 13 fleeing or attempting to elude 14 law enforcement officer who is in 15 a patrol vehicle with siren and 16 lights activated.
17 499.0051(1)	3rd	Failure to maintain or deliver 18 pedigree papers.
19 499.0051(2)	3rd	Failure to authenticate pedigree 20 papers.
21 499.0051(6)	2nd	Sale or delivery, or possession 22 with intent to sell, contraband 23 legend drugs.
24 784.07(2)(b)	3rd	Battery of law enforcement 25 officer, firefighter, intake 26 officer, etc.
27 784.074(1)(c)	3rd	Battery of sexually violent 28 predators facility staff.
29 784.075	3rd	Battery on detention or 30 commitment facility staff.

31

Bill No. SB 2704

Barcode 164840

1	784.078	3rd	Battery of facility employee by
2			throwing, tossing, or expelling
3			certain fluids or materials.
4	784.08(2)(c)	3rd	Battery on a person 65 years of
5			age or older.
6	784.081(3)	3rd	Battery on specified official or
7			employee.
8	784.082(3)	3rd	Battery by detained person on
9			visitor or other detainee.
10	784.083(3)	3rd	Battery on code inspector.
11	784.085	3rd	Battery of child by throwing,
12			tossing, projecting, or expelling
13			certain fluids or materials.
14	787.03(1)	3rd	Interference with custody;
15			wrongly takes minor from
16			appointed guardian.
17	787.04(2)	3rd	Take, entice, or remove child
18			beyond state limits with criminal
19			intent pending custody
20			proceedings.
21	787.04(3)	3rd	Carrying child beyond state lines
22			with criminal intent to avoid
23			producing child at custody
24			hearing or delivering to
25			designated person.
26	790.115(1)	3rd	Exhibiting firearm or weapon
27			within 1,000 feet of a school.
28	790.115(2)(b)	3rd	Possessing electric weapon or
29			device, destructive device, or
30			other weapon on school property.

Bill No. SB 2704

Barcode 164840

1	790.115(2)(c)	3rd	Possessing firearm on school
2			property.
3	800.04(7)(d)	3rd	Lewd or lascivious exhibition;
4			offender less than 18 years.
5	810.02(4)(a)	3rd	Burglary, or attempted burglary,
6			of an unoccupied structure;
7			unarmed; no assault or battery.
8	810.02(4)(b)	3rd	Burglary, or attempted burglary,
9			of an unoccupied conveyance;
10			unarmed; no assault or battery.
11	810.06	3rd	Burglary; possession of tools.
12	810.08(2)(c)	3rd	Trespass on property, armed with
13			firearm or dangerous weapon.
14	812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000
15			or more but less than \$20,000.
16	812.014(2)(c)4.-10.	3rd	Grand theft, 3rd degree, a will,
17			firearm, motor vehicle,
18			livestock, etc.
19	812.0195(2)	3rd	Dealing in stolen property by use
20			of the Internet; property stolen
21			\$300 or more.
22	817.563(1)	3rd	Sell or deliver substance other
23			than controlled substance agreed
24			upon, excluding s. 893.03(5)
25			drugs.
26	817.568(2)(a)	3rd	Fraudulent use of personal
27			identification information.
28	817.625(2)(a)	3rd	Fraudulent use of scanning device
29			or reencoder.
30	828.125(1)	2nd	Kill, maim, or cause great bodily
31			harm or permanent breeding
	8:06 AM	04/12/07	21 s2704d-ju31-r3f

Bill No. SB 2704

Barcode 164840

1			disability to any registered
2			horse or cattle.
3	837.02(1)	3rd	Perjury in official proceedings.
4	837.021(1)	3rd	Make contradictory statements in
5			official proceedings.
6	838.022	3rd	Official misconduct.
7	839.13(2)(a)	3rd	Falsifying records of an
8			individual in the care and
9			custody of a state agency.
10	839.13(2)(c)	3rd	Falsifying records of the
11			Department of Children and Family
12			Services.
13	843.021	3rd	Possession of a concealed
14			handcuff key by a person in
15			custody.
16	843.025	3rd	Deprive law enforcement,
17			correctional, or correctional
18			probation officer of means of
19			protection or communication.
20	843.15(1)(a)	3rd	Failure to appear while on bail
21			for felony (bond estreature or
22			bond jumping).
23	874.05(1)	3rd	Encouraging or recruiting another
24			to join <u>an organized crime group</u>
25			a criminal street gang.
26	893.13(2)(a)1.	2nd	Purchase of cocaine (or other s.
27			893.03(1)(a), (b), or (d),
28			(2)(a), (2)(b), or (2)(c)4.
29			drugs).
30	914.14(2)	3rd	Witnesses accepting bribes.

Bill No. SB 2704

Barcode 164840

1	914.22(1)	3rd	Force, threaten, etc., witness,
2			victim, or informant.
3	914.23(2)	3rd	Retaliation against a witness,
4			victim, or informant, no bodily
5			injury.
6	918.12	3rd	Tampering with jurors.
7	934.215	3rd	Use of two-way communications
8			device to facilitate commission
9			of a crime.
10			(e) LEVEL 5
11	316.027(1)(a)	3rd	Accidents involving personal
12			injuries, failure to stop;
13			leaving scene.
14	316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
15	322.34(6)	3rd	Careless operation of motor
16			vehicle with suspended license,
17			resulting in death or serious
18			bodily injury.
19	327.30(5)	3rd	Vessel accidents involving
20			personal injury; leaving scene.
21	381.0041(11)(b)	3rd	Donate blood, plasma, or organs
22			knowing HIV positive.
23	440.10(1)(g)	2nd	Failure to obtain workers'
24			compensation coverage.
25	440.105(5)	2nd	Unlawful solicitation for the
26			purpose of making workers'
27			compensation claims.
28	440.381(2)	2nd	Submission of false, misleading,
29			or incomplete information with
30			the purpose of avoiding or
31			reducing workers' compensation

Bill No. SB 2704

Barcode 164840

1			premiums.
2	624.401(4)(b)2.	2nd	Transacting insurance without a
3			certificate or authority; premium
4			collected \$20,000 or more but
5			less than \$100,000.
6	626.902(1)(c)	2nd	Representing an unauthorized
7			insurer; repeat offender.
8	790.01(2)	3rd	Carrying a concealed firearm.
9	790.162	2nd	Threat to throw or discharge
10			destructive device.
11	790.163(1)	2nd	False report of deadly explosive
12			or weapon of mass destruction.
13	790.221(1)	2nd	Possession of short-barreled
14			shotgun or machine gun.
15	790.23	2nd	Felons in possession of firearms,
16			ammunition, or electronic weapons
17			or devices.
18	800.04(6)(c)	3rd	Lewd or lascivious conduct;
19			offender less than 18 years.
20	800.04(7)(c)	2nd	Lewd or lascivious exhibition;
21			offender 18 years or older.
22	806.111(1)	3rd	Possess, manufacture, or dispense
23			fire bomb with intent to damage
24			any structure or property.
25	812.0145(2)(b)	2nd	Theft from person 65 years of age
26			or older; \$10,000 or more but
27			less than \$50,000.
28	812.015(8)	3rd	Retail theft; property stolen is
29			valued at \$300 or more and one or
30			more specified acts.
31			

Bill No. SB 2704

Barcode 164840

- 1 812.019(1) 2nd Stolen property; dealing in or
- 2 trafficking in.
- 3 812.131(2)(b) 3rd Robbery by sudden snatching.
- 4 812.16(2) 3rd Owning, operating, or conducting
- 5 a chop shop.
- 6 817.034(4)(a)2. 2nd Communications fraud, value
- 7 \$20,000 to \$50,000.
- 8 817.234(11)(b) 2nd Insurance fraud; property value
- 9 \$20,000 or more but less than
- 10 \$100,000.
- 11 817.2341(1), (2)(a) & (3)(a)3rd Filing false financial
- 12 statements, making false entries
- 13 of material fact or false
- 14 statements regarding property
- 15 values relating to the solvency
- 16 of an insuring entity.
- 17 817.568(2)(b) 2nd Fraudulent use of personal
- 18 identification information; value
- 19 of benefit, services received,
- 20 payment avoided, or amount of
- 21 injury or fraud, \$5,000 or more
- 22 or use of personal identification
- 23 information of 10 or more
- 24 individuals.
- 25 817.625(2)(b) 2nd Second or subsequent fraudulent
- 26 use of scanning device or
- 27 reencoder.
- 28 825.1025(4) 3rd Lewd or lascivious exhibition in
- 29 the presence of an elderly person
- 30 or disabled adult.

31

Bill No. SB 2704

Barcode 164840

1	827.071(4)	2nd	Possess with intent to promote
2			any photographic material, motion
3			picture, etc., which includes
4			sexual conduct by a child.
5	827.071(5)	3rd	Possess any photographic
6			material, motion picture, etc.,
7			which includes sexual conduct by
8			a child.
9	839.13(2)(b)	2nd	Falsifying records of an
10			individual in the care and
11			custody of a state agency
12			involving great bodily harm or
13			death.
14	843.01	3rd	Resist officer with violence to
15			person; resist arrest with
16			violence.
17	847.0137(2) & (3)	3rd	Transmission of pornography by
18			electronic device or equipment.
19	847.0138(2) & (3)	3rd	Transmission of material harmful
20			to minors to a minor by
21			electronic device or equipment.
22	874.05(2)	2nd	Encouraging or recruiting another
23			to join <u>an organized crime group</u>
24			a criminal street gang ; second or
25			subsequent offense.
26	893.13(1)(a)1.	2nd	Sell, manufacture, or deliver
27			cocaine (or other s.
28			893.03(1)(a), (1)(b), (1)(d),
29			(2)(a), (2)(b), or (2)(c)4.
30			drugs).
31			

Bill No. SB 2704

Barcode 164840

1	893.13(1)(c)2.	2nd	Sell, manufacture, or deliver
2			cannabis (or other s.
3			893.03(1)(c), (2)(c)1., (2)(c)2.,
4			(2)(c)3., (2)(c)5., (2)(c)6.,
5			(2)(c)7., (2)(c)8., (2)(c)9.,
6			(3), or (4) drugs) within 1,000
7			feet of a child care facility,
8			school, or state, county, or
9			municipal park or publicly owned
10			recreational facility or
11			community center.
12	893.13(1)(d)1.	1st	Sell, manufacture, or deliver
13			cocaine (or other s.
14			893.03(1)(a), (1)(b), (1)(d),
15			(2)(a), (2)(b), or (2)(c)4.
16			drugs) within 1,000 feet of
17			university.
18	893.13(1)(e)2.	2nd	Sell, manufacture, or deliver
19			cannabis or other drug prohibited
20			under s. 893.03(1)(c), (2)(c)1.,
21			(2)(c)2., (2)(c)3., (2)(c)5.,
22			(2)(c)6., (2)(c)7., (2)(c)8.,
23			(2)(c)9., (3), or (4) within
24			1,000 feet of property used for
25			religious services or a specified
26			business site.
27	893.13(1)(f)1.	1st	Sell, manufacture, or deliver
28			cocaine (or other s.
29			893.03(1)(a), (1)(b), (1)(d), or
30			(2)(a), (2)(b), or (2)(c)4.
31			drugs) within 1,000 feet of

Bill No. SB 2704

Barcode 164840

1 public housing facility.
 2 893.13(4)(b) 2nd Deliver to minor cannabis (or
 3 other s. 893.03(1)(c), (2)(c)1.,
 4 (2)(c)2., (2)(c)3., (2)(c)5.,
 5 (2)(c)6., (2)(c)7., (2)(c)8.,
 6 (2)(c)9., (3), or (4) drugs).

7 Section 21. Subsection (1) of section 921.0024,
 8 Florida Statutes, is amended to read:

9 921.0024 Criminal Punishment Code; worksheet
 10 computations; scoresheets.--

11 (1)(a) The Criminal Punishment Code worksheet is used
 12 to compute the subtotal and total sentence points as follows:

13 FLORIDA CRIMINAL PUNISHMENT CODE
 14 WORKSHEET
 15 OFFENSE SCORE

16
17 Primary Offense

18
19 Primary Offense

20 Level	Sentence Points	Total
21		
22 Level	Sentence Points	Total
23 10	116	= _____
24 9	92	= _____
25 8	74	= _____
26 7	56	= _____
27 6	36	= _____
28 5	28	= _____
29 4	22	= _____
30 3	16	= _____
31 2	10	= _____

Bill No. SB 2704

Barcode 164840

1	1	4	=	_____
2				
3				_____
4			Total	
5	Additional Offenses			
6				
7	Level	Sentence Points	TotalCounts	
8	= 10	58	x_____	_____
9	= 9	46	x_____	_____
10	= 8	37	x_____	_____
11	= 7	28	x_____	_____
12	= 6	18	x_____	_____
13	= 5	5.4	x_____	_____
14	= 4	3.6	x_____	_____
15	= 3	2.4	x_____	_____
16	= 2	1.2	x_____	_____
17	= 1	0.7	x_____	_____
18	= M	0.2	x_____	_____
19				
20			Total	_____
21	Victim Injury			
22				
23	Level	Sentence Points	TotalNumber	
24	= 2nd degree	240	x_____	_____
25	murder-			
26	death			
27	= Death	120	x_____	_____
28	= Severe	40	x_____	_____
29	= Moderate	18	x_____	_____
30	= Slight	4	x_____	_____
31				

Bill No. SB 2704

Barcode 164840

1	= Sexual	80	x_____
2	penetration		
3	= Sexual contact	40	x_____
4			
5			Total

6 Primary Offense + Additional Offenses + Victim Injury =
7 TOTAL OFFENSE SCORE

9 PRIOR RECORD SCORE

10 Prior Record

12	Level	Sentence Points	TotalNumber
13	= 10	29	x_____
14	= 9	23	x_____
15	= 8	19	x_____
16	= 7	14	x_____
17	= 6	9	x_____
18	= 5	3.6	x_____
19	= 4	2.4	x_____
20	= 3	1.6	x_____
21	= 2	0.8	x_____
22	= 1	0.5	x_____
23	= M	0.2	x_____

25 Total _____

26 TOTAL OFFENSE SCORE _____

27 TOTAL PRIOR RECORD

28 SCORE _____

30 LEGAL STATUS _____

31 COMMUNITY SANCTION

Bill No. SB 2704

Barcode 164840

1 VIOLATION_____

2 PRIOR SERIOUS

3 FELONY_____

4 PRIOR CAPITAL

5 FELONY_____

6 FIREARM OR SEMIAUTOMATIC

7 WEAPON_____

8 SUBTOTAL_____

9

10 PRISON RELEASEE REOFFENDER (no)(yes)_____

11 VIOLENT CAREER CRIMINAL (no)(yes)_____

12 HABITUAL VIOLENT OFFENDER (no)(yes)_____

13 HABITUAL OFFENDER (no)(yes)_____

14 DRUG TRAFFICKER (no)(yes) (x multiplier)_____

15 LAW ENF. PROTECT. (no)(yes) (x multiplier)_____

16 MOTOR VEHICLE THEFT (no)(yes) (x multiplier)_____

17 ORGANIZED CRIME GROUP ~~CRIMINAL STREET GANG~~ OFFENSE

18 (no)(yes) (x

19 multiplier)_____

20 DOMESTIC VIOLENCE IN THE PRESENCE OF RELATED CHILD

21 (no)(yes) (x

22 multiplier)_____

23 TOTAL SENTENCE POINTS_____

(b) WORKSHEET KEY:

25

26 Legal status points are assessed when any form of legal status

27 existed at the time the offender committed an offense before

28 the court for sentencing. Four (4) sentence points are

29 assessed for an offender's legal status.

30

31 Community sanction violation points are assessed when a

Bill No. SB 2704

Barcode 164840

1 community sanction violation is before the court for
 2 sentencing. Six (6) sentence points are assessed for each
 3 community sanction violation, and each successive community
 4 sanction violation; however, if the community sanction
 5 violation includes a new felony conviction before the
 6 sentencing court, twelve (12) community sanction violation
 7 points are assessed for such violation, and for each
 8 successive community sanction violation involving a new felony
 9 conviction. Multiple counts of community sanction violations
 10 before the sentencing court shall not be a basis for
 11 multiplying the assessment of community sanction violation
 12 points.

13

14 Prior serious felony points: If the offender has a primary
 15 offense or any additional offense ranked in level 8, level 9,
 16 or level 10, and one or more prior serious felonies, a single
 17 assessment of 30 points shall be added. For purposes of this
 18 section, a prior serious felony is an offense in the
 19 offender's prior record that is ranked in level 8, level 9, or
 20 level 10 under s. 921.0022 or s. 921.0023 and for which the
 21 offender is serving a sentence of confinement, supervision, or
 22 other sanction or for which the offender's date of release
 23 from confinement, supervision, or other sanction, whichever is
 24 later, is within 3 years before the date the primary offense
 25 or any additional offense was committed.

26

27 Prior capital felony points: If the offender has one or more
 28 prior capital felonies in the offender's criminal record,
 29 points shall be added to the subtotal sentence points of the
 30 offender equal to twice the number of points the offender
 31 receives for the primary offense and any additional offense. A

Bill No. SB 2704

Barcode 164840

1 prior capital felony in the offender's criminal record is a
 2 previous capital felony offense for which the offender has
 3 entered a plea of nolo contendere or guilty or has been found
 4 guilty; or a felony in another jurisdiction which is a capital
 5 felony in that jurisdiction, or would be a capital felony if
 6 the offense were committed in this state.

7

8 Possession of a firearm, semiautomatic firearm, or machine
 9 gun: If the offender is convicted of committing or attempting
 10 to commit any felony other than those enumerated in s.
 11 775.087(2) while having in his or her possession: a firearm as
 12 defined in s. 790.001(6), an additional 18 sentence points are
 13 assessed; or if the offender is convicted of committing or
 14 attempting to commit any felony other than those enumerated in
 15 s. 775.087(3) while having in his or her possession a
 16 semiautomatic firearm as defined in s. 775.087(3) or a machine
 17 gun as defined in s. 790.001(9), an additional 25 sentence
 18 points are assessed.

19

20 Sentencing multipliers:

21

22 Drug trafficking: If the primary offense is drug trafficking
 23 under s. 893.135, the subtotal sentence points are multiplied,
 24 at the discretion of the court, for a level 7 or level 8
 25 offense, by 1.5. The state attorney may move the sentencing
 26 court to reduce or suspend the sentence of a person convicted
 27 of a level 7 or level 8 offense, if the offender provides
 28 substantial assistance as described in s. 893.135(4).

29

30 Law enforcement protection: If the primary offense is a
 31 violation of the Law Enforcement Protection Act under s.

Bill No. SB 2704

Barcode 164840

1 775.0823(2), the subtotal sentence points are multiplied by
 2 2.5. If the primary offense is a violation of s. 775.0823(3),
 3 (4), (5), (6), (7), or (8), the subtotal sentence points are
 4 multiplied by 2.0. If the primary offense is a violation of s.
 5 784.07(3) or s. 775.0875(1), or of the Law Enforcement
 6 Protection Act under s. 775.0823(9) or (10), the subtotal
 7 sentence points are multiplied by 1.5.

8
 9 Grand theft of a motor vehicle: If the primary offense is
 10 grand theft of the third degree involving a motor vehicle and
 11 in the offender's prior record, there are three or more grand
 12 thefts of the third degree involving a motor vehicle, the
 13 subtotal sentence points are multiplied by 1.5.

14
 15 Offense related to an organized crime group ~~a criminal street~~
 16 ~~gang~~: If the offender is convicted of the primary offense and
 17 committed that offense for the purpose of benefiting,
 18 promoting, or furthering the interests of an organized crime
 19 group ~~a criminal street gang~~ as prohibited under s. 874.04,
 20 the subtotal sentence points are multiplied by 1.5.

21
 22 Domestic violence in the presence of a child: If the offender
 23 is convicted of the primary offense and the primary offense is
 24 a crime of domestic violence, as defined in s. 741.28, which
 25 was committed in the presence of a child under 16 years of age
 26 who is a family or household member as defined in s. 741.28(3)
 27 with the victim or perpetrator, the subtotal sentence points
 28 are multiplied by 1.5.

29 Section 22. Paragraph (n) of subsection (5) of section
 30 921.141, Florida Statutes, is amended to read:

31 921.141 Sentence of death or life imprisonment for

Bill No. SB 2704

Barcode 164840

1 capital felonies; further proceedings to determine sentence.--

2 (5) AGGRAVATING CIRCUMSTANCES.--Aggravating
3 circumstances shall be limited to the following:

4 (n) The capital felony was committed by an organized
5 crime group ~~a criminal street gang~~ member, as defined in s.
6 874.03.

7 Section 23. Subsection (30) of section 984.03, Florida
8 Statutes, is amended to read:

9 984.03 Definitions.--When used in this chapter, the
10 term:

11 (30) "Juvenile justice continuum" includes, but is not
12 limited to, delinquency prevention programs and services
13 designed for the purpose of preventing or reducing delinquent
14 acts, including criminal activity by organized crime groups
15 ~~youth gangs~~ and juvenile arrests, as well as programs and
16 services targeted at children who have committed delinquent
17 acts, and children who have previously been committed to
18 residential treatment programs for delinquents. The term
19 includes children-in-need-of-services and
20 families-in-need-of-services programs; conditional release;
21 substance abuse and mental health programs; educational and
22 vocational programs; recreational programs; community services
23 programs; community service work programs; and alternative
24 dispute resolution programs serving children at risk of
25 delinquency and their families, whether offered or delivered
26 by state or local governmental entities, public or private
27 for-profit or not-for-profit organizations, or religious or
28 charitable organizations.

29 Section 24. Paragraph (c) of subsection (15) and
30 subsection (29) of section 985.03, Florida Statutes, are
31 amended to read:

Bill No. SB 2704

Barcode 164840

1 985.03 Definitions.--As used in this chapter, the
2 term:

3 (15)

4 (c) "Delinquency prevention programs" means programs
5 designed for the purpose of reducing the occurrence of
6 delinquency, including organized crime group ~~youth and street~~
7 ~~gang~~ activity, and juvenile arrests. The term excludes
8 arbitration, diversionary or mediation programs, and community
9 service work or other treatment available subsequent to a
10 child committing a delinquent act.

11 (29) "Juvenile justice continuum" includes, but is not
12 limited to, delinquency prevention programs and services
13 designed for the purpose of preventing or reducing delinquent
14 acts, including criminal activity by organized crime groups
15 ~~youth gangs~~, and juvenile arrests, as well as programs and
16 services targeted at children who have committed delinquent
17 acts, and children who have previously been committed to
18 residential treatment programs for delinquents. The term
19 includes children-in-need-of-services and
20 families-in-need-of-services programs; conditional release;
21 substance abuse and mental health programs; educational and
22 career programs; recreational programs; community services
23 programs; community service work programs; and alternative
24 dispute resolution programs serving children at risk of
25 delinquency and their families, whether offered or delivered
26 by state or local governmental entities, public or private
27 for-profit or not-for-profit organizations, or religious or
28 charitable organizations.

29 Section 25. Paragraph (c) of subsection (1) of section
30 985.047, Florida Statutes, is amended to read:

31 985.047 Information systems.--

Bill No. SB 2704

Barcode 164840

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

(1)

(c) As used in this section, "a juvenile who is at risk of becoming a serious habitual juvenile offender" means a juvenile who has been adjudicated delinquent and who meets one or more of the following criteria:

- 1. Is arrested for a capital, life, or first degree felony offense or sexual battery.
 - 2. Has five or more arrests, at least three of which are for felony offenses. Three of such arrests must have occurred within the preceding 12-month period.
 - 3. Has 10 or more arrests, at least 2 of which are for felony offenses. Three of such arrests must have occurred within the preceding 12-month period.
 - 4. Has four or more arrests, at least one of which is for a felony offense and occurred within the preceding 12-month period.
 - 5. Has 10 or more arrests, at least 8 of which are for any of the following offenses:
 - a. Petit theft;
 - b. Misdemeanor assault;
 - c. Possession of a controlled substance;
 - d. Weapon or firearm violation; or
 - e. Substance abuse.
- Four of such arrests must have occurred within the preceding 12-month period.
- 6. Meets at least one of the criteria for organized crime group ~~youth and street gang~~ membership.

Section 26. Paragraph (a) of subsection (6) and subsection (7) of section 985.433, Florida Statutes, are amended to read:

Bill No. SB 2704

Barcode 164840

1 985.433 Disposition hearings in delinquency
 2 cases.--When a child has been found to have committed a
 3 delinquent act, the following procedures shall be applicable
 4 to the disposition of the case:

5 (6) The first determination to be made by the court is
 6 a determination of the suitability or nonsuitability for
 7 adjudication and commitment of the child to the department.
 8 This determination shall include consideration of the
 9 recommendations of the department, which may include a
 10 predisposition report. The predisposition report shall
 11 include, whether as part of the child's multidisciplinary
 12 assessment, classification, and placement process components
 13 or separately, evaluation of the following criteria:

14 (a) The seriousness of the offense to the community.
 15 If the court determines under chapter 874 that the child was a
 16 member of an organized crime group ~~a criminal street gang~~ at
 17 the time of the commission of the offense, the seriousness of
 18 the offense to the community shall be given great weight.

19
 20 It is the intent of the Legislature that the criteria set
 21 forth in this subsection are general guidelines to be followed
 22 at the discretion of the court and not mandatory requirements
 23 of procedure. It is not the intent of the Legislature to
 24 provide for the appeal of the disposition made under this
 25 section.

26 (7) If the court determines that the child should be
 27 adjudicated as having committed a delinquent act and should be
 28 committed to the department, such determination shall be in
 29 writing or on the record of the hearing. The determination
 30 shall include a specific finding of the reasons for the
 31 decision to adjudicate and to commit the child to the

Bill No. SB 2704

Barcode 164840

1 department, including any determination that the child was a
2 member of an organized crime group ~~a criminal street gang~~.

3 (a) The juvenile probation officer shall recommend to
4 the court the most appropriate placement and treatment plan,
5 specifically identifying the restrictiveness level most
6 appropriate for the child. If the court has determined that
7 the child was a member of an organized crime group ~~a criminal~~
8 ~~street gang~~, that determination shall be given great weight in
9 identifying the most appropriate restrictiveness level for the
10 child. The court shall consider the department's
11 recommendation in making its commitment decision.

12 (b) The court shall commit the child to the department
13 at the restrictiveness level identified or may order placement
14 at a different restrictiveness level. The court shall state
15 for the record the reasons that establish by a preponderance
16 of the evidence why the court is disregarding the assessment
17 of the child and the restrictiveness level recommended by the
18 department. Any party may appeal the court's findings
19 resulting in a modified level of restrictiveness under this
20 paragraph.

21 (c) The court may also require that the child be
22 placed in a probation program following the child's discharge
23 from commitment. Community-based sanctions under subsection
24 (8) may be imposed by the court at the disposition hearing or
25 at any time prior to the child's release from commitment.

26 Section 27. The Division of Statutory Revision is
27 directed to redesignate the title of chapter 874, Florida
28 Statutes, as "Organized Criminal Activity Enforcement and
29 Prevention."

30 Section 28. This act shall take effect July 1, 2007.

31

Bill No. SB 2704

Barcode 164840

1 ===== T I T L E A M E N D M E N T =====

2 And the title is amended as follows:

3 Delete everything before the enacting clause

4

5 and insert:

6 A bill to be entitled

7 An act relating to organized criminal activity;

8 amending s. 874.01, F.S.; revising a short

9 title; amending s. 874.02, F.S.; revising

10 legislative findings and intent; amending s.

11 874.03, F.S.; creating and revising

12 definitions; redefining "criminal street gangs"

13 as "organized crime groups"; amending s.

14 874.04, F.S.; conforming provisions; revising

15 an evidentiary standard; creating s. 874.045,

16 F.S.; providing that chapter 874, F.S., does

17 not preclude arrest and prosecution under other

18 specified provisions; amending s. 874.05, F.S.;

19 revising provisions relating to soliciting or

20 causing another to join an organized crime

21 group; amending s. 874.06, F.S.; permitting

22 municipalities to bring civil actions for

23 certain violations; amending s. 874.08, F.S.;

24 conforming provisions; amending s. 874.09,

25 F.S.; providing additional powers for the

26 Department of Law Enforcement and local law

27 enforcement agencies relating to crime data

28 information; creating s. 874.10, F.S.;

29 prohibiting use of electronic communications to

30 further the interests of an organized crime

31 group; providing penalties; creating s. 874.11,

Bill No. SB 2704

Barcode 164840

1 F.S.; defining the term "identification
2 document"; prohibiting possession of
3 identification documents for specified
4 purposes; providing penalties; creating s.
5 874.12, F.S.; providing for an organized crime
6 prevention and enforcement grant program;
7 creating s. 874.13, F.S.; providing for the
8 suspension of driver's licenses for certain
9 offenses; creating s. 948.033, F.S.,
10 prohibiting certain offenders from
11 communicating with organized crime group
12 members; providing exceptions; amending s.
13 947.18, F.S.; prohibiting certain parolees from
14 communicating with organized crime group
15 members; providing exceptions; amending s.
16 947.1405, F.S.; prohibiting certain conditional
17 releasees from communicating with organized
18 crime group members; providing exceptions;
19 amending ss. 435.04, 893.138, 895.02, 921.0022,
20 921.0024, 921.141, 984.03, 985.03, 985.047, and
21 985.433, F.S.; conforming cross-references and
22 terminology to changes made by this act;
23 providing a directive to the Division of
24 Statutory Revision; providing an effective
25 date.

26
27
28
29
30
31