

By Senator Ingoglia

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1 A bill to be entitled
2 An act relating to combatting illegal immigration,
3 terrorist organizations, and transnational organized
4 crime and their illegal immigrant participants;
5 amending s. 874.02, F.S.; revising legislative
6 findings and intent; amending s. 874.03, F.S.;
7 revising the definition of the term "criminal gang"
8 and defining the term "transnational criminal
9 organization"; creating s. 874.041, F.S.; authorizing
10 the penalty enhancement of certain offenses upon a
11 finding by the factfinder that the defendant committed
12 the charged offense for specified purposes; providing
13 applicability; creating s. 874.081, F.S.; specifying
14 that all profits, proceeds, and instrumentalities of
15 hate group activity, terrorist organization activity,
16 and transnational criminal organization activity and
17 all property used or intended or attempted to be used
18 to facilitate such criminal activity are subject to
19 seizure and forfeiture under the Florida Contraband
20 Forfeiture Act; creating s. 874.105, F.S.; providing
21 criminal penalties for persons who knowingly initiate,
22 organize, plan, finance, direct, manage, or supervise
23 a hate group's activities, terrorist organization's
24 activities, or transnational criminal organization's
25 activities; providing for severability; providing an
26 effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:
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30 Section 1. Subsections (1), (2), and (3) of section 874.02,
31 Florida Statutes, are amended to read:

32 874.02 Legislative findings and intent.—

33 (1) The Legislature finds that it is the right of every
34 person, regardless of race, color, creed, religion, national
35 origin, sex, age, sexual orientation, or handicap, to be secure
36 and protected from fear, intimidation, and physical harm caused
37 by the activities of criminal gangs, transnational criminal
38 organizations, terrorist organizations, and their members. It is
39 not the intent of this chapter to interfere with the exercise of
40 the constitutionally protected rights of freedom of expression
41 and association. The Legislature recognizes the constitutional
42 right of every citizen to harbor and express beliefs on any
43 lawful subject whatsoever, to lawfully associate with others who
44 share similar beliefs, to petition lawfully constituted
45 authority for a redress of perceived grievances, and to
46 participate in the electoral process.

47 (2) The Legislature finds, however, that the state is
48 facing a mounting crisis caused by criminal gangs, transnational
49 criminal organizations, and terrorist organizations whose
50 members threaten and terrorize peaceful citizens and commit a
51 multitude of crimes. The ~~These~~ criminal ~~gang~~ activities such
52 organizations engage in, both individually and collectively,
53 present a clear and present danger. Street gangs, transnational
54 criminal organizations, terrorist organizations, and hate groups
55 have evolved into increasingly sophisticated and complex
56 organized crime groups in their criminal tactics, schemes, and
57 brutality. The state has a compelling interest in preventing
58 criminal ~~gang~~ activity and halting the real and present danger

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59 posed by the proliferation of such criminal organizations ~~gangs~~
60 ~~and the graduation from more primitive forms of criminal gangs~~
61 ~~to highly sophisticated criminal gangs~~. For these reasons, the
62 Legislature finds that the provisions of this chapter are
63 essential to maintain public order and safety.

64 (3) It is the intent of the Legislature to outlaw certain
65 conduct associated with the existence and proliferation of such
66 criminal organizations ~~gangs~~, provide enhanced criminal
67 penalties, and eliminate the patterns, profits, proceeds,
68 instrumentalities, and property facilitating criminal
69 organizations ~~gang activity~~, including ~~criminal gang~~
70 recruitment.

71 Section 2. Subsection (1) of section 874.03, Florida
72 Statutes, is amended, and subsection (8) is added to that
73 section, to read:

74 874.03 Definitions.—As used in this chapter:

75 (1) "Criminal gang" means a formal or informal ongoing
76 organization, association, or group that has as one of its
77 primary activities the commission of criminal or delinquent
78 acts, and that consists of three or more persons who have a
79 common name or common identifying signs, colors, or symbols,
80 ~~including, but not limited to, terrorist organizations and hate~~
81 ~~groups~~.

82 (a) As used in this subsection, "ongoing" means that the
83 organization was in existence during the time period charged in
84 a petition, information, indictment, or action for civil
85 injunctive relief.

86 (b) As used in this subsection, "primary activities" means
87 that a criminal gang spends a substantial amount of time engaged

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88 in such activity, although such activity need not be the only,
89 or even the most important, activity in which the criminal gang
90 engages.

91 (8) "Transnational criminal organization" refers to a
92 group, network, or associated individuals who operate
93 transnationally for the purpose of obtaining power, influence,
94 or monetary or commercial gain, wholly or in part by illegal
95 means, while advancing their activities through a pattern of
96 crime, corruption, or violence, and while protecting their
97 illegal activities through a transnational organizational
98 structure and the exploitation of public corruption or
99 transnational logistics and financial or communication
100 mechanisms. The term includes, but is not limited to,
101 organizations designated or that become designated in the future
102 by Presidential Executive Order or by the United States
103 Department of the Treasury, Office of Foreign Asset Control,
104 including Presidential Executive Orders 12978 and 13581, the
105 Foreign Narcotics Kingpin Designation Act, the International
106 Emergency Economic Powers Act, or the National Emergencies Act,
107 as either a transnational criminal organization or a foreign
108 narcotics trafficker.

109 Section 3. Section 874.041, Florida Statutes, is created to
110 read:

111 874.041 Hate group-, terrorist organization-, and
112 transnational criminal organization-related offenses; enhanced
113 penalties.—Upon a finding by the factfinder that the defendant
114 committed the charged offense for the purpose of benefitting,
115 promoting, or furthering the interests of a hate group,
116 terrorist organization, or transnational criminal organization,

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117 the penalty for a misdemeanor or felony, or any delinquent act
118 or violation of law which would be a misdemeanor or felony if
119 committed by an adult, may be enhanced. Penalty enhancement
120 affects the applicable statutory maximum penalty only. Each of
121 the findings required as a basis for such sentence must be found
122 beyond a reasonable doubt. The enhancement is as follows:

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

125 (b) A misdemeanor of the first degree may be punished as if
126 it were a felony of the third degree. For purposes of sentencing
127 under chapter 921 and determining incentive gain-time
128 eligibility under chapter 944, such offense is ranked in level 1
129 of the offense severity ranking chart. The criminal gang
130 multiplier in s. 921.0024 does not apply to a misdemeanor
131 offense enhanced under this subsection.

132 (2) (a) A felony of the third degree may be punished as if
133 it were a felony of the second degree.

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

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

138
139 For purposes of sentencing under chapter 921 and determining
140 incentive gain-time eligibility under chapter 944, such felony
141 offense is ranked as provided in s. 921.0022 or s. 921.0023, and
142 without regard to the penalty enhancement in this subsection.

143 Section 4. Section 874.081, Florida Statutes, is created to
144 read:

145 874.081 Hate group, terrorist organization, and

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146 transnational criminal organization activity; forfeiture.-All
147 profits, proceeds, and instrumentalities of hate group activity,
148 terrorist organization activity, and transnational criminal
149 organization activity and all property used or intended or
150 attempted to be used to facilitate the criminal activity of any
151 hate group, terrorist organization, or transnational criminal
152 organization or of any member of such group or organization are
153 subject to seizure and forfeiture under the Florida Contraband
154 Forfeiture Act in chapter 932.

155 Section 5. Section 874.105, Florida Statutes, is created to
156 read:

157 874.105 Directing the activities of a hate group, terrorist
158 organization, or transnational criminal organization.-A person
159 who knowingly initiates, organizes, plans, finances, directs,
160 manages, or supervises a hate group's activities, terrorist
161 organization's activities, or transnational criminal
162 organization's activities commits a felony of the first degree,
163 punishable by imprisonment for a term of years not exceeding
164 life or as provided in s. 775.082, s. 775.083, or s. 775.084.

165 Section 6. If any provision of this act or its application
166 to any person or circumstance is held invalid, the invalidity
167 does not affect other provisions or applications of this act
168 which can be given effect without the invalid provision or
169 application, and to this end the provisions of this act are
170 severable.

171 Section 7. This act shall take effect upon becoming a law.