

FLORIDA HOUSE OF REPRESENTATIVES

BILL ANALYSIS

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BILL #: [CS/HB 429](#)

TITLE: Criteria for Determining Criminal Gang Membership
SPONSOR(S): Baker and Chamberlin

COMPANION BILL: [CS/SB 536](#) (Martin)

LINKED BILLS: None

RELATED BILLS: None

Committee References

[Criminal Justice](#)
16 Y, 0 N, As CS



[Judiciary](#)
21 Y, 0 N

SUMMARY

Effect of the Bill:

The bill amends the criteria used to determine whether a person meets the definition of a “criminal gang member” by revising and adding additional criteria that is used in making such a determination, two of which must be satisfied for a person to fall within the definition. The bill also defines the term “gang-related language.”

Fiscal or Economic Impact:

To the extent that revising the definition of “criminal gang member” results in an increase in persons who are prosecuted for committing criminal offenses that benefit, promote, or further the interests of a criminal gang and who are thus subject to certain enhanced penalties for committing such offenses, the bill may have an indeterminate positive prison bed impact.

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ANALYSIS

EFFECT OF THE BILL:

The bill amends the criteria used to determine whether a person is a “[criminal gang member](#),” two of which must be satisfied for a person to fall within the definition, by:

- Revising a criterion relating to a person admitting to gang membership to including admissions of gang membership made in person or on an online platform or social media.
- Adding a criterion relating to whether a person is identified or claimed by a criminal gang as one of its members.
- Expanding the criterion relating to the identification of a person as a criminal gang member by a parent or guardian to also include the identification of a person as a criminal gang member by a person’s spouse who lives with the person.
- Reducing the number of times that a person must be observed in the company of one or more known criminal gang members to satisfy a criterion from four or more times to two or more times.
- Revising the criterion related to a person authoring any communication indicating responsibility for the commission of any crime by the criminal gang to include authoring any communication indicating gang affiliation or gang activity, or acceptance of responsibility for the commission of any crime by a criminal gang member.
- Adding a criterion relating to a person’s use of gang-related language in furtherance of criminal gang-related activity on an online platform or social media. (Section [1](#))

The revised definition of “criminal gang member” may result in an increase in persons who fall within the definition, and thus may result in an increase in prosecutions for criminal offenses that are committed to benefit, promote, or further the interests of a criminal gang, a conviction for which may subject a person to [enhanced penalties](#) or a [reclassification](#) of the penalty for the underlying offense.

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The bill defines the term “gang-related language” to mean any verbal or written statement that signals gang affiliation, supports gang activity, or uses recognized gang codes, symbols, or terminology associated with criminal organizations. Written statements include any digital or electronic statements, including statements made on any online platform or social media. (Section [1](#))

The effective date of the bill is October 1, 2026. (Section [5](#))

FISCAL OR ECONOMIC IMPACT:

STATE GOVERNMENT:

To the extent that revising the criteria for determining who is a “criminal gang member” results in an increased number of persons falling within such definition, and to the extent that such revisions increase the number of persons who are subject to enhanced penalties for committing offenses that benefit, promote, or further the interests of a criminal gang, the bill may have an indeterminate positive prison bed impact related to increased maximum sentences and longer terms of incarceration.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Criminal Gangs

Definitions

A “criminal gang” means a formal or informal ongoing organization, association, or group that has as one of its primary activities the commission of criminal or delinquent acts, and that consists of three or more persons who have a common name or common identifying signs, colors, or symbols, including, but not limited to, terrorist organizations, transnational crime organizations, and hate groups.¹

A “criminal gang member” is a person who meets *two or more* of the following criteria:

- Admits to criminal gang membership.
- Is identified as a criminal gang member by a parent or guardian.
- Is identified as a criminal gang member by a documented reliable informant.
- Adopts the style of dress of a criminal gang.
- Adopts the use of a hand sign identified as used by a criminal gang.
- Has a tattoo identified as used by a criminal gang.
- Associates with one or more known criminal gang members.
- Is identified as a criminal gang member by an informant of previously untested reliability and such identification is corroborated by independent information.
- Is identified as a criminal gang member by physical evidence.
- Has been observed in the company of one or more known criminal gang members four or more times. Observation in a custodial setting requires a willful association. It is the intent of the Legislature to allow this criterion to be used to identify gang members who recruit and organize in jails, prisons, and other detention settings.
- Has authored any communication indicating responsibility for the commission of any crime by the criminal gang.²

If a person commits a single act or factual transaction that satisfies the requirements of more than one of the specified criteria, a person is a “criminal gang member” for the purposes of the statute.³

Enhanced Penalties

¹ [S. 874.03\(1\), F.S.](#)

² [S. 874.03\(3\), F.S.](#)

³ *Id.*

Membership in a criminal gang is not, in and of itself, a crime. However, if a person commits a criminal offense for the purpose of benefiting, promoting, or furthering the interests of a criminal gang, such offense may be enhanced to a higher degree and his or her lowest permissible sentence of incarceration may be increased through the use of a sentencing multiplier.

Reclassification

Upon a finding by the factfinder that a defendant committed an offense for the purpose of benefiting, promoting, or furthering the interests of a criminal gang, the penalty for committing a violation of such offense may be enhanced as follows:⁴

- A second degree misdemeanor⁵ may be punished as a first degree misdemeanor.⁶
- A first degree misdemeanor may be punished as a third degree felony.⁷
- A third degree felony may be punished as a second degree felony.⁸
- A second degree felony may be punished as a first degree felony.⁹
- A first degree felony may be punished as a life felony.¹⁰

Sentencing Multiplier

All felony offenses, with the exception of capital felony offenses, committed on or after October 1, 1998, are subject to the Criminal Punishment Code (CPC).¹¹ Such felony offenses are listed in a single offense severity ranking chart, which uses 10 offense levels to rank felonies from least severe (Level 1) to most severe (Level 10). Each felony offense is assigned to a level according to the severity of the offense, commensurate with the harm or potential for harm to the community that is caused by the offense, as determined by statute.¹² A person's primary offense, any other current offenses, prior offenses, and any applicable sentencing multipliers are scored on a worksheet using the points designated for the offense severity level of each offense.¹³ The final calculation, following the worksheet formula, determines the lowest permissible sentence that the trial court may impose, absent a valid reason for departure.¹⁴

If a person commits an offense that is subject to a sentencing multiplier, his or her subtotal sentence points are multiplied by a specified number, which results in an increased number of total sentencing points.¹⁵ The increase in total sentencing points may result in enhanced punishment in some cases. For example, if a person is convicted of a primary offense that was committed for the purpose of benefiting, promoting, or furthering the interests of a criminal gang, his or her subtotal sentence points are multiplied by 1.5 unless the multiplier would cause the person's lowest permissible sentence of incarceration to exceed the statutory maximum for the offense.¹⁶

⁴ [S. 874.04, F.S.](#)

⁵ A second degree misdemeanor is punishable by up to 60 days in jail and a \$500 fine. [Ss. 775.082](#) or [775.083, F.S.](#)

⁶ A first degree misdemeanor is punishable by up to one year in jail and a \$1,000 fine. [Ss. 775.082](#) or [775.083, F.S.](#)

⁷ A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. [Ss. 775.082, 775.083](#), or [775.084, F.S.](#)

⁸ A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. [Ss. 775.082, 775.083](#), or [775.084, F.S.](#)

⁹ A first degree felony is punishable by up to 30 years imprisonment and a \$10,000 fine. [Ss. 775.082, 775.083](#), or [775.084, F.S.](#)

¹⁰ A life felony is punishable by a term of imprisonment for life and a \$15,000 fine. [Ss. 775.082, 775.083](#), or [775.084, F.S.](#)

¹¹ [S. 921.002, F.S.](#)

¹² [S. 921.0022, F.S.](#)

¹³ [Ss. 921.0022](#) and [921.0024, F.S.](#)

¹⁴ [S. 921.0022, F.S.](#)

¹⁵ [S. 921.0024\(1\)\(b\), F.S.](#)

¹⁶ [S. 921.0024\(1\)\(b\), F.S.](#) The sentencing multiplier does *not* apply when a person commits a first degree misdemeanor for the purpose of benefiting, promoting, or furthering the interests of a criminal gang and the maximum penalty is enhanced to a third degree felony under [s. 874.04\(1\)\(b\), F.S.](#)

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Criminal Justice Subcommittee	16 Y, 0 N, As CS	1/14/2026	Hall	Padgett
THE CHANGES ADOPTED BY THE COMMITTEE:	<ul style="list-style-type: none"> Restored the provision in current law that requires a person to meet two or more specified criteria to fall within the definition of "criminal gang member." Made the following changes to the criteria used to determine whether a person is a "criminal gang member": <ul style="list-style-type: none"> Included a criterion relating to whether a person is identified or claimed by a criminal gang. Revised the criterion related to usage of gang-related language to require such usage to be in furtherance of criminal gang-related activity. Removed a criterion related to a person participating in any recording that promotes or describes gang-related activity. Defined the term "gang-related language." Reenacted ss. 823.05, 921.141, and 951.23, F.S., to incorporate the changes made by the bill. 			
Judiciary Committee	21 Y, 0 N	1/22/2026	Kramer	Padgett

THIS BILL ANALYSIS HAS BEEN UPDATED TO INCORPORATE ALL OF THE CHANGES DESCRIBED ABOVE.
