

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 536

INTRODUCER: Senator Martin

SUBJECT: Criminal Gang Members

DATE: January 9, 2026

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Cellon	Stokes	CJ	Pre-meeting
2. _____	_____	ACJ	_____
3. _____	_____	FP	_____

I. Summary:

SB 536 amends s. 874.03(3), F.S., to revise the definition of a “criminal gang member” as it pertains to criminal investigations, charges against suspected gang members, and the sentencing of criminal gang members. The definition is expanded to mean a person who either admits in person or on social media to criminal gang membership or who meets two or more specified criteria.

The bill may have an indeterminate fiscal impact on the Department of Corrections. *See Section V. Fiscal Impact Statement.*

The bill becomes effective July 1, 2026.

II. Present Situation:

Recent Criminal Gang Activity in Florida

Following a multi-year investigation, 10 suspected senior members of a violent, criminal enterprise were arrested in May 2025, on charges related to racketeering that include underlying offenses of conspiracy to commit homicide, directing activities of a criminal gang and money laundering. Additionally, detectives discovered a kill list of the gang members’ intended victims and notified them before the crimes occurred. Arrest warrants were filed in March, and in April, a coordinated and sweeping statewide operation resulted in 10 arrests.¹

¹ Broward County Sheriff’s Office, *Investigation Topples Leadership of Notorious Sex, Money, Murder Blood Gang*, reported by Miranda Grossman/PIO 5/2/2025 1400; available at <https://www.sheriff.org/PIO/BSONews/Pages/BSO-INVESTIGATION-TOPPLES-LEADERSHIP-OF-NOTORIOUS-SEX,-MONEY,-MURDER-BLOOD-GANG-.aspx>? (last visited January 6, 2026).

The Polk County Sheriff's Office arrested five men for organized theft crimes that they say also had ties to the Venezuelan gang Tren De Aragua. The five men are all accused of trying to steal about \$3,200 in liquor from a Sam's Club store in north Lakeland. All of the men are linked to over three dozen retail thefts across the area, according to the sheriff's office. The robbery charges have been upgraded to a first-degree felony because the sheriff's office says two of the men are known members of the Tren De Aragua gang, and the other three are associates. The suspects are believed to be linked to over 3 dozen retail thefts across the central part of Florida.²

Criminal Gangs

"Criminal gang"³ means a formal or informal ongoing organization, association, or group⁴ that has as one of its primary activities⁵ 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,⁶ transnational crime organizations,⁷ and hate groups⁸.

A "criminal gang associate"⁹ is a person who:

- Admits to criminal gang association; or
- Meets any single defining criterion for criminal gang membership.¹⁰

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.

² News 6, *Robbery Suspects Were Linked to Venezuelan Gang, Polk County Sheriff Says*, Christie Zizo, April 18, 2025; available at <https://www.clickorlando.com/news/local/2025/04/18/5-robbery-suspects-were-linked-to-venezuelan-gang-polk-county-sheriff-says/> (last visited January 6, 2026).

³ Section 874.03(1), F.S.

⁴ "Ongoing" means that the organization was in existence during the time period charged in a petition, information, indictment, or action for civil injunctive relief. s. 874.03(1)(a), F.S.

⁵ "Primary activities" means that a criminal gang spends a substantial amount of time engaged in such activity, although such activity need not be the only, or even the most important, activity in which the criminal gang engages. s. 874.03(1)(b), F.S.

⁶ "Terrorist organization" means any organized group engaged in or organized for the purpose of engaging in terrorism as defined in s. 775.30, F.S. This definition shall not be construed to prevent prosecution under this chapter of individuals acting alone. s. 874.03(7), F.S.

⁷ "Transnational crime organization" means any group, network, or association of persons, at least one of which is an unauthorized alien as defined in s. 908.111, F.S., that routinely facilitates the international trafficking of drugs, humans, or weapons or the international smuggling of humans. s. 874.03(8), F.S.

⁸ "Hate group" means an organization whose primary purpose is to promote animosity, hostility, and malice against a person or persons or against the property of a person or persons because of race, religion, disability, sexual orientation, ethnicity, or national origin. s. 874.03(6), F.S.

⁹ Section 874.03(2), F.S.

¹⁰ Section s. 874.03(3), F.S.

- 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.

Where a single act or factual transaction satisfies the requirements of more than one of the criteria listed above, each of those criteria has thereby been satisfied for the purposes of the statute.¹¹

A person who intentionally causes, encourages, solicits, or recruits another person to become a criminal gang member where a condition of membership or continued membership is the commission of any crime commits a third degree felony.¹² It is a second degree felony for a person to commit this crime if the person recruited to become a gang member is *under the age of 13* and where a condition of membership or continued membership is the commission of any crime.¹³ Enhanced penalties are provided for second or subsequent offenses.

All profits, proceeds, and instrumentalities of criminal gang activity or criminal gang recruitment and all property used or intended or attempted to be used to facilitate the criminal activity of any criminal gang, criminal gang member, or criminal gang recruitment, are subject to seizure and forfeiture under the Florida Contraband Forfeiture Act¹⁴

Any person who knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity commits a first degree felony.¹⁵ “Criminal gang-related activity” is an activity:

- Committed with the intent to benefit, promote, or further the interests of a criminal gang, or for the purposes of increasing a person’s own standing or position within a criminal gang;
- In which the participants are identified as criminal gang members or criminal gang associates acting individually or collectively to further any criminal purpose of the gang;
- That is defined as criminal gang activity by a documented reliable informant; or
- That is identified as criminal gang activity by an informant of previously untested reliability and such identification is corroborated by independent information.¹⁶

¹¹ Section 874.03(3)(a)-(k), F.S.

¹² Section 874.05(1)(a), F.S.; A third degree felony is punishable by up to 5 years imprisonment and a \$5,000 fine., ss. 775.082 and s. 775.083, F.S.

¹³ Section 874.05(2)(a), F.S.; A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. ss. 775.082 and s. 775.03, F.S.

¹⁴ Section 932.704, F.S.

¹⁵ Section 874.10, F.S.; A first degree felony is punishable by imprisonment for a term of years not exceeding 30 years and up to a \$10,000 fine. ss. 775.082, 775.083, and 775.084, F.S.

¹⁶ Section 874.03(4)(a)-(d), F.S.

Any person possessing or manufacturing any blank, forged, stolen, fictitious, fraudulent, counterfeit, or otherwise unlawfully issued identification document for the purpose of benefiting, promoting, or furthering the interests of a criminal gang commits a second degree felony.¹⁷

Enhanced Penalties

Section 874.04, F.S., provides for enhanced penalties for a crime committed for the purpose of benefiting, promoting, or furthering the interests of a criminal gang.¹⁸ If the factfinder determines beyond a reasonable doubt that the defendant committed the offense charged for the purpose of benefiting, promoting, or furthering the interests of a criminal gang, the penalty may be enhanced to the penalty of a crime one degree higher than that committed.

III. Effect of Proposed Changes:

The bill amends s. 874.03(3), F.S., to revise the definition of a criminal gang member as it pertains to criminal investigations of or charges brought against suspected gang members. Although the defendant charged with a criminal offense does not necessarily *have* to meet the criminal gang member definition to be *charged* with any criminal offense, meeting the definition does often provide enhanced penalties for a criminal conviction.¹⁹

The definition of a “criminal gang member,” including the list of criteria, is amended to mean a person who *either admits in person or on social media* to criminal gang membership, *or* meets two or more specified criteria.

Criteria modified or amended by the bill includes:

- He or she is *identified or claimed* by a criminal gang *as one of its members*;
- He or she is identified as a criminal gang member *by a spouse living with the person*;
- He or she is identified as a criminal gang member *by a law enforcement officer*;
- He or she has been observed in the company of one or more known criminal gang members *two 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.
- He or she has authored any communication indicating *gang affiliation or gang activity or accepting* responsibility for the commission of any crime by the criminal gang. *Meeting the criteria of this paragraph replaces the need for a standard field interview; or*
- *Using gang-related language on social media.*

The bill becomes effective July 1, 2026.

¹⁷ Section 874.12, F.S.; A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. ss. 775.082 and s. 775.03, F.S.

¹⁸ Section 874.04, F.S.; “Enhanced penalties” means that a misdemeanor of the second degree may be punished *as if it were* a misdemeanor of the first degree; a misdemeanor of the first degree may be punished *as if it were* a felony of the third degree; a felony of the third degree may be punished *as if it were* a felony of the second degree; a felony of the second degree may be punished *as if it were* a felony of the first degree; and a felony of the first degree may be punished *as if it were* a life felony.

¹⁹ See ss. 874.04, 874.05, F.S., and s. 921.0024(1)(b), F.S.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s., of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

There is no definition provided for the term “gang-related language” on line 46 of the bill. This lack of certainty could prove problematic for law enforcement, the suspect, and the courts. There may be challenges related to vagueness.

The First Amendment of the U.S. Constitution states that, “Congress shall make no law... abridging the freedom of speech...” This language prohibits the government from having the ability to constrain the speech of citizens. The bill does not directly regulate speech, but certain speech may lead to designating that person as a gang member. Because of this, there may be challenges under the First Amendment related to gang-related language.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may have an indeterminate prison bed impact because the bill may result in more arrests and sentencing of people who fall under the new definition of “criminal gang

member.” The Office of Economic and Demographic Research is in the process of preparing a preliminary fiscal report.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 874.03, 823.05, 921.141, 951.23.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.