

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 Fiscal Policy

BILL: CS/CS/SB 536

INTRODUCER: Appropriations Committee on Criminal and Civil Justice; Criminal Justice Committee; and Senator Martin

SUBJECT: Criteria for Determining Criminal Gang Membership

DATE: February 27, 2026 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cellon</u>	<u>Stokes</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Atchley</u>	<u>Harkness</u>	<u>ACJ</u>	<u>Fav/CS</u>
3.	<u>Cellon</u>	<u>Siples</u>	<u>FP</u>	<u>Pre-meeting</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 536 amends s. 874.03, F.S., to modify 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, and creates a definition for the term “gang-related language.”

The bill may have a positive indeterminate fiscal impact (an unquantifiable increase in prison bed needs) on the Department of Corrections. See Section V., Fiscal Impact Statement.

The bill takes effect on 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

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 three 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 groups.⁸

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.

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).

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. Section 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. Section 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. Section 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. Section 874.03(6), F.S.

⁹ Section 874.03(2), F.S.

¹⁰ Section 874.03(3), F.S.

- 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.

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 Act.¹⁴

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;

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. Sections 775.082 and 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. Sections 775.082 and 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. Sections 775.082, 775.083, and 775.084, F.S.

- 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

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(4), 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 meets two or more specified criteria. Criteria added or amended by the bill includes that the person:

- Admits in person or on an online platform or social media that he or she is a criminal gang member.
- Is identified or claimed by a criminal gang as one of its members.
- Is identified as a criminal gang member by a parent, guardian, or spouse living with the person.
- 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.

¹⁶ Section 874.03(4)(a)-(d), F.S.

¹⁷ Section 874.12, F.S.; a second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. Sections 775.082 and 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, and 921.0024(1)(b), F.S.

- Has authored any communication indicating gang affiliation or gang activity or accepting responsibility for the commission of any crime by a criminal gang member.
- Uses gang-related language in furtherance of criminal gang-related activity on an online platform or social media.

The bill defines “gang-related language” in s. 874.03(3), F.S., as 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.

The bill takes effect on July 1, 2026.

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 Art. 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:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Legislature's Office of Economic and Demographic Research (EDR) and the Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has determined that the bill may have a positive indeterminate impact on Department of Corrections prison bed needs. The EDR provides the following additional information regarding its estimate:

- Per the FDLE, there were no arrests or convictions/adjudications withheld under s. 874.04, F.S. in Fiscal Year (FY) 2024-2025. Per DOC, in FY 2024-2025, there were no new commitments under s. 874.04, F.S. The lack of data is likely due to the statute enhancing other offenses, so the number of offenders is not known. Per FDLE, for the remaining felonies under ch. 874, F.S., in FY 2024-2025, there were 15 arrests and no convictions/adjudications withheld. Per DOC, there was one new commitment in FY 2024-2025. Furthermore, there were 6 new commitments for possessing a weapon as a convicted felon (s. 790.23(4), F.S.) and one for registration of a convicted felon (s. 775.13(4)(b), F.S.).
- Per the DOC, five inmates were admitted to the prison system in FY 2024-2025 with a death sentence and 469 inmates were admitted with a life sentence. For those admitted with a death sentence, one was listed as a gang member, and for those admitted with life sentences, 67 were listed as gang members and 25 were listed as associates. It is not known how many of these life sentences were given instead of a death sentence. Furthermore, those inmates executed in FY 2024-2025 averaged 27 years in prison, with the shortest time between initial incarceration and execution being 22 years. Assuming that future inmates on death row would have similar time in prison, any impact on prison beds should not be felt for at least a decade and would have no impact within the forecast window.
- Although, few offenders are currently arriving as new commitments for most felonies impacted by this bill, it is not known how many are impacted by the penalty enhancements under s. 874.04, F.S. Therefore, the magnitude of the impact cannot be quantified.²⁰

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, and 951.23.

²⁰ Office of Economic and Demographic Research, *SB 536 – Criminal Gang Members* (on file with the Senate Appropriations Committee on Criminal and Civil Justice)

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Appropriations Committee on Criminal and Civil Justice on February 25, 2026

The committee substitute clarifies one of the criteria for a person to be considered a criminal gang member is that they use gang-related language in furtherance of criminal gang-related activity on an online platform or social media.

CS by Criminal Justice on January 12, 2026

The committee substitute:

- Changes the definition of the term “criminal gang member” to provide that a person must meet two or more criteria to be considered a gang member and revises such criteria.
- Provides a definition for the term “gang-related language.”

- B. **Amendments:**

None.