

HOUSE BILL NO. 205

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/27/95

Referred: Health, Education and Social Services, State Affairs, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to a claim based on criminal street gang activity; relating to
 2 offenses related to criminal street gang activities; relating to the crime of
 3 recruitment for, sentencing for, and forfeiture of property relating to criminal
 4 street gang activities; restricting criminal street gang offenders from obtaining a
 5 permit to carry a concealed handgun; amending Alaska Rule of Civil Procedure
 6 82; and providing for an effective date."

7 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

8 * **Section 1.** AS 09.55 is amended by adding a new section to read:

9 Sec. 09.55.700. CLAIM BASED ON CRIMINAL GANG ACTIVITY. (a)

10 A person who has been coerced, intimidated, threatened, or otherwise harmed by
 11 another person as a result of that other person's participation in a criminal street gang
 12 has a civil cause of action for treble damages against that other person and, if that
 13 other person is an unemancipated minor under the age of 18, against the parent of the

1 minor for acts that were committed by the minor.

2 (b) A prevailing party who had a civil cause of action for treble damages
3 under (a) of this section may recover full reasonable attorney fees.

4 (c) For purposes of this section, "criminal street gang" has the meaning given
5 in AS 11.81.900(b).

6 * **Sec. 2.** AS 11.61 is amended by adding new sections to article 1 to read:

7 Sec. 11.61.160. RECRUITING A GANG MEMBER IN THE FIRST
8 DEGREE. (a) A person commits the crime of recruiting a gang member in the first
9 degree if the person uses or threatens the use of force against a person or property to
10 induce another person to participate in a criminal street gang or to commit a crime on
11 behalf of a criminal street gang.

12 (b) Recruiting a gang member in the first degree is a class C felony.

13 Sec. 11.61.165. RECRUITING A GANG MEMBER IN THE SECOND
14 DEGREE. (a) A person commits the crime of recruiting a gang member in the
15 second degree if the person is over 18 years of age and, without force or the threat of
16 force, encourages or recruits a person who is under 18 years of age and at least three
17 years younger than the offender to participate in a criminal street gang.

18 (b) Recruiting a gang member in the second degree is a class A misdemeanor.

19 * **Sec. 3.** AS 11.81.900(b) is amended by adding a new paragraph to read:

20 (59) "criminal street gang" means a group of three or more persons

21 (A) who have in common a name or identifying sign, symbol,
22 tattoo or other physical marking, style of dress, or use of hand signs; and

23 (B) who, either individually, jointly, or in combination, have
24 committed or attempted to commit, within the preceding three years, for the
25 benefit of, at the direction of, or in association with the group, two or more
26 offenses under any, or any combination of, the following:

27 (i) AS 11.41;

28 (ii) AS 11.46; or

29 (iii) any other felony offense.

30 * **Sec. 4.** AS 12.55.015(a) is amended by adding a new paragraph to read:

31 (11) order the forfeiture to the state of a motor vehicle, weapon,

1 electronic communication device, or money or other valuables, used in or obtained
2 through an offense that was committed for the benefit of, at the direction of, or in
3 association with a criminal street gang.

4 * **Sec. 5.** AS 12.55 is amended by adding a new section to read:

5 Sec. 12.55.137. PENALTIES FOR GANG ACTIVITIES. (a) If a class B
6 misdemeanor offense was committed for the benefit of, at the direction of, or in
7 association with a criminal street gang, the offense is a class A misdemeanor.

8 (b) If a class A misdemeanor offense was committed for the benefit of, at the
9 direction of, or in association with a criminal street gang, the offense is a class C
10 felony.

11 * **Sec. 6.** AS 12.55.155(c) is amended by adding a new paragraph to read:

12 (29) the defendant committed the offense for the benefit of, at the
13 direction of, or in association with a criminal street gang.

14 * **Sec. 7.** AS 12.55.185 is amended by adding a new paragraph to read:

15 (14) "criminal street gang" has the meaning given in AS 11.81.900(b).

16 * **Sec. 8.** AS 18.65.705(4) is amended to read:

17 (4) has not been convicted, within the five years immediately preceding
18 the application, of, and is not currently charged under a complaint, information,
19 indictment, or presentment with, any of the following misdemeanor offenses or similar
20 laws of another jurisdiction:

21 (A) AS 11.41.230, 11.41.250, 11.41.270;

22 (B) AS 11.46.315, 11.46.320, 11.46.330, 11.46.430, 11.46.484;

23 (C) AS 11.51.130;

24 (D) AS 11.56.330, 11.56.350, 11.56.380, 11.56.545, 11.56.700,
25 11.56.710, 11.56.740, 11.56.780, 11.56.790, 11.56.800, 11.56.805;

26 (E) AS 11.61.110, 11.61.120, 11.61.165, 11.61.210, 11.61.220,
27 11.61.240; or

28 (F) AS 11.71.050, 11.71.060;

29 * **Sec. 9.** AS 18.65.705 is amended by adding a new paragraph to read:

30 (17) has not been sentenced under AS 12.55.137 for an offense.

31 * **Sec. 10.** This Act applies to an act that occurred on or after the effective date of this Act.

1 * **Sec. 11.** AS 09.55.700(b), added by sec. 1 of this Act, has the effect of changing Alaska
2 Rule of Civil Procedure 82 by requiring an award of full reasonable attorney fees to persons
3 who have been harmed as a result of certain criminal gang activity.

4 * **Sec. 12.** AS 09.55.700(b), added by sec. 1 of this Act, takes effect July 1, 1995 only if
5 sec. 11 of this Act receives the two-thirds majority vote of each house required by art. IV,
6 sec. 15, Constitution of the State of Alaska.

7 * **Sec. 13.** Except as provided in sec. 12 of this Act, this Act takes effect July 1, 1995.