

City of Providence
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

RESOLUTION OF THE CITY COUNCIL

No. 345

EFFECTIVE July 14, 2014

WHEREAS, The General Assembly recently passed H7457, a bill that would allow an additional ten year prison sentence to be added to the sentence for any felony committed by someone believed to be a member of a gang; and

WHEREAS, Representatives from 22 local advocacy groups, including the Rhode Island ACLU, the RI Civil Rights Roundtable, the Institute for the Study and Practice of Nonviolence, DARE, Rhode Island for Community & Justice, RI Coalition to Defend Human & Civil Rights, the RI Chapter of the National Lawyers Guild, Providence Youth Student Movement, and the Providence Student Union, have signed a letter to the governor expressing grave concerns about H7457; and

WHEREAS, While some Rhode Island police departments maintain a "gang database," not all do, and there are no uniform policies or procedures for determining who should be entered into the gang database or how someone's name is removed from the gang database; and

WHEREAS, The definition of "criminal street gang" found in H7457 is overly broad, making no distinction between a "gang" that engages in occasional vandalism and a "gang" that has been involved in drug dealing or murder; and

WHEREAS, Without uniform standards for the maintenance of gang databases and a clear definition of what constitutes a "gang," there is great potential for arbitrary and subjective application of the enhanced sentencing allowed under H7457; and

WHEREAS, Non-violent crimes, such as graffiti, have recently been upgraded to felonies, meaning that under H7457, a single act of graffiti could result in a 12 year prison sentence; and

WHEREAS, A ten year prison sentence for being part of a "gang" is greater than or equal to the sentencing maximums for crimes such as dealing in firearms, possession of indecent photographs of a child, bribing a judge or juror, domestic assault by strangulation, second degree child abuse, fourth degree arson, and third degree sexual assault; and

WHEREAS, The Providence City Council has a moral obligation to ensure that the punishments fit their crimes and that the law is applied fairly and consistently.

NOW, THEREFORE BE IT RESOLVED, That the Providence City Council does hereby urge the Governor to veto H7457.

BE IT FURTHER RESOLVED, That, upon passage, copies of this resolution be sent to Governor Chafee, the Speaker of the House of Representatives, the President of the Senate, and the entire Providence General Assembly delegation.

IN CITY COUNCIL

JUL 02 2014

READ AND PASSED



PRES.


ACTING CLERK

Effective without the
Mayor's Signature



Lori L. Hagen
City Clerk
ACTING

2014 -- H 7457 AS AMENDED

LC004287

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

AN ACT

RELATING TO CRIMINAL PROCEDURE

Introduced By: Representatives Hull, Johnston, Malik, Costa, and McLaughlin

Date Introduced: February 12, 2014

Referred To: House Judiciary

(Attorney General)

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 12-19 of the General Laws entitled "Sentence and Execution" is
2 hereby amended by adding thereto the following section:

3 12-19-39. Criminal street gang enhancement. – (a) "Criminal street gang" means an
4 ongoing organization, association, or group of three (3) or more persons, whether formal or
5 informal, having as one of its primary activities the commission of criminal or delinquent acts;
6 having an identifiable name or common identifiable signs, colors or symbols; and whose
7 members individually or collectively engage in or have engaged in a pattern of criminal gang
8 activity.

9 (b) Any person who is convicted of any felony that is knowingly committed for the
10 benefit, at the direction of, or in association with any criminal street gang or criminal street gang
11 member, with the intent to promote, further, or assist in the affairs of a criminal street gang or
12 criminal conduct by criminal street gang members, in addition to the sentence provided for the
13 commission of the underlying offense, shall be subject to imprisonment for an additional term of
14 not more than ten (10) years.

15 (c) Whenever it appears that a person may be subject to the enhanced sentence in this
16 section, the attorney general, in no case later than the first pretrial conference, shall file with the
17 court a notice specifying that the defendant, upon conviction, is subject to the imposition of
18 sentencing in accordance with this section.

19 (d) Upon any plea of guilt or nolo contendere, or verdict or finding of guilt of the

1 defendant, the court shall conduct a sentencing hearing. At the hearing, the court shall permit the
2 attorney general and the defense to present additional evidence to the jury relevant to the
3 determination of whether the defendant knowingly committed the offense for the benefit, at the
4 direction of, or in association with any criminal street gang or criminal street gang member, with
5 the intent to promote, further, or assist in the affairs of a criminal street gang or criminal conduct
6 by criminal street gang members. If the jury at the hearing, or in the case of a plea of guilty or
7 nolo contendere, the court at sentencing, determines beyond a reasonable doubt that the
8 defendant's actions were so motivated, he or she shall be sentenced as provided in subsection (b).

9 (e) This section does not create a separate offense but provides an additional enhanced
10 sentence for the underlying offense.

11 (f) The enhanced sentence provided in this section shall run consecutively to the
12 sentences provided for the underlying offenses.

13 SECTION 2. This act shall take effect upon passage.

LC004287

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO CRIMINAL PROCEDURE

- 1 This act would create a sentencing enhancement for anyone convicted of being involved
- 2 in criminal street gang activity.
- 3 This act would take effect upon passage.

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