

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003

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HOUSE DRH30106-LH-44 (02/12)

Short Title: Street Gang Terrorism Prevention Act. (Public)

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Sponsors: Representative Michaux.

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Referred to:

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A BILL TO BE ENTITLED

AN ACT TO ENACT THE NORTH CAROLINA STREET GANG TERRORISM  
AND PREVENTION ACT OF 2003.

The General Assembly of North Carolina enacts:

**SECTION 1.** Chapter 14 of the General Statutes is amended by adding a  
new Article to read:

"Article 13A.

"North Carolina Street Gang and Terrorism Prevention Act.

**"§ 14-50.15. Short title.**

This Article shall be known and may be cited as the "North Carolina Street Gang  
Terrorism and Prevention Act".

**"§ 14-50.16. Legislative findings and intent.**

(a) The General Assembly finds and declares that it is the right of every person to  
be secure and protected from fear, intimidation, and physical harm caused by the  
activities of violent groups and individuals. It is not the intent of this Article to interfere  
with the exercise of the constitutionally protected rights of freedom of expression and  
association. The General Assembly recognizes the constitutional right of every citizen  
to harbor and express beliefs on any lawful subject whatsoever, to associate lawfully  
with others who share similar beliefs, to petition lawfully constituted authority for a  
redress of perceived grievances, and to participate in the electoral process.

(b) The General Assembly, however, further finds that the State of North  
Carolina is in a state of crisis that has been caused by violent street gangs whose  
members threaten, terrorize, and commit a multitude of crimes against the peaceful  
citizens of their neighborhoods. These activities, both individually and collectively,  
present a clear and present danger to public order and safety and are not constitutionally  
protected.

1       (c) The General Assembly finds that there are criminal street gangs operating in  
2 North Carolina and that the number of gang-related murders is increasing. It is the intent  
3 of the General Assembly in enacting this Article to seek the eradication of criminal  
4 activity by street gangs by focusing upon patterns of criminal gang activity and upon the  
5 organized nature of street gangs which together are the chief source of terror created by  
6 street gangs.

7       (d) The General Assembly further finds that an effective means of punishing and  
8 detering the criminal activities of street gangs is through forfeiture of the profits,  
9 proceeds, and instrumentalities acquired, accumulated, or used by street gangs.

10 **"§ 14-50.17. Definitions.**

11 The following definitions apply in this Article:

12       (1) "Criminal street gang" means any organization, association, or group  
13 of three or more persons associated in fact, whether formal or  
14 informal, which engages in a pattern of criminal gang activity as  
15 defined in subdivision (2) of this section. The existence of the  
16 organization, association, or group of individuals associated in fact  
17 may be established by evidence of a common name or common  
18 identifying signs, symbols, tattoos, graffiti, or attire or other  
19 distinguishing characteristics.

20       (2) "Pattern of criminal gang activity" means the commission, attempted  
21 commission, conspiracy to commit, or solicitation, coercion, or  
22 intimidation of another person to commit at least two of the following  
23 offenses, provided that at least one of these offenses occurred after  
24 July 1, 2003, and the last of the offenses occurred within three years,  
25 excluding any periods of imprisonment, of prior criminal gang  
26 activity:

27       a. Any offense under G.S. 75D-3.

28       b. Any offense under G.S. 14-277.3 (Stalking).

29       c. Any offense under Article 7A of Chapter 14 of the General  
30 Statutes (Rape or Other Sex Offenses).

31       d. Any offense under G.S. 14-239 (Allowing prisoners to escape;  
32 punishment), G.S. 148-45 (Escaping or attempting escape from  
33 State prison system; failure of conditionally and temporarily  
34 released prisoners and certain youthful offenders to return to  
35 custody of Department of Correction), or Article 33 of Chapter  
36 14 of the General Statutes (Prison Breach and Prisoners).

37       e. Any offense under Article 35 (Offenses Against the Public  
38 Peace), 52A (Sale of Weapons in Certain Counties), 54A (The  
39 Felony Firearms Act), or 54B (Concealed Handgun Permit) of  
40 Chapter 14 of the General Statutes.

41       f. Any offense under G.S. 14-316.1 (Contributing to delinquency  
42 and neglect by parents and others).

43 **"§ 14-50.18. Participation in criminal street gang activity prohibited.**

1       (a) It is unlawful for any person employed by or associated with a criminal street  
2 gang to conduct or participate in the criminal street gang through a pattern of criminal  
3 gang activity.

4       (b) It is unlawful for any person to acquire or maintain, directly or indirectly,  
5 through a pattern of criminal gang activity or proceeds derived therefrom any interest in  
6 or control of any real or personal property of any nature, including money.

7       (c) It is unlawful for any person who occupies a position of organizer,  
8 supervisory position, or any other position of management with regard to a criminal  
9 street gang to engage in, directly or indirectly, or conspire to engage in a pattern of  
10 criminal gang activity.

11       (d) It is unlawful for any person to cause, encourage, solicit, or coerce another to  
12 participate in a criminal street gang.

13       (e) It is unlawful for any person to communicate, directly or indirectly, with  
14 another any threat of injury or damage to the person or property of the other person or to  
15 any associate or relative of the other person with the intent to deter the person from  
16 assisting a member or associate of a criminal street gang to withdraw from such  
17 criminal street gang.

18       (f) It is unlawful for any person to communicate, directly or indirectly, with  
19 another any threat of injury or damage to the person or property of the other person or to  
20 any associate or relative of the other person with the intent to punish or retaliate against  
21 the person for having withdrawn from a criminal street gang.

22       (g) Any person who violates this section shall be punished as follows:

23           (1) A person who violates subsection (a) or (b) of this section shall, in  
24 addition to any other penalty imposed by law, be punished as a Class E  
25 felon.

26           (2) A person who violates subsection (c) of this section may, in addition to  
27 any other penalty provided by law, be punished by imprisonment for  
28 an additional 10 years which shall be served consecutively to any other  
29 sentence imposed on the person by law.

30           (3) A person who violates subsection (d), (e), or (f) of this section shall, in  
31 addition to any other penalty provided by law, be punished as a Class  
32 G felon.

33       (h) Any crime committed in violation of this section shall be considered a  
34 separate offense.

35 **"§ 14-50.19. Contraband, seizure, and forfeiture.**

36       (a) All of the following are declared to be contraband, and no person shall have a  
37 property interest in them:

38           (1) All property that is directly or indirectly used or intended for use in  
39 any manner to facilitate a violation of this Article.

40           (2) Any property constituting or derived from gross profits or other  
41 proceeds obtained from a violation of this Article.

42       (b) In any action under this section, the court may enter a restraining order or  
43 take other appropriate action, including acceptance of performance bonds, in connection  
44 with any interest that is subject to forfeiture.

1 (c) Within 60 days of the date of the seizure of contraband pursuant to this  
2 section, the district attorney or the Attorney General shall initiate a forfeiture  
3 proceeding as provided in G.S. 14-2.3.

4 **"§ 14-50.20. Local ordinances not preempted by State law.**

5 Nothing in this Article shall prevent a local governing body from adopting and  
6 enforcing ordinances relating to gangs and gang violence that are consistent with this  
7 Article. Where local laws duplicate or supplement the provisions of this Article, this  
8 Article shall be construed as providing alternative remedies and not as preempting the  
9 field.

10 **"§ 14-50.21. Real property used by criminal street gangs declared a public**  
11 **nuisance; abatement; persons injured by gangs entitled to treble**  
12 **damages.**

13 Any real property that is erected, established, maintained, owned, leased, or used by  
14 any criminal street gang for the purpose of conducting criminal gang activity shall  
15 constitute a public nuisance and may be abated as provided by Article 1 of Chapter 19  
16 of the General Statutes.

17 **"§ 14-50.22. Matters proved in criminal trial court.**

18 A conviction of an offense defined as criminal gang activity shall estop the  
19 defendant in any subsequent civil action or proceeding as to matters proved in the  
20 criminal proceeding."

21 **SECTION 2.** This act becomes effective December 1, 2003, and applies to  
22 offenses committed on or after that date.