

HOUSE BILL 713

E1, E2

71r2415

By: **The Speaker (By Request – Administration, Attorney General, and Maryland State’s Attorneys’ Association) and Delegates James, Riley, Rosenberg, Ali, Anderson, Aumann, Barkley, Barnes, Bartlett, Barve, Bates, Beidle, Beitzel, Benson, Bohanan, Boteler, Branch, Bromwell, Bronrott, Burns, Cane, Cardin, Carter, G. Clagett, V. Clagett, Conway, Costa, Davis, DeBoy, Donoghue, Doory, Dumais, Eckardt, Elmore, Feldman, Frank, Frush, Gaines, George, Gilchrist, Glassman, Glenn, Griffith, Guzzone, Haddaway, Hammen, Haynes, Healey, Hecht, Heller, Hixson, Holmes, Howard, Hucker, Jameson, Jennings, Jones, Kach, Kelly, J. King, N. King, Kipke, Kirk, Kramer, Krysiak, Kullen, Lafferty, Lawton, Lee, Levy, Love, Malone, Manno, Mathias, McComas, McHale, McIntosh, McKee, Miller, Mizeur, Montgomery, Morhaim, Murphy, Myers, Nathan-Pulliam, Niemann, Olszewski, Pena-Melnyk, Pendergrass, Proctor, Rice, Ross, Rudolph, Schuh, Schuler, Sophocleus, Sossi, Stein, Stifler, Stukes, Tarrant, Taylor, F. Turner, Vaughn, Waldstreicher, Walker, Weir, and Wood**

Introduced and read first time: February 8, 2007

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Gang Prosecution Act of 2007**

3 FOR the purpose of prohibiting a person from participating in a certain criminal gang
4 knowing that the members of the gang engage in or have engaged in a certain
5 pattern of criminal gang activity; prohibiting a person from willfully promoting,
6 furthering, or assisting in a criminal offense committed for the benefit of, at the
7 direction of, or in association with a criminal gang; establishing penalties for a
8 violation of this Act; establishing that a sentence imposed under this Act may be
9 separate from and consecutive to or concurrent with a sentence for a crime
10 based on the act establishing a violation of this Act; providing that a defendant
11 may only be charged with a violation under this Act by indictment, criminal

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 information, or a petition alleging a delinquent act; authorizing the Attorney
 2 General, with the consent of a certain State's Attorney, to aid in a certain
 3 investigation and prosecution under certain circumstances; establishing that
 4 the Attorney General has all the powers and duties of a State's Attorney in
 5 certain circumstances; authorizing certain State's Attorneys or the Attorney
 6 General to join certain causes of action in certain circumstances; authorizing a
 7 certain grand jury to conduct a certain investigation; defining a certain term;
 8 altering a certain term; and generally relating to criminal gangs.

9 BY repealing and reenacting, with amendments,
 10 Article – Criminal Law
 11 Section 9–801
 12 Annotated Code of Maryland
 13 (2002 Volume and 2006 Supplement)

14 BY adding to
 15 Article – Criminal Law
 16 Section 9–804
 17 Annotated Code of Maryland
 18 (2002 Volume and 2006 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article – Criminal Law**

22 9–801.

23 (a) In this subtitle the following words have the meanings indicated.

24 (b) “Coerce” means to compel or attempt to compel another by threat of harm
 25 or other adverse consequences.

26 (c) “Criminal gang” means a group or [any] **OTHER FORMAL OR INFORMAL**
 27 association of three or more persons **WHOSE MEMBERS:**

28 (1) [that forms to] **INDIVIDUALLY OR COLLECTIVELY** engage in A
 29 **PATTERN OF** criminal **GANG** activity;

30 (2) **HAVE AS ONE OF THEIR PRIMARY OBJECTIVES OR ACTIVITIES**
 31 **THE COMMISSION OF ONE OR MORE CRIMINAL ACTIVITIES**, including acts by
 32 juveniles that would be crimes if committed by adults[, for the purposes of pecuniary

1 gain or to create an atmosphere of fear and intimidation either collectively or with
2 knowledge of the acts of the members of the group]; and

3 [(2)] (3) [whose members] have [a] IN common AN identifying sign,
4 symbol, [or] name, LEADER, OR PURPOSE.

5 (d) **“PATTERN OF CRIMINAL GANG ACTIVITY” MEANS THE COMMISSION**
6 **OF, ATTEMPTED COMMISSION OF, CONSPIRACY TO COMMIT, OR SOLICITATION**
7 **OF TWO OR MORE OF THE FOLLOWING CRIMES OR ACTS BY A JUVENILE THAT**
8 **WOULD BE A CRIME IF COMMITTED BY AN ADULT, PROVIDED THE CRIMES OR**
9 **ACTS WERE NOT PART OF THE SAME INCIDENT:**

10 (1) **A CRIME OF VIOLENCE AS DEFINED UNDER § 14-101 OF THIS**
11 **ARTICLE;**

12 (2) **A VIOLATION OF §§ 3-203, 3-210, 4-503, 5-601, 5-602, 6-103,**
13 **6-107, 6-109, 6-202, 6-203, 6-204, 7-104, 7-105, 9-302, 9-303, 9-304, 11-303,**
14 **11-304, 11-305, AND 11-306 OF THIS ARTICLE; AND**

15 (3) **A VIOLATION OF §§ 5-133, 5-134, AND 5-136 OF THE PUBLIC**
16 **SAFETY ARTICLE.**

17 (E) “Solicit” has the meaning stated in § 11-301 of this article.

18 **9-804.**

19 (A) **A PERSON MAY NOT:**

20 (1) **PARTICIPATE IN A CRIMINAL GANG KNOWING THAT THE**
21 **MEMBERS OF THE GANG ENGAGE IN OR HAVE ENGAGED IN A PATTERN OF**
22 **CRIMINAL GANG ACTIVITY; AND**

23 (2) **WILLFULLY PROMOTE, FURTHER, OR ASSIST IN A CRIMINAL**
24 **OFFENSE COMMITTED FOR THE BENEFIT OF, AT THE DIRECTION OF, OR IN**
25 **ASSOCIATION WITH A CRIMINAL GANG.**

26 (B) (1) **A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A**
27 **FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING**
28 **30 YEARS OR A FINE NOT EXCEEDING \$100,000 OR BOTH.**

1 **(2) A SENTENCE IMPOSED UNDER THIS SECTION MAY BE**
2 **SEPARATE FROM AND CONSECUTIVE TO OR CONCURRENT WITH A SENTENCE**
3 **FOR ANY CRIME BASED ON THE ACT ESTABLISHING A VIOLATION OF THIS**
4 **SECTION.**

5 **(C) A PERSON MAY ONLY BE CHARGED WITH A VIOLATION OF THIS**
6 **SECTION BY INDICTMENT, CRIMINAL INFORMATION, OR PETITION ALLEGING A**
7 **DELINQUENT ACT.**

8 **(D) (1) THE ATTORNEY GENERAL, WITH THE CONSENT OF THE**
9 **STATE'S ATTORNEY FOR A COUNTY IN WHICH A VIOLATION OR AN ACT**
10 **ESTABLISHING A VIOLATION OF THIS SECTION OCCURS, MAY:**

11 **(I) AID IN THE INVESTIGATION OF THE VIOLATION OR ACT;**
12 **AND**

13 **(II) PROSECUTE THE VIOLATION OR ACT.**

14 **(2) IN EXERCISING AUTHORITY UNDER PARAGRAPH (1) OF THIS**
15 **SUBSECTION, THE ATTORNEY GENERAL HAS ALL THE POWERS AND DUTIES OF A**
16 **STATE'S ATTORNEY, INCLUDING THE USE OF THE GRAND JURY IN THE COUNTY,**
17 **TO PROSECUTE THE VIOLATION.**

18 **(3) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IN**
19 **CIRCUMSTANCES IN WHICH VIOLATIONS OF THIS SECTION ARE ALLEGED TO**
20 **HAVE BEEN COMMITTED IN MORE THAN ONE COUNTY, THE RESPECTIVE STATE'S**
21 **ATTORNEY OF EACH COUNTY, OR THE ATTORNEY GENERAL, MAY JOIN THE**
22 **CAUSES OF ACTION IN A SINGLE COMPLAINT WITH THE CONSENT OF EACH**
23 **STATE'S ATTORNEY HAVING JURISDICTION OVER AN OFFENSE SOUGHT TO BE**
24 **JOINED.**

25 **(E) NOTWITHSTANDING ANY OTHER PROVISION OF LAW AND PROVIDED**
26 **AT LEAST ONE CRIMINAL GANG ACTIVITY OF A CRIMINAL GANG ALLEGEDLY**
27 **OCCURRED IN THE COUNTY IN WHICH A GRAND JURY IS SITTING, THE GRAND**
28 **JURY MAY ISSUE SUBPOENAS, SUMMON WITNESSES, AND OTHERWISE CONDUCT**
29 **AN INVESTIGATION OF THE ALLEGED CRIMINAL GANG'S ACTIVITIES AND**
30 **OFFENSES IN OTHER COUNTIES.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2007.