

Department of Legislative Services  
Maryland General Assembly  
2008 Session

FISCAL AND POLICY NOTE

House Bill 1308  
Judiciary

(Delegate Sophocleus)

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Criminal Law - Definition of "Criminal Gang"

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This bill alters the definition of a “criminal gang” by repealing the requirement that a group of three or more persons whose members meet additional criteria must have an *ongoing* association in order to be defined as a criminal gang.

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Fiscal Summary

**State Effect:** Minimal. Although the bill may result in additional individuals being defined as members of a criminal gang and subject to prosecution and incarceration under the prohibition against participation in a criminal gang, it is not expected to significantly affect operations or finances for the Judiciary or the Department of Public Safety and Correctional Services.

**Local Effect:** Minimal. It is assumed that any additional caseload for the circuit courts could be handled with existing budgeted resources.

**Small Business Effect:** None.

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Analysis

**Current Law:** A criminal gang is defined as a group or ongoing association of three or more persons whose members: (1) individually or collectively engage in a pattern of criminal gang activity; (2) have as one of their primary objectives or activities the commission of one or more underlying crimes, including acts by juveniles that would be underlying crimes if committed by adults; and (3) have in common an identifying sign, symbol, name, leader, or purpose.

**Background:** Chapter 496 of 2007, an Administration initiative, created new offenses regarding criminal gangs. The Attorney General was authorized to aid in the investigation or prosecute violations of the Act. By January 1, 2008, the Attorney General and the Maryland State Attorneys' Association were required to report to the General Assembly on recommendations for more legislation to assist prosecution of gang activity. This bill emerges from those recommendations.

Chapter 496 prohibited a person from (1) participating in a criminal gang knowing that the members of the gang engage in an ongoing pattern of criminal gang activity; or (2) knowingly or willfully directing or participating in the commission of an underlying crime committed for the benefit of, at the direction of, or in association with a criminal gang.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 636 (Senator Jacobs, *et al.*) – Judicial Proceedings.

**Information Source(s):** State's Attorneys' Association, Judiciary (Administrative Office of the Courts), Office of the Public Defender, Department of Public Safety and Correctional Services, Department of Legislative Services

**Fiscal Note History:** First Reader - March 6, 2008  
mcp/jr

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