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HOUSE BILL 106

48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008

INTRODUCED BY

Thomas E. Swisstack

AN ACT

RELATING TO CRIMINAL LAW; PROVIDING CRIMINAL PENALTIES FOR
RECRUITING OTHERS TO JOIN A CRIMINAL STREET GANG OR INDUCING
PARTICIPATION IN CRIMINAL STREET GANG ACTIVITY; ENHANCING
PENALTIES FOR RECRUITMENT AND INDUCEMENT OF MINORS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Criminal Code is enacted
to read:

"[NEW MATERIAL] GANG RECRUITMENT.--

A. Gang recruitment consists of the solicitation or
recruitment of another with the intent that the person
solicited or recruited:

(1) knowingly participate in a pattern of
criminal street gang activity; or

(2) promote, further or assist in felonious

underscoring material = new
[bracketed material] = delete

1 conduct by members of a criminal street gang.

2 B. Whoever commits gang recruitment is guilty of a
3 misdemeanor. Whoever commits gang recruitment of a minor is
4 guilty of a fourth degree felony.

5 C. Gang recruitment by threat or violence consists
6 of threatening another with physical violence on two or more
7 separate occasions within a thirty-day period, or using
8 physical violence, with the intent to coerce, induce or solicit
9 another to:

10 (1) knowingly participate in a pattern of
11 criminal street gang activity; or

12 (2) promote, further or assist in felonious
13 conduct by members of a criminal street gang.

14 D. Whoever commits gang recruitment by threat or
15 violence is guilty of a fourth degree felony. Whoever commits
16 gang recruitment of a minor by threat or violence is guilty of
17 a third degree felony.

18 E. As used in this section, "criminal street gang"
19 means an ongoing organization, association or group of three or
20 more persons, whether formal or informal, having a common name
21 or identifying sign or symbol, whose members individually or
22 collectively engage in or have engaged in a pattern of criminal
23 street gang activity and having as one of its primary
24 activities the commission of one or more of the following
25 felonies:

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- 1 (1) murder, pursuant to Section 30-2-1 NMSA
 - 2 1978;
 - 3 (2) voluntary manslaughter, pursuant to
 - 4 Subsection A of Section 30-2-3 NMSA 1978;
 - 5 (3) aggravated assault, pursuant to Section
 - 6 30-3-2 NMSA 1978;
 - 7 (4) assault with intent to commit a violent
 - 8 felony, pursuant to Section 30-3-3 NMSA 1978;
 - 9 (5) aggravated battery, pursuant to Subsection
 - 10 C of Section 30-3-5 NMSA 1978;
 - 11 (6) shooting at a dwelling or occupied
 - 12 building or shooting at or from a motor vehicle, pursuant to
 - 13 Section 30-3-8 NMSA 1978;
 - 14 (7) aggravated stalking, pursuant to Section
 - 15 30-3A-3.1 NMSA 1978;
 - 16 (8) kidnapping, pursuant to Section 30-4-1
 - 17 NMSA 1978;
 - 18 (9) sexual exploitation of children by
 - 19 prostitution, pursuant to Section 30-6A-4 NMSA 1978;
 - 20 (10) dangerous use of explosives, pursuant to
 - 21 Section 30-7-5 NMSA 1978;
 - 22 (11) possession of explosives, explosive
 - 23 devices or incendiary devices, pursuant to Sections 30-7-19 and
 - 24 30-7-19.1 NMSA 1978;
 - 25 (12) criminal sexual penetration in the first,
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1 second or third degree, pursuant to Section 30-9-11 NMSA 1978;

2 (13) criminal sexual contact of a minor,
3 pursuant to Section 30-9-13 NMSA 1978;

4 (14) felony criminal damage to property,
5 pursuant to Section 30-15-1 NMSA 1978;

6 (15) felony graffiti, pursuant to Section
7 30-15-1.1 NMSA 1978;

8 (16) robbery, pursuant to Section 30-16-2 NMSA
9 1978;

10 (17) burglary, pursuant to Section 30-16-3
11 NMSA 1978;

12 (18) aggravated burglary, pursuant to Section
13 30-16-4 NMSA 1978;

14 (19) extortion, pursuant to Section 30-16-9
15 NMSA 1978;

16 (20) aggravated fleeing a law enforcement
17 officer, pursuant to Section 30-22-1.1 NMSA 1978;

18 (21) harboring or aiding a felon, pursuant to
19 Section 30-22-4 NMSA 1978;

20 (22) aggravated assault upon a peace officer,
21 pursuant to Section 30-22-22 NMSA 1978;

22 (23) assault with intent to commit a violent
23 felony upon a peace officer, pursuant to Section 30-22-23 NMSA
24 1978;

25 (24) aggravated battery on a peace officer,

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1 pursuant to Section 30-22-25 NMSA 1978;

2 (25) bribery or intimidation of a witness or
3 retaliation against a witness, pursuant to Section 30-24-3 NMSA
4 1978;

5 (26) trafficking in a controlled substance,
6 pursuant to Section 30-31-20 NMSA 1978;

7 (27) unlawful taking of a motor vehicle,
8 pursuant to Section 66-3-504 NMSA 1978;

9 (28) money laundering, pursuant to the Money
10 Laundering Act; and

11 (29) an attempt to commit any of the felonies
12 listed in this subsection, pursuant to Section 30-28-1 NMSA
13 1978.

14 F. As used in this section, "pattern of criminal
15 street gang activity" means the commission of two or more of
16 the felonies enumerated in Subsection E of this section;
17 provided that the offenses occurred within three years of each
18 other and were committed on separate occasions by two or more
19 persons."

20 Section 2. EFFECTIVE DATE.--The effective date of the
21 provisions of this act is July 1, 2008.

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