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SENATE BILL 537

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

William E. Sharer

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; PROVIDING
INCREASED 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

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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:

19 (1) "criminal street gang" means an ongoing
20 organization, association or group of three or more persons,
21 whether formal or informal, who associate under a common name
22 or have an identifying sign or symbol, whose members
23 individually or collectively engage in or have engaged in a
24 pattern of criminal street gang activity and having as one of
25 its primary activities the commission of one or more of the

1 following felonies:

2 (a) murder, pursuant to Section 30-2-1
3 NMSA 1978;

4 (b) voluntary manslaughter, pursuant to
5 Subsection A of Section 30-2-3 NMSA 1978;

6 (c) aggravated assault, pursuant to
7 Section 30-3-2 NMSA 1978;

8 (d) assault with intent to commit a
9 violent felony, pursuant to Section 30-3-3 NMSA 1978;

10 (e) aggravated battery, pursuant to
11 Subsection C of Section 30-3-5 NMSA 1978;

12 (f) shooting at a dwelling or occupied
13 building or shooting at or from a motor vehicle, pursuant to
14 Section 30-3-8 NMSA 1978;

15 (g) aggravated stalking, pursuant to
16 Section 30-3A-3.1 NMSA 1978;

17 (h) kidnapping, pursuant to Section
18 30-4-1 NMSA 1978;

19 (i) sexual exploitation of children by
20 prostitution, pursuant to Section 30-6A-4 NMSA 1978;

21 (j) dangerous use of explosives,
22 pursuant to Section 30-7-5 NMSA 1978;

23 (k) possession of explosives, explosive
24 devices or incendiary devices, pursuant to Sections 30-7-19 and
25 30-7-19.1 NMSA 1978;

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1 (l) criminal sexual penetration in the
2 first, second or third degree, pursuant to Section 30-9-11 NMSA
3 1978;

4 (m) criminal sexual contact of a minor,
5 pursuant to Section 30-9-13 NMSA 1978;

6 (n) felony criminal damage to property,
7 pursuant to Section 30-15-1 NMSA 1978;

8 (o) felony graffiti, pursuant to Section
9 30-15-1.1 NMSA 1978;

10 (p) robbery, pursuant to Section 30-16-2
11 NMSA 1978;

12 (q) burglary, pursuant to Section
13 30-16-3 NMSA 1978;

14 (r) aggravated burglary, pursuant to
15 Section 30-16-4 NMSA 1978;

16 (s) extortion, pursuant to Section
17 30-16-9 NMSA 1978;

18 (t) aggravated fleeing a law enforcement
19 officer, pursuant to Section 30-22-1.1 NMSA 1978;

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

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

24 (w) assault with intent to commit a
25 violent felony upon a peace officer, pursuant to Section

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1 30-22-23 NMSA 1978;

2 (x) aggravated battery on a peace
3 officer, pursuant to Section 30-22-25 NMSA 1978;

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

7 (z) trafficking in a controlled
8 substance, pursuant to Section 30-31-20 NMSA 1978;

9 (aa) unlawful taking of a motor vehicle,
10 pursuant to Section 30-16D-1 NMSA 1978;

11 (bb) money laundering, pursuant to the
12 Money Laundering Act; and

13 (cc) an attempt to commit any of the
14 felonies listed in this paragraph, pursuant to Section 30-28-1
15 NMSA 1978;

16 (2) "criminal street gang" does not include a
17 fraternal organization, union, corporation, association or
18 similar group or entity, unless organized for the primary
19 purpose of engaging in criminal activity; and

20 (3) "pattern of criminal street gang activity"
21 means the commission of two or more of the felonies enumerated
22 in Paragraph (1) of this subsection; provided that the offenses
23 occurred within three years of each other and were committed on
24 separate occasions by two or more persons."

25 SECTION 2. EFFECTIVE DATE.--The effective date of the

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1 provisions of this act is July 1, 2011.

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