

Regular Session, 2012

SENATE BILL NO. 427

BY SENATOR KOSTELKA

CRIME/PUNISHMENT. Revises the definition of "pattern of criminal gang activity".  
(gov sig)

1 AN ACT

2 To amend and reenact R.S. 15:1404(A) and the introductory paragraph of (B) and to enact  
3 R.S. 15:1404(B)(9) through (13), relative to criminal gang activity; to provide for the  
4 definition of "pattern of criminal gang activity"; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 15:1404(A) and the introductory paragraph of (B) are hereby  
7 amended and reenacted and R.S. 15:1404(B)(9) through (13) are hereby enacted to read as  
8 follows:

9 §1404. Definitions

10 A. As used in this Chapter, "criminal street gang" means any ongoing  
11 organization, association, or group of three or more persons, whether formal or  
12 informal, which has as one of its primary activities the commission of one or more  
13 of the criminal acts enumerated in Paragraphs (1) through ~~(8)~~ **(13)** of Subsection B  
14 of this Section or which has a common name or common identifying sign or symbol,  
15 whose members individually or collectively engage in or have engaged in a pattern  
16 of criminal gang activity.

17 B. As used in this Chapter, "pattern of criminal gang activity" means the

1 commission or attempted commission of two or more of the following offenses,  
 2 provided ~~at least one of those offenses occurred after September 7, 1990 and the last~~  
 3 ~~of those offenses occurred within three years after a prior~~ **that the offenses occurred**  
 4 **within a three-year period**, and the offenses are committed on separate occasions  
 5 or by two or more persons:

6 \* \* \*

7 **(9) Assault by drive-by shooting as defined in R.S. 14:37.1.**

8 **(10) Rioting or inciting to riot as defined in R.S. 14:329.1 and 329.2.**

9 **(11) Aggravated criminal damage to property as defined in R.S. 14:55.**

10 **(12) Simple burglary as defined in R.S. 14:62.**

11 **(13) Looting as defined in R.S. 14:62.5.**

12 Section 2. This Act shall become effective upon signature by the governor or, if not  
 13 signed by the governor, upon expiration of the time for bills to become law without signature  
 14 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 15 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 16 effective on the day following such approval.

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The original instrument and the following digest, which constitutes no part  
 of the legislative instrument, were prepared by Alden A. Clement, Jr.

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#### DIGEST

Kostelka (SB 427)

Present law provides enhanced penalties for the commission of crimes while associated with or participating in criminal gang activity.

Present law defines a "pattern of criminal gang activity" as the commission or attempted commission of two or more of the following offenses, provided at least one of those offenses occurred after 9/7/90, and the last of those offenses occurred within three years after a prior offense, and the offenses are committed on separate occasions or by two or more persons:

1. Aggravated battery or second degree battery.
2. Armed robbery.
3. First or second degree murder or manslaughter.
4. The sale, possession for sale, transportation, manufacture, offer for sale, or offer to manufacture controlled substances.
5. Illegal use of weapons or dangerous instrumentalities.

6. Aggravated arson.
7. Intimidating, impeding, or injuring witnesses; or injuring officers.
8. Theft of any vehicle, trailer, or vessel.

Proposed law retains present law and adds the following offenses to the definition of "pattern of criminal gang activity":

9. Assault by drive-by shooting.
10. Rioting or inciting to riot.
11. Aggravated criminal damage to property.
12. Simple burglary.
13. Looting.

Proposed law changes the definition of "pattern of criminal gang activity" to remove the reference to offenses which occurred after 9/7/90.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 15:1404(A)(intro para) and (B); adds R.S. 15:1404(B)(9)-(13))