

2014 -- H 7457 AS AMENDED

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LC004287
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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A N A C T

RELATING TO CRIMINAL PROCEDURE

Introduced By: Representatives Hull, Johnston, Malik, Costa, and McLaughlin

Date Introduced: February 12, 2014

Referred To: House Judiciary

(Attorney General)

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 12-19 of the General Laws entitled "Sentence and Execution" is
2 hereby amended by adding thereto the following section:

3 **12-19-39. Criminal street gang enhancement.** – (a) "Criminal street gang" means an
4 ongoing organization, association, or group of three (3) or more persons, whether formal or
5 informal, having as one of its primary activities the commission of criminal or delinquent acts;
6 having an identifiable name or common identifiable signs, colors or symbols; and whose
7 members individually or collectively engage in or have engaged in a pattern of criminal gang
8 activity.

9 (b) Any person who is convicted of any felony that is knowingly committed for the
10 benefit, at the direction of, or in association with any criminal street gang or criminal street gang
11 member, with the intent to promote, further, or assist in the affairs of a criminal street gang or
12 criminal conduct by criminal street gang members, in addition to the sentence provided for the
13 commission of the underlying offense, shall be subject to imprisonment for an additional term of
14 not more than ten (10) years.

15 (c) Whenever it appears that a person may be subject to the enhanced sentence in this
16 section, the attorney general, in no case later than the first pretrial conference, shall file with the
17 court a notice specifying that the defendant, upon conviction, is subject to the imposition of
18 sentencing in accordance with this section.

19 (d) Upon any plea of guilt or nolo contendere, or verdict or finding of guilt of the

1 defendant, the court shall conduct a sentencing hearing. At the hearing, the court shall permit the
2 attorney general and the defense to present additional evidence to the jury relevant to the
3 determination of whether the defendant knowingly committed the offense for the benefit, at the
4 direction of, or in association with any criminal street gang or criminal street gang member, with
5 the intent to promote, further, or assist in the affairs of a criminal street gang or criminal conduct
6 by criminal street gang members. If the jury at the hearing, or in the case of a plea of guilty or
7 nolo contendere, the court at sentencing, determines beyond a reasonable doubt that the
8 defendant's actions were so motivated, he or she shall be sentenced as provided in subsection (b).

9 (e) This section does not create a separate offense but provides an additional enhanced
10 sentence for the underlying offense.

11 (f) The enhanced sentence provided in this section shall run consecutively to the
12 sentences provided for the underlying offenses.

13 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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- 1 This act would create a sentencing enhancement for anyone convicted of being involved
- 2 in criminal street gang activity.
- 3 This act would take effect upon passage.

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