

104TH CONGRESS
2D SESSION

S. 1700

To reduce interstate street gang and organized crime activity, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 24, 1996

Mr. HATCH (for himself, Mrs. FEINSTEIN, Mr. KERRY, Mr. HARKIN, Mr. REID, and Mr. D'AMATO) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To reduce interstate street gang and organized crime activity,
and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Gang Violence
5 Act”.

6 **SEC. 2. INCREASE IN OFFENSE LEVEL FOR PARTICIPATION**
7 **IN CRIME AS GANG MEMBER.**

8 (a) AMENDMENT OF SENTENCING GUIDELINES.—

9 (1) IN GENERAL.—Pursuant to its authority
10 under section 994(p) of title 28, United States Code,

1 the United States Sentencing Commission shall
 2 amend chapter 3 of the Federal Sentencing Guide-
 3 lines so that, except with respect to trafficking in co-
 4 caine base, if a defendant was a member of a crimi-
 5 nal street gang at the time of the offense, the of-
 6 fense level is increased by 6 levels.

7 (2) CONSTRUCTION WITH OTHER GUIDE-
 8 LINES.—The amendment made pursuant to para-
 9 graph (1) shall provide that the increase in the of-
 10 fense level shall be in addition to any other adjust-
 11 ment under chapter 3 of the Federal Sentencing
 12 Guidelines.

13 (3) DEFINITION.—For purposes of this section,
 14 the term “criminal street gang” has the meaning
 15 given that term in section 521(a) of title 18, United
 16 States Code, as amended by section 3 of this Act.

17 **SEC. 3. AMENDMENT OF TITLE 18 WITH RESPECT TO CRIMI-**
 18 **NAL STREET GANGS.**

19 Section 521 of title 18, United States Code, is
 20 amended—

21 (1) in subsection (a)—

22 (A) by striking “(a) DEFINITIONS.—” and
 23 inserting “(a) DEFINITIONS.—For purposes of
 24 this section the following definitions shall
 25 apply.”;

1 (B) by striking “‘conviction’” and insert-
2 ing the following:

3 “(1) CONVICTION.—The term ‘conviction’”;

4 (C) in paragraph (1), as so designated, by
5 striking “‘violent or controlled substances fel-
6 ony’” and inserting “‘predicate gang crime’”; and

7 (D) by striking “‘criminal street gang’”
8 and all that follows through the end of the sub-
9 section and inserting the following:

10 “(2) CRIMINAL STREET GANG.—The term
11 ‘criminal street gang’ means an ongoing group, club,
12 organization, or association of 3 or more persons,
13 whether formal or informal—

14 “(A) a primary activity of which is the
15 commission of 1 or more predicate gang crimes;

16 “(B) the members of which engage, or
17 have engaged during the 5-year period preced-
18 ing the date in question, in a pattern of crimi-
19 nal activity involving 1 or more predicate gang
20 crimes; and

21 “(C) the activities of which affect inter-
22 state or foreign commerce.

23 “(3) PATTERN OF CRIMINAL ACTIVITY.—The
24 term ‘pattern of criminal activity’ means the com-
25 mission of 2 or more predicate gang crimes—

1 “(A) at least 1 of which was committed
2 after the date of enactment of the Federal
3 Gang Violence Act;

4 “(B) the last of which was committed not
5 later than 3 years after the commission of an-
6 other predicate gang crime; and

7 “(C) which were committed on separate oc-
8 casions.

9 “(4) PREDICATE GANG CRIME.—The term
10 ‘predicate gang crime’ means—

11 “(A) an offense described in subsection (c);

12 “(B) a State offense—

13 “(i) involving a controlled substance
14 (as defined in section 102 of the Controlled
15 Substances Act (21 U.S.C. 802)) for which
16 the maximum penalty is imprisonment for
17 not less than 5 years; or

18 “(ii) that is a felony crime of violence
19 that has as an element the use or at-
20 tempted use of physical force against the
21 person of another;

22 “(C) any Federal or State felony offense
23 that by its nature involves a substantial risk
24 that physical force against the person of an-

1 other may be used in the course of committing
2 the offense, including—

3 “(i) assault with a deadly weapon;

4 “(ii) homicide or manslaughter;

5 “(iii) shooting at an occupied dwelling
6 or motor vehicle;

7 “(iv) kidnapping;

8 “(v) carjacking;

9 “(vi) robbery;

10 “(vii) drive-by-shooting;

11 “(viii) tampering with or retaliating
12 against a witness, victim, informant, or
13 juror;

14 “(ix) rape;

15 “(x) mayhem;

16 “(xi) torture; and

17 “(xii) arson;

18 “(D) any Federal or State offense that
19 is—

20 “(i) grand theft;

21 “(ii) burglary;

22 “(iii) looting;

23 “(iv) felony extortion;

24 “(v) possessing a concealed weapon;

25 “(vi) grand theft auto;

1 “(vii) money laundering

2 “(viii) felony vandalism;

3 “(ix) unlawful sale of a firearm; or

4 “(x) obstruction of justice; and

5 “(E) a conspiracy, attempt, or solicitation
6 to commit any offense described in subpara-
7 graphs (A) through (D).”; and

8 (2) in subsection (d)—

9 (A) in paragraph (1), by striking “continu-
10 ing series of offenses described in subsection
11 (c)” and inserting “pattern of criminal activ-
12 ity”; and

13 (B) in paragraph (3), by striking “years
14 for—” and all that follows through the end of
15 the paragraph and inserting “years for a predi-
16 cate gang crime.”.

17 **SEC. 4. INTERSTATE AND FOREIGN TRAVEL OR TRANSPOR-**
18 **TATION IN AID OF CRIMINAL STREET GANGS.**

19 (a) TRAVEL ACT AMENDMENTS.—

20 (1) PROHIBITED CONDUCT AND PENALTIES.—

21 Section 1952(a) of title 18, United States Code, is
22 amended to read as follows:

23 “(a) Whoever travels in interstate or foreign com-
24 merce or uses the mail or any facility in interstate or for-
25 eign commerce, with intent to —

1 “(1) distribute the proceeds of any unlawful ac-
2 tivity;

3 “(2) commit any crime of violence to further
4 any unlawful activity; or

5 “(3) otherwise promote, manage, establish,
6 carry on, or facilitate the promotion, management,
7 establishment, or carrying on, of any unlawful activ-
8 ity,

9 and thereafter performs, attempts to perform, or conspires
10 to perform—

11 “(A) an act described in paragraph (1) or
12 (3) shall be fined under this title, imprisoned
13 not more than 10 years, or both; ;or

14 “(B) an act described in paragraph (2)
15 shall be fined under this title, imprisoned for
16 not more than 20 years, or both, and if death
17 results shall be sentenced to death or be impris-
18 oned for any term of years or for life.”.

19 (2) UNLAWFUL ACTIVITIES.—Section 1952(b)
20 of title 18, United States Code, is amended to read
21 as follows:

22 “(b) As used in this section—

23 “(1) the term ‘unlawful activity’ means—

24 “(A) activity of a criminal street gang as
25 defined in section 521 of this title;

1 “(B) any business enterprise involving
2 gambling, liquor on which the Federal excise
3 tax has not been paid, narcotics or controlled
4 substances (as defined in section 102(6) of the
5 Controlled Substances Act (21 U.S.C. 802(6)),
6 or prostitution offenses in violation of the laws
7 of the State in which the offense is committed
8 or of the United States.

9 “(C) extortion; bribery; arson; robbery;
10 burglary; assault with a deadly weapon; retalia-
11 tion against or intimidation of witnesses, vic-
12 tims, jurors, or informants; assault resulting in
13 bodily injury; possession or trafficking of stolen
14 property; trafficking in firearms; kidnapping;
15 alien smuggling; shooting at an occupied dwell-
16 ing or motor vehicle; or insurance fraud; in vio-
17 lation of the laws of the State in which the of-
18 fense is committed or of the United States; or

19 “(D) any act that is indictable under sub-
20 chapter II of chapter 53 of title 31, United
21 States Code, or under section 1956 or 1957 of
22 this title; and

23 “(2) the term ‘State’ includes a State of the
24 United States, the District of Columbia, and any

1 commonwealth, territory, or possession of the United
2 States.”.

3 (b) SENTENCING GUIDELINES.—Pursuant to its au-
4 thority under section 994(p) of titl3 28, United States
5 Code, the United States Sentencing Commission shall
6 amend chapter 2 of the Federal Sentencing Guidelines so
7 that—

8 (1) the base offense level for traveling in inter-
9 state or foreign commerce in aid of a street gang or
10 other racketeering enterprise is increased to 12; and

11 (2) the base offense level for the commission of
12 a violent crime in aid of a street gang or other rack-
13 eteering enterprise is increased to 24.

14 **SEC. 5. SOLICITATION OR RECRUITMENT OF PERSONS IN**
15 **CRIMINAL GANG ACTIVITY.**

16 (a) PROHIBITED ACTS.—Chapter 26 of title 18,
17 United States Code, is amended by adding at the end the
18 following new section:

19 **“§ 522. Recruitment of persons to participate in**
20 **criminal gang activity**

21 “(a) PROHIBITED ACT.—It shall be unlawful for any
22 person to—

23 “(1) use any facility of, or travel in, interstate
24 or foreign commerce, or cause another to do so, to
25 solicit, request, induce, counsel, command, cause, or

1 facilitate the participation of, a person to participate
2 in a criminal street gang, or otherwise cause another
3 to do so, or conspire to do so; or

4 “(2) solicit, request, induce, counsel, command,
5 cause, or facilitate the participation of a person to
6 engage in crime for which such person may be pros-
7 ecuted in a court of the United States, or otherwise
8 cause another to do so, or conspire to do so.

9 “(b) PENALTIES.—A person who violates subsection
10 (a) shall—

11 “(1)(A) if the person is a minor, be imprisoned
12 for not less than 4 years and not more than 10
13 years, fined not more than \$250,000, or both; or

14 “(B) if the person is not a minor, be impris-
15 oned for not less than 1 year and not more than 10
16 years, fined not more than \$250,000, or both; and

17 “(2) be liable for any costs incurred by the
18 Federal Government or by any State or local govern-
19 ment for housing, maintaining, and treating the
20 minor until the minor reaches the age of 18.

21 “(c) DEFINITIONS.—For purposes of this section—

22 “(1) the term ‘criminal street gang’ has the
23 same meaning given such term in section 521; and

24 “(2) the term ‘minor’ means a person who is
25 younger than 18 years of age.”.

1 (b) SENTENCING GUIDELINES.—Pursuant to its au-
 2 thority under section 994(p) of title 28, United States
 3 Code, the United States Sentencing Commission shall
 4 amend chapter 2 of the Federal Sentencing Guidelines so
 5 that the base offense level for recruitment of a minor to
 6 participate in a gang activity is 12.

7 (c) TECHNICAL AMENDMENT.—The analysis for
 8 chapter 26 of title 18, United States Code, is amended
 9 by adding at the end the following new item:

“522. Recruitment of persons to participate in criminal gang activity.”.

10 **SEC. 6. CRIMES INVOLVING THE USE OF MINORS AS RICO**
 11 **PREDICATES.**

12 Section 1961(1) of title 18, United States Code, is
 13 amended—

14 (1) by striking “or” before “(E)”; and

15 (2) by inserting before the semicolon at the end
 16 of the paragraph the following: “, or (F) any offense
 17 against the United States that is punishable by im-
 18 prisonment for more than 1 year and that involved
 19 the use of a person under the age of 18 years in the
 20 commission of the offense”.

21 **SEC. 7. TRANSFER OF FIREARMS TO MINORS FOR USE IN**
 22 **CRIME.**

23 Section 924(h) of title 18, United States Code, is
 24 amended by striking “10 years, fined in accordance with
 25 this title, or both” and inserting “10 years, and if the

1 transferee is a person who is under 18 years of age, not
2 less than 3 years; fined under this title; or both”.

3 **SEC. 8. PENALTIES.**

4 Section 924(a) of title 18, United States Code, is
5 amended—

6 (1) by redesignating paragraph (5), as added by
7 section 110201(b)(2) of the Violent Crime Control
8 and Law Enforcement Act of 1994, as paragraph
9 (6); and

10 (2) in paragraph (6), as so redesignated—

11 (A) by striking subparagraph (A);

12 (B) in subparagraph (B)—

13 (i) by striking “(B) A person other
14 than a juvenile who knowingly” and insert-
15 ing “(A) A person who knowingly”;

16 (ii) in clause (i), by striking “1 year”
17 and inserting “not less than 1 year and
18 not more than 5 years”; and

19 (iii) in clause (ii), by inserting “not
20 less than 1 year and” after “imprisoned”;
21 and

22 (C) by adding at the end the following new
23 subparagraph:

1 “(B) Notwithstanding subparagraph (A), no
2 mandatory minimum sentence shall apply to a juve-
3 nile who is less than 13 years of age.”.

4 **SEC. 9. THE JAMES GUELFF BODY ARMOR ACT.**

5 (a) IN GENERAL.—Chapter 44 of title 18, United
6 States Code, is amended by adding at the end the follow-
7 ing new section:

8 **“§ 931. Use of body armor in Federal offenses**

9 “(a) PROHIBITED ACTIVITY.—It shall be unlawful to
10 use body armor in the commission of a Federal crime.

11 “(b) APPLICABILITY.—This section shall not apply if
12 the Federal crime in which the body armor is used con-
13 stitutes a violation of the civil rights of a person by a law
14 enforcement officer acting under color of the authority of
15 such law enforcement officer.

16 “(c) DEFINITIONS.—For purposes of this section—

17 “(1) the term ‘body armor’ means any product
18 sold or offered for sale as personal protective body
19 covering intended to protect against gunfire, regard-
20 less of whether the product is to be worn alone or
21 is sold as a complement to another product or gar-
22 ment; and

23 “(2) the term ‘law enforcement officer’ means
24 any officer, agent, or employee of the United States,
25 a State, or a political subdivision of a State, author-

1 **SEC. 11. INCREASE IN TIME LIMITS FOR JUVENILE**
2 **PROCEEDINGS.**

3 Section 5036 of title 18, United States Code, is
4 amended by striking “thirty” and inserting “70”.

5 **SEC. 12. APPLYING RACKETEERING OFFENSES TO ALIEN**
6 **SMUGGLING AND FIREARMS OFFENSES.**

7 Section 1961(1) of title 18, United States Code, as
8 amended by section 6 of this Act, is amended by inserting
9 before the semicolon at the end the following: “, (G) any
10 act, or conspiracy to commit any act, in violation of section
11 274(a)(1)(A), 277, or 278 of the Immigration and Nation-
12 ality Act (8 U.S.C. 1324(a)(1)(A), 1327, or 1328), or (H)
13 any act or conspiracy to commit any act in violation of
14 chapter 44 of this title (relating to firearms)”.

15 **SEC. 13. USE OF LINGUISTS.**

16 (a) **IN GENERAL.**—The Secretary of State shall iden-
17 tify qualified translators who the Secretary shall make
18 available to assist Federal law enforcement agencies in
19 criminal investigations by monitoring legal wiretaps and
20 translating recorded conversations.

21 (b) **EMPHASIS.**—In carrying out subsection (a), the
22 Secretary of State shall place special emphasis on trans-
23 lators in States in which most criminal street gangs and
24 organized crime syndicates operate.

1 **SEC. 14. ADDITIONAL PROSECUTORS.**

2 There are authorized to be appropriated \$20,000,000
3 for each of fiscal years 1997, 1998, 1999, 2000, and 2001
4 for the hiring of additional Assistant United States Attor-
5 neys to prosecute violent youth gangs.

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