

HOUSE BILL NO. HB0076

Criminal street gangs.

Sponsored by: Representative(s) Steward and Senator(s)
Fecht

A BILL

for

1 AN ACT relating to crimes and offenses; creating the crime
2 of intimidation in furtherance of the interests of a
3 criminal street gang; creating enhanced sentencing
4 penalties for felonies committed in furtherance of the
5 interests of a criminal street gang; amending the offense
6 of property destruction and defacement to explicitly
7 include graffiti; providing for a minimum sentence for
8 felony property destruction and defacement; providing
9 definitions; and providing for an effective date.

10

11 *Be It Enacted by the Legislature of the State of Wyoming:*

12

13 **Section 1.** W.S. 6-2-403 and 6-10-111 are created to
14 read:

15

1 **6-2-403. Intimidation in furtherance of the interests**
2 **of a criminal street gang.**

3
4 (a) A person is guilty of intimidation in furtherance
5 of the interests of a criminal street gang if he threatens
6 or intimidates by word or conduct to cause physical injury
7 to another person or damage to the property of another in
8 order to promote, further or assist in the interests of or
9 to cause, induce or solicit another person to participate
10 in a criminal street gang.

11
12 (b) Intimidation in furtherance of the interests of a
13 criminal street gang is a felony punishable by imprisonment
14 for not less than one (1) year nor more than ten (10)
15 years.

16
17 **6-10-111. Enhanced sentencing penalties for felonies**
18 **committed in furtherance of the interests of a criminal**
19 **street gang.**

20
21 (a) A person convicted of committing any felony
22 offense with the intent to promote, further or assist any
23 criminal conduct by a criminal street gang shall:

1 (i) Not be eligible for suspension of his
2 sentence, probation or release from confinement until the
3 minimum sentence imposed by the court and the enhanced
4 sentence imposed under paragraph (ii) have been served;

5
6 (ii) Have the statutorily imposed minimum and
7 maximum sentence for the felony offense increased by three
8 (3) years each.

9
10 (b) The facts used to enhance the sentence of a
11 person convicted of committing any felony offense with the
12 intent to promote, further or assist any criminal conduct
13 by a criminal street gang under this section shall be
14 determined by a jury beyond a reasonable doubt or
15 specifically stipulated to by the defendant in a guilty or
16 nolo contendere plea agreement.

17
18 (c) As used in this section, "convicted" means an
19 unvacated determination or adjudication of guilt by any
20 court having legal jurisdiction of the offense and from
21 which no appeal is pending and includes pleas of guilty and
22 nolo contendere.

23

1 **Section 2.** W.S. 6-1-104(a) by creating new paragraphs
2 (xiv) and (xv) and 6-3-201(a), (b)(iii) and by creating a
3 new subsection (d) are amended to read:

4
5 **6-1-104. Definitions.**

6
7 (a) As used in W.S. 6-1-101 through 6-10-203 unless
8 otherwise defined:

9
10 (xiv) "Criminal street gang" means an ongoing
11 formal or informal organization, association, or group of
12 five (5) or more persons having as one (1) of its primary
13 activities the commission of one (1) or more of the
14 criminal acts enumerated in paragraph (xv) of this
15 subsection, having a common name or identifying sign or
16 symbol and whose members or associates individually or
17 collectively engage in or have been engaged in a pattern of
18 criminal street gang activity;

19
20 (xv) "Pattern of criminal street gang activity"
21 means the commission, solicitation, conspiracy, attempt or
22 the conviction or adjudication for the commission,
23 solicitation, conspiracy or attempt of two (2) or more of
24 the offenses listed in this paragraph within a three (3)

1 year period, and that the offenses were committed on
2 separate occasions. Offenses that form a pattern of
3 criminal street gang activity include:

4
5 (A) A violent felony as defined in
6 paragraph (xii) of this subsection;

7
8 (B) Promoting prostitution in violation of
9 W.S. 6-4-103;

10
11 (C) Property destruction and defacement in
12 violation of W.S. 6-3-201;

13
14 (D) Larceny in violation of W.S. 6-3-402;

15
16 (E) Wrongful taking or disposing of
17 property in violation of W.S. 6-3-403;

18
19 (F) Forgery in violation of W.S. 6-3-602;

20
21 (G) Influencing, intimidating or impeding
22 jurors, witnesses and officers; or obstructing or impeding
23 justice in violation of W.S. 6-5-305;

24

1 (H) Possession of a firearm by a person
2 convicted of certain felony offenses in violation of W.S.
3 6-8-102;

4
5 (J) Wearing or carrying concealed weapons
6 in violation of W.S. 6-8-104;

7
8 (K) Possession, manufacture or disposition
9 of deadly weapon with unlawful intent in violation of W.S.
10 6-8-103;

11
12 (M) Blackmail in violation of W.S. 6-2-402;

13
14 (N) Possession, manufacture, transportation
15 and sale of explosives, improvised explosive device, or
16 incendiary apparatus with unlawful intent in violation of
17 W.S. 6-3-110;

18
19 (O) Sports bribery in violation of W.S.
20 6-3-609;

21
22 (P) Aggravated cruelty to animals in
23 violation of W.S. 6-3-203(c);

24

1 (Q) The unlawful sale or possession with
2 intent to manufacture, distribute or dispense a controlled
3 substance as prohibited by Wyoming statutes, title 35,
4 article 10;

5
6 (R) Simple assault in violation of WS.
7 6-2-501(a);

8
9 (S) Battery in violation of W.S.
10 6-2-501(b).

11
12 **6-3-201. Property destruction and defacement;**
13 **grading; penalties; aggregated costs or values.**

14
15 (a) A person is guilty of property destruction and
16 defacement if he knowingly defaces, injures, inscribes
17 graffiti thereon or destroys property of another without
18 the owner's consent.

19
20 (b) Property destruction and defacement is:

21
22 (iii) A felony punishable by imprisonment for
23 not less than one (1) year nor more than ten (10) years, a
24 fine of not more than ten thousand dollars (\$10,000.00), or

1 both, if the cost of restoring injured property or the
2 value of the property if destroyed is one thousand dollars
3 (\$1,000.00) or more.

4

5 (d) As used in this section, "graffiti" means any
6 form of painting, writing or inscription regardless of the
7 content or nature of the materials used which is applied to
8 any public or private surface without the consent of the
9 owner of the property.

10

11 **Section 3.** This act is effective July 1, 2008.

12

13 (END)