

CHAPTER 723A

CRIMINAL STREET GANGS

Referred to in §§31.307, 364.22, 657.2, 701.1

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723A.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. “*Criminal acts*” means any of the following or any combination of the following:
 - a. An offense constituting a violation of section 124.401 involving a controlled substance, a counterfeit substance, or a simulated controlled substance.
 - b. An offense constituting a violation of chapter 711 involving a robbery or extortion.
 - c. An offense constituting a violation of section 708.6 involving intimidation with a dangerous weapon.
 - d. An offense constituting a violation of section 708.8.
 - e. An offense constituting a violation of section 720.4.
 - f. Any other offense constituting a forcible felony as defined in section 702.11.
 - g. An offense constituting a violation of chapter 724.
 - h. Brandishing a dangerous weapon. For purposes of this paragraph:
 - (1) “*Brandishing a dangerous weapon*” means the display or exhibition of a dangerous weapon, with the intent to use, intimidate, or threaten another person without justification, or the actual use of the dangerous weapon in a manner which is intended to or does cause serious injury or death without justification.

(2) “*Dangerous weapon*” means either of the following:

(a) An instrument or device designed primarily for use in inflicting death or injury upon a human being or animal, and that is capable of inflicting death upon a human being when used in the manner for which it was designed.

(b) An instrument or device of any sort whatsoever that is actually used in a manner that indicates the defendant intends to inflict death or serious injury upon another person without justification, and that, when so used, is capable of inflicting death or serious injury upon a human being.

2. “*Criminal street gang*” means any ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more criminal acts, which has an identifiable name or identifying sign or symbol, and whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity.

3. “*Pattern of criminal gang activity*” means the commission, attempt to commit, conspiring to commit, or solicitation of two or more criminal acts, provided the criminal acts were committed on separate dates or by two or more persons who are members of, or belong to, the same criminal street gang.

90 Acts, ch 1251, §57; 95 Acts, ch 191, §51; 96 Acts, ch 1134, §10; 97 Acts, ch 119, §1, 2, 4; 2002 Acts, ch 1075, §9

[P] Subsection 1, paragraph h affirmed and reenacted effective May 6, 1997; legislative findings; 97 Acts, ch 119, §1, 2, 4

723A.2 Criminal gang participation.

A person who actively participates in or is a member of a criminal street gang and who willfully aids and abets any criminal act committed for the benefit of, at the direction of, or in association with any criminal street gang, commits a class “D” felony.

90 Acts, ch 1251, §58

Referred to in §232.8

723A.3 Gang recruitment — penalty.

1. A person who solicits, recruits, entices, or intimidates a minor to join a criminal street gang commits a class “C” felony.

2. A person who conspires to solicit, recruit, entice, or intimidate a minor to join a criminal street gang commits a class “D” felony.
95 Acts, ch 191, §52