

2010 -- H 7939

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

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A N A C T

RELATING TO CRIMINAL PROCEDURE - SENTENCE AND EXECUTION

Introduced By: Representatives Carnevale, DeSimone, Petrarca, and Kilmartin

Date Introduced: March 24, 2010

Referred To: House Judiciary

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 or misdemeanor or attempted felony or
10 misdemeanor that is knowingly committed for the benefit, at the direction of or in association
11 with any criminal street gang or criminal street gang member, with the intent to promote, further
12 or assist in the affairs of a criminal gang or criminal conduct by gang members, in addition and
13 consecutive to the punishment provided for the commission of the underlying offense shall be
14 punished as follows:

15 (1) A person who is convicted of a misdemeanor shall be imprisoned for an additional
16 term of not more than one year.

17 (2) A person who is convicted of a felony shall be imprisoned for an additional term of
18 not more than one half (1/2) of the maximum term of imprisonment.

19 (3) A person who is convicted of a felony punishable by life imprisonment shall not be

1 paroled until a minimum of fifteen (15) calendar years have been served in the custody of the
2 department of corrections.

3 (4) If the underlying offense is a felony and committed on the grounds of, or within one
4 thousand feet (1,000') of, a public or private elementary, secondary, postsecondary or vocational
5 school, or any public or private two year (2) or four year (4) institution of higher education; or on
6 any school bus, the extended term shall not be more than four (4) years.

7 (c) This section does not create a separate offense but provides an additional penalty for
8 the underlying primary offense.

9 (d) The enhanced sentence provided in this section shall run consecutively to the sentence
10 provided for the underlying offense.

11 (e) The imposition or execution of the sentences provided in this section may not be
12 suspended.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO CRIMINAL PROCEDURE - SENTENCE AND EXECUTION

1 This act would establish a sentence enhancement for those who commit misdemeanors or
2 felonies for the benefit, at the direction of, or in association with any criminal street gang or
3 criminal street gang member, with the intent to promote, further, or assist in the affairs of a
4 criminal gang or criminal conduct by gang members.

5 This act would take effect upon passage.

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