

HOUSE BILL 386

By Love

AN ACT to amend Tennessee Code Annotated, Title 29;
Title 37; Title 38; Title 39 and Title 40, relative to
criminal gangs.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 40-35-121(a)(1), is amended by adding the language "which engages in criminal activity and" immediately after the language "three (3) or more persons".

SECTION 2. Tennessee Code Annotated, Section 40-35-121(a)(3), is amended by deleting the subdivision in its entirety and substituting instead the following:

(3) "Criminal gang offense" means the commission, attempted commission, solicitation, coercion or intimidation of another person to commit:

- (A) Any offense classified as a felony under title 39, chapter 13;
- (B) Any offense classified as a felony under title 39, chapter 14;
- (C) Any offense classified as a felony under title 39, chapter 16;
- (D) Any offense classified as a felony under title 39, chapter 17; or
- (E) Any criminal offense in this state, any other state, or the United

States that involves violence, possession of a weapon, or use of a weapon;

SECTION 3. Tennessee Code Annotated, Section 40-35-121, is amended by adding the following language as a new subsection (b) and by renumbering the remaining subsections accordingly:

(b)

(1) It shall be an offense for any person employed or associated with a criminal gang to knowingly participate in criminal activity. For purposes of this subsection (b), association with a criminal gang may be established by evidence

of a common name or common identifying signs, symbols, tattoos, graffiti, or attire, or other distinguishing characteristics, including, but not limited to, common activities, customs, or behaviors.

(2) A violation of this subsection (b) is a Class E felony, or is subject to the enhancement provisions listed in subsections (c)-(g), whichever is greater.

SECTION 4. Tennessee Code Annotated, Section 40-35-121(e), is amended by deleting the language "subsection (b) or (c)" and substituting instead with "subsection (c) or (d)".

SECTION 5. Tennessee Code Annotated, Section 40-35-121(g), is amended by deleting the language "subsection (e)" and substituting instead with "subsection (f)

SECTION 6. Tennessee Code Annotated, Section 40-35-121(h), is amended by deleting the language "subsection (b), (c), or (e)" and substituting instead with "subsection (c), (d), or (f)".

SECTION 7. Tennessee Code Annotated, Section 40-35-121(i)(2), is amended by deleting the language "subsection (h)(1)(A), (h)(1)(B) or (h)(1)(C)" and substituting instead with "subsection (i)(1)(A), (i)(1)(B), or (i)(1)(C)".

SECTION 8. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 9. This act shall take effect upon becoming a law, the public welfare requiring it.