

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Committee Substitute

for

Senate Bill 617

BY SENATORS ROBERTS, AZINGER, BARRETT, DEEDS,
FULLER, HART, HELTON, JEFFRIES, MAYNARD, MORRIS,
ROSE, STUART, TARR, AND THORNE

[Reported March 24, 2025, from the Committee on
the Judiciary]

1 A BILL to amend and reenact §61-13-1, §61-13-2, and §61-13-3 of the Code of West Virginia,
2 1931, as amended, relating to discouraging gang activity; adding gang activity to offenses
3 punishable by this section; and adding certain qualifying offenses to be subject to the Anti-
4 Organized Criminal Enterprise Act.

Be it enacted by the Legislature of West Virginia:

ARTICLE 13. ANTI-ORGANIZED CRIMINAL ENTERPRISE ACT.

§61-13-1. Findings.

1 (a) The Legislature hereby finds that there is evidence of an increasing incidence of larger
2 scale organized criminal activity and gang activity in various parts of this state and that new
3 statutes are necessary to protect the lives and property of the overwhelming majority of West
4 Virginians who are law-abiding citizens. The evidence presented to the Legislature reflects that
5 persons engaged in larger scale ongoing criminal or gang enterprises are of all ages, multiple
6 racial and ethnic origin, and all pose a rising threat.

7 (b) The Legislature further finds that there is a tendency among certain of these
8 enterprises to actively recruit, sometimes coercively, people into joining such organizations as
9 well as organized efforts to intimidate witnesses who may be in a position to offer testimony
10 regarding the organized criminal enterprises and that such behavior cannot be tolerated.

11 (c) The Legislature further finds that lawful use of public nuisance and forfeiture laws can
12 substantially aid in a reduction of larger scale organized criminal enterprises.

13 (d) The Legislature further finds that criminal statutes tailored to the particular problems
14 represented by such organized criminal enterprises combined with community education and
15 existing alternative sentencing laws can aid in reducing this new threat.

§61-13-2. Definitions.

1 As used in this article:

2 (1) "Gang" means any ongoing organization, association, or group of three or more
3 persons, whether formal or informal, having as one of its activities the commission of one or more

4 criminal acts, and whose members, individually or collectively, engage in or have engaged in
5 criminal activity.

6 (2) "Organized criminal enterprise" means a combination of five or more persons engaging
7 over a period of not less than six months in one or more of the qualifying offenses set forth in this
8 section.

9 (3) "Qualifying offense" means a violation of the felony provisions of §33-41-11 of this
10 code; the provisions of §33-44-1 et seq. of this code; the felony provisions of §60A-1-101 *et seq.*
11 of this code; the felony provisions of §61-2-1 *et seq.* of this code; the provisions of §61-3-1, §61-
12 3-2, §61-3-3, §61-3-4, §61-3-5, §61-3-11, §61-3-12, §61-3-13, §61-3-14, §61-3-18, §61-3-19,
13 §61-3-20, §61-3-20a, §61-3-21, §61-3-22, §61-3-22a, §61-3-24, §61-3-24a, §61-3-24b, §61-3-
14 24d, §61-3-44, §61-3-45, §61-3-45a, §61-3-49b, §61-3-54, §61-3-56, §61-3-57 of this code; the
15 felony provisions of ~~sections~~ §61-3C-1 *et seq.* of this code; the felony provisions of §61-3E-1 *et*
16 *seq.* of this code; the felony provisions of §61-4-1 *et seq.* of this code; the provisions of §61-5-1
17 *et seq.* of this code; the provisions of §61-6-24 of this code; the provisions §61-8-8 of this code;
18 the felony provisions of §61-8A-1 *et seq.* of this code; ~~and~~ the felony provisions of §61-8C-1 *et*
19 *seq.* of this code; the provisions of §61-14-1 et seq. of this code; and the provisions of §61-15-2
20 of this code.

§61-13-3. Offenses.

1 (a) Any person who knowingly and willfully becomes a member of a gang or an organized
2 criminal enterprise, and who knowingly promotes, furthers, or assists in the commission of any
3 qualifying offense himself or herself or in combination with another member of an organized
4 criminal enterprise or gang, ~~shall be~~ is guilty of a felony and, upon conviction, shall be confined
5 in a state correctional facility for not more than 10 years or fined not more than \$25,000, or both
6 imprisoned and fined. The offense set forth in this subsection is separate and distinct from that of
7 any qualifying offense and may be punished separately.

8 (b) Any person who knowingly solicits, invites, recruits, encourages, or causes another to
9 become a member of an organized criminal enterprise or gang, or to assist members of an
10 organized criminal enterprise or gang, to aid or assist in the commission of a qualifying offense
11 by one or more members of an organized criminal enterprise or gang, ~~shall be~~ is guilty of a felony
12 and, upon conviction, shall be confined in a state correctional facility for not more than five years
13 or fined not more than \$10,000, or both imprisoned and fined. The offense set forth in this
14 subsection is separate and distinct from that of any qualifying offense and may be punished
15 separately.

16 (c) Any person who shall, by threats, menaces, or otherwise, intimidate, or attempt to
17 intimidate, a witness for the state in any prosecution under the provisions of this article, for the
18 purpose of preventing the attendance of ~~such~~ the witness at the trial of ~~such~~ the case or to change
19 testimony, or shall in any way or manner prevent, or attempt to prevent, the attendance of any
20 ~~such~~ witness at ~~such~~ the trial, shall be guilty of a felony and, upon conviction, shall be confined
21 not more than 10 years.