

HB3216



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB3216

by Rep. Jim Durkin

SYNOPSIS AS INTRODUCED:

720 ILCS 5/37-1
740 ILCS 147/45

from Ch. 38, par. 37-1

Amends the Criminal Code of 2012 and the Illinois Streetgang Terrorism Omnibus Prevention Act. Provides that a streetgang, as defined in the Illinois Streetgang Terrorism Omnibus Prevention Act, that regularly engages in streetgang related activity constitutes a public nuisance. Provides that any person who regularly associates with others to engage in criminal streetgang activity may be made a defendant in an action to abate any public nuisance resulting from criminal street gang activity.

LRB098 10002 RLC 40160 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 2012 is amended by changing
5 Section 37-1 as follows:

6 (720 ILCS 5/37-1) (from Ch. 38, par. 37-1)

7 Sec. 37-1. Maintaining Public Nuisance.

8 (a) Any building used in the commission of offenses
9 prohibited by Sections 9-1, 10-1, 10-2, 11-14, 11-15, 11-16,
10 11-17, 11-20, 11-20.1, 11-20.1B, 11-20.3, 11-21, 11-22,
11 12-5.1, 16-1, 20-2, 23-1, 23-1(a)(1), 24-1(a)(7), 24-3, 28-1,
12 28-3, 31-5 or 39A-1, or subdivision (a)(1), (a)(2)(A), or
13 (a)(2)(B) of Section 11-14.3, of this Code, or prohibited by
14 the Illinois Controlled Substances Act, the Methamphetamine
15 Control and Community Protection Act, or the Cannabis Control
16 Act, or used in the commission of an inchoate offense relative
17 to any of the aforesaid principal offenses, or any real
18 property erected, established, maintained, owned, leased, or
19 used by a streetgang for the purpose of conducting streetgang
20 related activity as defined in Section 10 of the Illinois
21 Streetgang Terrorism Omnibus Prevention Act is a public
22 nuisance.

23 (a-5) A streetgang, as defined in Section 10 of the

1 Illinois Streetgang Terrorism Omnibus Prevention Act, that
2 regularly engages in streetgang related activity, as defined in
3 Section 10 of the Illinois Streetgang Terrorism Omnibus
4 Prevention Act, constitutes a public nuisance. For the purposes
5 of this subsection (a-5), "regularly" means at least 5 times in
6 a period of not more than 12 months.

7 (b) Sentence. A person convicted of knowingly maintaining
8 such a public nuisance commits a Class A misdemeanor. Each
9 subsequent offense under this Section is a Class 4 felony.

10 (Source: P.A. 96-1551, eff. 7-1-11; 97-1150, eff. 1-25-13.)

11 Section 10. The Illinois Streetgang Terrorism Omnibus
12 Prevention Act is amended by changing Section 45 as follows:

13 (740 ILCS 147/45)

14 Sec. 45. Abatement as public nuisance.

15 (a) Any real property that is erected, established,
16 maintained, owned, leased, or used by any streetgang for the
17 purpose of conducting streetgang related activity constitutes
18 a public nuisance and may be abated as provided in Article 37
19 of the Criminal Code of 2012 relating to public nuisances.

20 (a-5) A streetgang that regularly engages in streetgang
21 related activities constitutes a public nuisance. For the
22 purposes of this subsection (a-5), "regularly" means at least 5
23 times in a period of not more than 12 months. Any person who
24 regularly associates with others to engage in criminal

1 streetgang activity may be made a defendant in an action to
2 abate any public nuisance resulting from criminal street gang
3 activity.

4 (b) An action to abate a nuisance under this Section may be
5 brought by the State's Attorney of the county where the seizure
6 occurred.

7 (c) Any person who is injured by reason of streetgang
8 related activity shall have a cause of action for 3 times the
9 actual damages sustained and, if appropriate, punitive
10 damages; however, no cause of action shall arise under this
11 subsection (c) as a result of an otherwise legitimate
12 commercial transaction between parties to a contract or
13 agreement for the sale of lawful goods or property or the sale
14 of securities regulated by the Illinois Securities Law of 1953
15 or by the federal Securities and Exchange Commission. The
16 person shall also recover reasonable attorney's fees, costs,
17 and expenses.

18 (Source: P.A. 97-1150, eff. 1-25-13.)