

IN THE SENATE

SENATE BILL NO. 1341

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO THE IDAHO CRIMINAL GANG ENFORCEMENT ACT; AMENDING SECTION
18-8503, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE IMPOSITION OF
A CERTAIN EXTENDED PENALTY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 18-8503, Idaho Code, be, and the same is hereby
amended to read as follows:

18-8503. PUNISHMENT. (1) An adult, or any juvenile waived to adult
court pursuant to section 20-508 or 20-509, Idaho Code, who is convicted of
any felony or misdemeanor enumerated in section 18-8502(3), Idaho Code, that
is knowingly committed for the benefit or at the direction of, or in asso-
ciation with, any criminal gang or criminal gang member, in addition to the
punishment provided for the commission of the underlying offense, shall be
punished as follows:

(a) Any adult, or any juvenile waived to adult court pursuant to section
20-508 or 20-509, Idaho Code, who is convicted of a misdemeanor shall
be punished by an additional term of imprisonment in the county jail for
not more than one (1) year.

(b) Any adult, or any juvenile waived to adult court pursuant to section
20-508 or 20-509, Idaho Code, who is convicted of a felony shall be pun-
ished by an extended term of not less than two (2) years and not more than
five (5) years in prison.

(c) If the underlying offense described in section 18-8502(3), Idaho
Code, is a felony and committed on the grounds of, or within one thou-
sand (1,000) feet of, a public or private elementary, secondary or vo-
cational school during hours when the facility is open for classes or
school-related programs or when minors are using the facility, the ex-
tended term shall be not less than two (2) years and not more than five
(5) years in prison.

(2) This section does not create a separate offense but provides an ad-
ditional penalty for the primary offense, the imposition of which is contin-
gent upon the finding of the prescribed facts.

(3) The court shall not impose an extended penalty pursuant to this sec-
tion unless:

(a) The indictment, ~~or~~ information, complaint or petition charging the
defendant with the primary offense alleges that the primary offense was
committed knowingly for the benefit or at the direction of, or in as-
sociation with, a criminal gang or criminal gang member with the spe-
cific intent to promote, further or assist the activities of the crimi-
nal gang; and

(b) The trier of fact finds the allegation to be true beyond a reason-
able doubt.

1 (4) Except in a case of a juvenile who has been waived to adult court
2 pursuant to section 20-508 or 20-509, Idaho Code, the imposition or execu-
3 tion of the sentences provided in this section may not be suspended.

4 (5) An extended sentence provided in this section shall run consec-
5 utively to the sentence provided for the underlying offense.

6 (6) Unless waived to adult court pursuant to section 20-508 or 20-509,
7 Idaho Code, a juvenile who is adjudicated of any felony or misdemeanor enu-
8 merated in section 18-8502(3), Idaho Code, that is knowingly committed for
9 the benefit or at the direction of, or in association with, any criminal gang
10 or criminal gang member shall be sentenced according to the provisions of
11 section 20-520, Idaho Code.