

TITLE 18
CRIMES AND PUNISHMENTS

CHAPTER 85
IDAHO CRIMINAL GANG ENFORCEMENT ACT

18-8501. SHORT TITLE. This chapter shall be known and may be cited as the "Idaho Criminal Gang Enforcement Act."

[18-8501, added 2006, ch. 184, sec. 1, p. 582.]

18-8502. DEFINITIONS. As used in this chapter:

(1) "Criminal gang" means an ongoing organization, association, or group of three (3) or more persons, whether formal or informal, that has a common name or common identifying sign or symbol, whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity, having as one (1) of its primary activities the commission of one (1) or more of the criminal acts enumerated in subsection (3) of this section.

(2) "Criminal gang member" means any person who engages in a pattern of criminal gang activity and who meets two (2) or more of the following criteria:

- (a) Admits to gang membership;
- (b) Is identified as a gang member;
- (c) Resides in or frequents a particular gang's area and adopts its style of dress, its use of hand signs, or its tattoos, and associates with known gang members;
- (d) Has been arrested more than once in the company of identified gang members for offenses that are consistent with usual gang activity;
- (e) Is identified as a gang member by physical evidence such as photographs or other documentation; or
- (f) Has been stopped in the company of known gang members four (4) or more times.

(3) "Pattern of criminal gang activity" means the commission, attempted commission or solicitation of two (2) or more of the following offenses, provided that the offenses are committed on separate occasions or by two (2) or more gang members:

- (a) Robbery, as provided in section [18-6501](#), Idaho Code;
- (b) Arson, as provided in sections [18-801](#) through [18-804](#), Idaho Code;
- (c) Burglary, as provided in sections [18-1401](#), [18-1403](#), [18-1405](#) and [18-1406](#), Idaho Code;
- (d) Murder or manslaughter, as provided, respectively, in sections [18-4001](#) and [18-4006](#), Idaho Code;
- (e) Any violation of the provisions of [chapter 27, title 37](#), Idaho Code;
- (f) Any unlawful use or possession of a weapon, bomb or destructive device pursuant to [chapter 33, title 18](#), Idaho Code;
- (g) Assault and battery, as provided in [chapter 9, title 18](#), Idaho Code;
- (h) Criminal solicitation, as provided in section [18-2001](#), Idaho Code;
- (i) Computer crime, as provided in section [18-2202](#), Idaho Code;
- (j) Theft, as provided in sections [18-2401](#) and [18-2403](#), Idaho Code;
- (k) Evidence falsified or concealed and witnesses intimidated or bribed, as provided in sections [18-2601](#) through [18-2606](#), Idaho Code;
- (l) Forgery and counterfeiting, as provided in sections [18-3601](#) through [18-3603](#) and sections [18-3605](#) through [18-3616](#), Idaho Code;
- (m) Gambling, as provided in section [18-3802](#), Idaho Code;

- (n) Kidnapping, as provided in sections [18-4501](#) through [18-4503](#), Idaho Code;
- (o) Mayhem, as provided in section [18-5001](#), Idaho Code;
- (p) Prostitution, as provided in sections [18-5601](#) through [18-5614](#), Idaho Code;
- (q) Rape, as provided in sections [18-6101](#) and [18-6110](#), Idaho Code;
- (r) Racketeering, as provided in section [18-7804](#), Idaho Code;
- (s) Malicious harassment, as provided in section [18-7902](#), Idaho Code;
- (t) Terrorism, as provided in section [18-8103](#), Idaho Code;
- (u) Money laundering and illegal investment, as provided in section [18-8201](#), Idaho Code;
- (v) Sexual abuse of a child under the age of sixteen years, as provided in section [18-1506](#), Idaho Code;
- (w) Sexual exploitation of a child, as provided in section [18-1507](#), Idaho Code;
- (x) Lewd conduct with minor child under sixteen, as provided in section [18-1508](#), Idaho Code;
- (y) Sexual battery of a minor child sixteen or seventeen years of age, as provided in section [18-1508A](#), Idaho Code;
- (z) Escape or rescue of prisoners, as provided in sections [18-2501](#) through [18-2506](#), Idaho Code;
- (aa) Riot, as provided in sections [18-6401](#) and [18-6402](#), Idaho Code;
- (bb) Disturbing the peace, as provided in section [18-6409](#), Idaho Code;
- (cc) Malicious injury to property, as provided in section [18-7001](#), Idaho Code;
- (dd) Injuring jails, as provided in section [18-7018](#), Idaho Code;
- (ee) Injury by graffiti, as provided in section [18-7036](#), Idaho Code; or
- (ff) Human trafficking, as provided in sections [18-8602](#) and [18-8603](#), Idaho Code.

[18-8502, added 2006, ch. 184, sec. 1, p. 582; am. 2011, ch. 188, sec. 1, p. 538; am. 2016, ch. 296, sec. 10, p. 839.]

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 association 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 punished 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 thousand (1,000) feet of, a public or private elementary, secondary or vocational 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 additional penalty for the primary offense, the imposition of which is contingent upon the finding of the prescribed facts.

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

(a) The indictment, 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 association with, a criminal gang or criminal gang member with the specific intent to promote, further or assist the activities of the criminal gang; and

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

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

(5) An extended sentence provided in this section shall run consecutively to the sentence provided for the underlying offense.

(6) Unless waived to adult court pursuant to section [20-508](#) or [20-509](#), Idaho Code, a juvenile who is adjudicated 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 association with, any criminal gang or criminal gang member shall be sentenced according to the provisions of section [20-520](#), Idaho Code.

[18-8503, added 2006, ch. 184, sec. 1, p. 584; am. 2007, ch. 316, sec. 1, p. 943; am. 2011, ch. 188, sec. 2, p. 539; am. 2014, ch. 99, sec. 1, p. 293.]

18-8504. RECRUITING CRIMINAL GANG MEMBERS. (1) A person commits the offense of recruiting criminal gang members by:

(a) Knowingly soliciting, inviting, encouraging or otherwise causing a person to actively participate in a criminal gang; or

(b) Knowingly using force, threats, violence or intimidation directed at any person, or by the infliction of bodily injury upon any person, to actively participate in a criminal gang.

(2) A person convicted of a violation of this section shall be imprisoned for a term not to exceed ten (10) years.

(3) This section shall not be construed to limit prosecution under any other provision of law.

[18-8504, added 2006, ch. 184, sec. 1, p. 584.]

18-8505. SUPPLYING FIREARMS TO A CRIMINAL GANG. (1) A person commits the offense of supplying firearms to a criminal gang if the person knows an individual is a gang member and supplies, sells or gives possession or control of any firearm to that gang member.

(2) Subsection (1) of this section shall not apply to a person who is convicted as a principal to the offense committed by the recipient of the firearm.

(3) A person convicted of a violation of this section shall be imprisoned for a term not to exceed ten (10) years or be fined an amount not to exceed fifty thousand dollars (\$50,000), or both.

[18-8505, added 2006, ch. 184, sec. 1, p. 584.]

18-8506. ADOPTION OF LOCAL REGULATIONS. This chapter does not prevent any county, city or other political subdivision from adopting and enforcing ordinances or resolutions consistent with this chapter relating to criminal gangs and criminal gang violations.

[18-8506, added 2006, ch. 184, sec. 1, p. 585.]