

# House Bill 2851

Sponsored by Representative BARKER

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires imposition of sentencing enhancement of 36 to 60 months upon conviction of gang-related felony.

## A BILL FOR AN ACT

1  
2 Relating to criminal street gangs.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1) Notwithstanding ORS 161.605, the court shall sentence a person who is**  
5 **convicted of a felony to a term of imprisonment that is 36 to 60 months longer than the**  
6 **presumptive or mandatory minimum sentence, whichever would otherwise be imposed, if the**  
7 **person committed the crime:**

8 (a)(A) For the benefit, or at the direction, of a criminal street gang; or

9 (B) In association with a criminal street gang; and

10 (b) With the intent to:

11 (A) Assist in criminal conduct by criminal street gang members;

12 (B) Promote the criminal street gang; or

13 (C) Further the purposes of the criminal street gang.

14 (2) If the sentence otherwise required by law under subsection (1) of this section is a  
15 sentence of probation, the court shall sentence the person who committed the crime under  
16 the circumstances described in subsection (1) of this section to a term of imprisonment of  
17 36 to 60 months.

18 (3) The facts required to be found to sentence a defendant under this section are en-  
19 hancement facts, as defined in ORS 136.760, and ORS 136.765 to 136.785 apply to making de-  
20 terminations of those facts.

21 (4) As used in this section:

22 (a) "Criminal street gang" means a group of at least three persons that has:

23 (A) As one of its primary activities the commission of criminal acts or acts that if com-  
24 mitted by an adult would constitute criminal acts;

25 (B) A common name, common style of dress or common identifying signs, colors or  
26 symbols; and

27 (C) At least two members who engage in or have engaged in a pattern of criminal street  
28 gang activity.

29 (b) "Pattern of criminal street gang activity" means the commission of, or an attempt,  
30 solicitation or conspiracy to commit, on separate occasions within a three-year period:

31 (A) At least two felony offenses;

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1       **(B) At least three misdemeanor offenses;**

2       **(C) At least one felony and two misdemeanor offenses; or**

3       **(D) A comparable number of acts that if committed by an adult would constitute**  
4 **misdemeanors or felonies.**

5       **SECTION 2. Section 1 of this 2013 Act applies to conduct occurring on or after the ef-**  
6 **fective date of this 2013 Act.**

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