

Article 13A.

North Carolina Criminal Gang Suppression Act.

§ 14-50.15. Short title.

This Article shall be known and may be cited as the "North Carolina Criminal Gang Suppression Act." (2008-214, s. 3; 2017-194, s. 3.)

§ 14-50.16: Repealed by Session Laws 2017-194, s. 1, effective December 1, 2017 and applicable to offenses committed on or after that date.

§ 14-50.16A. Criminal gang activity.

Definitions. – The following definitions apply in this Article:

- (1) Criminal gang. – Any ongoing organization, association, or group of three or more persons, whether formal or informal, that (i) has as one of its primary activities the commission of criminal or delinquent acts and (ii) shares a common name, identification, signs, symbols, tattoos, graffiti, attire, or other distinguishing characteristics, including common activities, customs, or behaviors. The term shall not include three or more persons associated in fact, whether formal or informal, who are not engaged in criminal gang activity.
- (2) Criminal gang activity. – The commission of, attempted commission of, or solicitation, coercion, or intimidation of another person to commit (i) any offense under Article 5 of Chapter 90 of the General Statutes or (ii) any offense under Chapter 14 of the General Statutes except Article 9, 22A, 40, 46, or 59 thereof, and further excepting G.S. 14-82, 14-145, 14-183, 14-184, 14-186, 14-190.9, 14-247, 14-248, or 14-313 thereof, and either of the following conditions is met:
 - a. The offense is committed with the intent to benefit, promote, or further the interests of a criminal gang or for the purposes of increasing a person's own standing or position within a criminal gang.
 - b. The participants in the offense are identified as criminal gang members acting individually or collectively to further any criminal purpose of a criminal gang.
- (3) Criminal gang leader or organizer. – Any criminal gang member who acts in any position of management with regard to the criminal gang and who meets two or more of the following criteria:
 - a. Exercises decision-making authority over matters regarding a criminal gang.
 - b. Participates in the direction, planning, organizing, or commission of criminal gang activity.
 - c. Recruits other gang members.
 - d. Receives a larger portion of the proceeds of criminal gang activity.
 - e. Exercises control and authority over other criminal gang members.
- (4) Criminal gang member. – Any person who meets three or more of the following criteria:
 - a. The person admits to being a member of a criminal gang.

- b. The person is identified as a criminal gang member by a reliable source, including a parent or a guardian.
- c. The person has been previously involved in criminal gang activity.
- d. The person has adopted symbols, hand signs, or graffiti associated with a criminal gang.
- e. The person has adopted the display of colors or the style of dress associated with a criminal gang.
- f. The person is in possession of or linked to a criminal gang by physical evidence, including photographs, ledgers, rosters, written or electronic communications, or membership documents.
- g. The person has tattoos or markings associated with a criminal gang.
- h. The person has adopted language or terminology associated with a criminal gang.
- i. The person appears in any form of social media to promote a criminal gang. (2017-194, s. 4.)

§ 14-50.17. Soliciting; encouraging participation.

- (a) It is unlawful for any person to cause, encourage, solicit, or coerce a person 16 years of age or older to participate in criminal gang activity.
- (b) A violation of this section is a Class H felony. (2008-214, s. 3; 2017-194, s. 7.)

§ 14-50.18. Soliciting; encouraging participation; minor.

- (a) It is unlawful for any person to cause, encourage, solicit, or coerce a person under 16 years of age to participate in criminal gang activity.
- (b) A violation of this section is a Class F felony.
- (c) Nothing in this section shall preclude a person who commits a violation of this section from criminal culpability for the underlying offense committed by the minor under any other provision of law. (2008-214, s. 3; 2017-194, s. 8.)

§ 14-50.19. Intimidation to deter from gang withdrawal.

- (a) It is unlawful for any person to communicate a threat of injury to a person, or to damage the property of another, with the intent to deter a person from assisting another to withdraw from membership in a criminal gang.
 - (a1) It is unlawful for any person to injure a person with the intent to deter a person from assisting another to withdraw from membership in a criminal gang.
- (b) A violation of subsection (a) of this section is a Class G felony. A violation of subsection (a1) of this section is a Class F felony. (2008-214, s. 3; 2017-194, s. 9.)

§ 14-50.20. Punishment or retaliation for gang withdrawal.

- (a) It is unlawful for any person to communicate a threat of injury to a person, or to damage the property of another, as punishment or retaliation against a person for having withdrawn from a criminal gang.
 - (a1) It is unlawful for any person to injure a person as punishment or retaliation against a person for having withdrawn from a criminal gang.

(b) A violation of subsection (a) of this section is a Class G felony. A violation of subsection (a1) of this section is a Class F felony. (2008-214, s. 3; 2017-194, s. 10.)

§ 14-50.21. Separate offense.

Any offense committed in violation of G.S. 14-50.16 through G.S. 14-50.20 shall be considered a separate offense. (2008-214, s. 3.)

§ 14-50.22. Enhanced offense for misdemeanor criminal gang activity.

A person age 15 or older who is convicted of a misdemeanor offense that is committed for the benefit of, at the direction of, or in association with, any criminal gang is guilty of an offense that is one class higher than the offense committed. A Class A1 misdemeanor shall be enhanced to a Class I felony under this section. (2008-214, s. 3; 2017-194, s. 11.)

§ 14-50.23. Contraband, seizure, and forfeiture.

(a) All property of every kind used or intended for use in the course of, derived from, or realized through criminal gang activity is subject to the seizure and forfeiture provisions of G.S. 14-2.3.

(b) In any action under this section, the court may enter a restraining order in connection with any interest that is subject to forfeiture.

(c) Innocent Activities. – The provisions of this section shall not apply to property used for criminal gang activity where the owner or person who has legal possession of the property does not have actual knowledge that the property is being used for criminal gang activity. (2008-214, s. 3; 2017-194, s. 12.)

§ 14-50.24: Repealed by Session Laws 2012-28, s. 2, effective October 1, 2012.

§ 14-50.25. Reports of disposition; criminal gang activity.

When a defendant is found guilty of a criminal offense, other than an offense under G.S. 14-50.16 through G.S. 14-50.20, the presiding judge shall determine whether the offense involved criminal gang activity. If the judge so determines, then the judge shall indicate on the form reflecting the judgment that the offense involved criminal gang activity. The clerk of court shall ensure that the official record of the defendant's conviction includes a notation of the court's determination. (2008-214, s. 3; 2017-194, s. 13.)

§ 14-50.26. Matters proved in criminal trial court.

A conviction of an offense defined as criminal gang activity shall preclude the defendant from contesting any factual matters determined in the criminal proceeding in any subsequent civil action or proceeding based on the same conduct. (2008-214, s. 3.)

§ 14-50.27. Local ordinances not preempted by State law.

Nothing in this Article shall prevent a local governing body from adopting and enforcing ordinances relating to gangs and gang violence that are consistent with this Article. Where local

laws duplicate or supplement the provisions of this Article, this Article shall be construed as providing alternative remedies and not as preempting the field. (2008-214, s. 3.)

§ 14-50.27A. Dissemination of criminal intelligence information.

A law enforcement agency may disseminate an assessment of criminal intelligence information to the principal of a school when necessary to avoid imminent danger to the life of a student or employee of the school or to the public school property pursuant to 28 C.F.R. § 23.20. The notification may be made in person or by telephone. As used in this subsection, the term "school" means any public or private school in the State under Chapter 115C of the General Statutes. (2009-93, s. 1.)

§ 14-50.28. Applicability to juveniles under the age of 16.

Except as provided in G.S. 14-50.22, 14-50.29, and 14-50.30, the provisions of this Article shall not apply to juveniles under the age of 16. (2008-214, s. 3.)

§ 14-50.29. Conditional discharge for first offenders under the age of 18.

(a) Whenever any person who has not previously been convicted of any felony or misdemeanor other than a traffic violation under the laws of the United States or the laws of this State or any other state, pleads guilty to or is guilty of (i) a Class H felony under this Article or (ii) an enhanced offense under G.S. 14-50.22, and the offense was committed before the person attained the age of 18 years, the court may, without entering a judgment of guilt and with the consent of the defendant, defer further proceedings and place the defendant on probation upon such reasonable terms and conditions as the court may require.

(b) If the court, in its discretion, defers proceedings pursuant to this section, it shall place the defendant on supervised probation for not less than one year, in addition to any other conditions. Prior to taking any action to discharge and dismiss under this section, the court shall make a finding that the defendant has no previous criminal convictions. Upon fulfillment of the terms and conditions of the probation provided for in this section, the court shall discharge the defendant and dismiss the proceedings against the defendant.

(c) Discharge and dismissal under this section shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Discharge and dismissal under this section may occur only once with respect to any person. Disposition of a case to determine discharge and dismissal under this section at the district court division of the General Court of Justice shall be final for the purpose of appeal. Upon violation of a term or condition of the probation provided for in this section, the court may enter an adjudication of guilt and proceed as otherwise provided.

(d) Upon discharge and dismissal pursuant to this section, the person may apply for an order to expunge the complete record of the proceedings resulting in the dismissal and discharge, pursuant to the procedures and requirements set forth in G.S. 15A-145.1.

(e) The clerk shall notify State and local agencies of the court's order as provided in G.S. 15A-150. (2008-214, s. 3; 2009-510, s. 2; 2009-577, s. 4.)

§ 14-50.30. Expunction of records.

Any person who has not previously been convicted of any felony or misdemeanor other than a traffic violation under the laws of the United States or the laws of this State or any other state, may, if the offense was committed before the person attained the age of 18 years, be eligible to apply for expunction of certain offenses under this Article pursuant to G.S. 15A-145.1. (2008-214, s. 3; 2009-510, s. 3; 2009-577, s. 5; 2010-174, s. 1.)

§ 14-50.31: Reserved for future codification purposes.

§ 14-50.32: Reserved for future codification purposes.

§ 14-50.33: Reserved for future codification purposes.

§ 14-50.34: Reserved for future codification purposes.

§ 14-50.35: Reserved for future codification purposes.

§ 14-50.36: Reserved for future codification purposes.

§ 14-50.37: Reserved for future codification purposes.

§ 14-50.38: Reserved for future codification purposes.

§ 14-50.39: Reserved for future codification purposes.

§ 14-50.40: Reserved for future codification purposes.