

1 **State of Arkansas**
2 **79th General Assembly**
3 **Second Extraordinary Session, 1994**

A Bill

Call Item No. 5
ACT 34 OF 1994
HOUSE BILL 1012

4 **By: Representatives Hendrix, Roberts, Walker, Jones and King**

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For An Act To Be Entitled

8 *"AN ACT ESTABLISHING THE CRIME OF SOLICITING A MINOR TO*
9 *JOIN A GANG; TO DECLARE AN EMERGENCY; AND FOR OTHER*
10 *PURPOSES."*

11

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Subtitle

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16 *BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:*

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18 *SECTION 1. (a) The General Assembly of the State of Arkansas hereby*
19 *finds and declares that it is the right of every person, regardless of race,*
20 *color, creed, religion, national origin, sex, age, or handicap, to be secure*
21 *and protected from fear, intimidation, and physical harm caused by the*
22 *activities of groups engaging in random crimes of violence, and committing*
23 *crimes for profit and violent crimes committed to protect or control market*
24 *areas or_turf_. It is not the intent of this subchapter to interfere with*
25 *the constitutional exercise of the protected rights and freedoms of expression*
26 *and association. The General Assembly of the State of Arkansas hereby*
27 *recognizes the right of every citizen to harbor and constitutionally express*
28 *beliefs on any lawful subject whatsoever, to associate lawfully with others*
29 *who share similar beliefs, to petition lawfully constituted authority for a*
30 *redress of perceived grievances, and to participate in the electoral process.*

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(b) The General Assembly of the State of Arkansas further finds that
the State of Arkansas is experiencing an increase in crime committed by
criminal gangs, organizations, or enterprises. These criminal gangs,
organizations, or enterprises support themselves by engaging in criminal
activity for profit, most commonly through the distribution of controlled
substances and theft of property. These criminal gangs, organizations, or

1 enterprises are becoming increasingly sophisticated at avoiding arrest and
2 prosecution. With increasing frequency, criminals are using the property of
3 another person which has been stolen, borrowed, leased, or just maintained in
4 another person's name to avoid detection and identification. This is
5 particularly common among members and associates of criminal gangs,
6 organizations, and enterprises. There is strong evidence that this increased
7 sophistication is due largely to contact with other criminal gangs,
8 organizations, or enterprises from other states.

9 (c) The General Assembly of the State of Arkansas further finds that
10 criminal gangs, organizations, and enterprises control their market areas by
11 terrorizing the peaceful citizens in their neighborhoods with deliberate and
12 random acts of violence. Drive-by shootings are becoming all too common in
13 many Arkansas cities. One of the primary reasons for the increased homicide
14 rate is the use of firearms by criminal gangs, organizations, or enterprises
15 to control the crack cocaine market within their geographical turf.

16 (d) The General Assembly of the State of Arkansas further finds that in
17 addition to the activity of street gangs, there are also other types of
18 criminal organizations or enterprises operating in Arkansas. Some examples
19 are garages that take parts from stolen automobiles, burglary or retail theft
20 rings, and narcotics distribution organizations. The number of crimes
21 committed by criminal organizations of all types is increasing. These ongoing
22 organized criminal activities present a clear and present danger to public
23 order and safety and are not constitutionally protected."
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25 SECTION 2. Definitions.

26 (a) Criminal gang, organization, or enterprise is defined as any
27 group of three (3) or more individuals who commit a continuing series of two
28 (2) or more predicate criminal offenses which are undertaken in concert with
29 each other.

30 (b) Predicate criminal offense means any violation of Arkansas law
31 which is a crime of violence or pecuniary gain.

32 (c) Crime of violence means any violation of Arkansas law where a
33 person purposely or knowingly causes, or threatens to cause, death or physical
34 injury to another person or persons, specifically including rape.

35 (d) Crime of pecuniary gain means any violation of Arkansas law that

1 results, or was intended to result, in the defendant receiving income,
2 benefit, property, money, or anything of value.

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4 SECTION 3. (a) Every person who by intimidation or duress, causes,
5 aids, abets, encourages, solicits, or recruits a minor to become or remain a
6 member of any group which he knows to be a criminal gang, organization, or
7 enterprise which falls into the definition and intent of this act is guilty of
8 a Class C felony.

9 (b) Every person who is found guilty of or pleads guilty or nolo
10 contendere to a second or subsequent violation of this section is guilty of a
11 Class B felony.

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13 SECTION 4. All provisions of this act of a general and permanent nature
14 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
15 Revision Commission shall incorporate the same in the Code.

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17 SECTION 5. If any provision of this act or the application thereof to
18 any person or circumstance is held invalid, such invalidity shall not affect
19 other provisions or applications of the act which can be given effect without
20 the invalid provision or application, and to this end the provisions of this
21 act are declared to be severable.

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23 SECTION 6. All laws and parts of laws in conflict with this act are
24 hereby repealed.

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26 SECTION 7. EMERGENCY. It is hereby found and determined by the
27 Seventy-Ninth General Assembly of the State of Arkansas, meeting in the Second
28 Extraordinary Session of 1994, that street gangs have become rampant in our
29 communities and that such gangs recruit minors to engage in criminal activity.
30 Therefore, in order to create the crime of soliciting a minor to join a
31 street gang, an emergency is hereby declared to exist, and this act being
32 necessary for the immediate preservation of the public peace, health, and
33 safety, shall be in full force and effect from and after its passage and
34 approval.

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/s/Rep. Hendrix, et al

As Engrossed: 8/16/94 8/23/94

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APPROVED: 8-25-94

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