

1 **State of Arkansas**  
2 **79th General Assembly**  
3 **Second Extraordinary Session, 1994**  
4 **By: Senators Edwards and Chaffin**

**Call Item No. 5**

# **A Bill**

**SENATE BILL 14**

## **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."

## **Subtitle**

13 "ESTABLISHING THE CRIME OF SOLICITING A  
14 MINOR TO JOIN A GANG."

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

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.*

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

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

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

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

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26 SECTION 2. Definitions.

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

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

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

1           (d) *\_Crime of pecuniary gain\_ means any violation of Arkansas law that*  
2 *results, or was intended to result, in the defendant receiving income,*  
3 *benefit, property, money, or anything of value.*

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

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

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

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

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

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

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*/s/Edwards and Chaffin*