

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

A Bill

HOUSE BILL 2046

4
5 By: Representatives Faris and Rodgers
6 Senator Hopkins

For An Act To Be Entitled

10 "AN ACT TO AMEND ARKANSAS CODE § 5-74-102(e) TO PROVIDE
11 THAT IT IS NO DEFENSE THAT THE DEFENDANT WAS NOT IN A
12 CRIMINAL GANG, ORGANIZATION, OR ENTERPRISE TO A
13 PROSECUTION UNDER ARKANSAS CODE 5-74-105 CONCERNING
14 UNAUTHORIZED USE OF ANOTHER PERSONS PROPERTY TO FACILITATE
15 CERTAIN CRIMES, OR 5-74-106 CONCERNING SIMULTANEOUS
16 POSSESSION OF DRUGS AND FIREARMS, AND ARKANSAS CODE 5-74-
17 107 CONCERNING UNLAWFUL DISCHARGE OF A FIREARM FROM A
18 VEHICLE; AND FOR OTHER PURPOSES."

Subtitle

21 "AN ACT TO PROVIDE THAT IT IS NOT A
22 DEFENSE TO A PROSECUTION FOR CERTAIN
23 OFFENSES THAT THE DEFENDANT WAS NOT A IN
24 CRIMINAL GANG, ORGANIZATION, OR
25 ENTERPRISE."

26
27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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29 SECTION 1. The purpose of this act is to make clear that the
30 substantive crimes found in §§ 5-74-105, 5-74-106, and 5-74-107, do not
31 require as elements for proving their commission that a person be connected in
32 any way or his or her conduct related in any way to a criminal gang,
33 organization, or enterprise.

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35 SECTION 2. Arkansas Code § 5-74-102(e) is amended to add a concluding
36 sentence as follows:

1 "(e) It is the intent of the General Assembly of the State of Arkansas
2 to use as a model the federal continuing criminal enterprise statute, 21
3 U.S.C. § 848. This should provide law enforcement officers, prosecutors, and
4 our courts with ample case law to guide in the interpretation of the language
5 and the legislative intent. It is furthermore the intent of the General
6 Assembly to focus the state's law enforcement agencies and prosecutors on
7 investigating and prosecuting all ongoing organized criminal activity and to
8 provide for penalties that will punish and deter organized ongoing criminal
9 activity. It is not a defense to the crimes found in §§ 5-74-105, 5-74-106,
10 or 5-74-107 of this subchapter that the defendant was not in a criminal gang,
11 organization, or enterprise.

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13 SECTION 3. 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 4. 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 5. All laws and parts of laws in conflict with this act are
24 hereby repealed.

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26 SECTION 6. EMERGENCY. It is found and determined by the General
27 Assembly of the State of Arkansas that persons charged with committing the
28 substantive crimes discussed in this Act are successfully evading prosecution
29 for those crimes by raising a defense contrary to the legislative intent of
30 the section which is hereby amended. Therefore, an emergency is declared to
31 exist and this act being immediately necessary for the preservation of the
32 public peace, health and safety shall become effective on the date of its
33 approval by the Governor. If the bill is neither approved nor vetoed by the
34 Governor, it shall become effective on the expiration of the period of time
35 during which the Governor may veto the bill. If the bill is vetoed by the
36 Governor and the veto is overridden, it shall become effective on the date the

1 last house overrides the veto.

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