

# SENATE BILL No. 660

July 26, 2007, Introduced by Senators JANSEN, BARCIA, BIRKHOLZ, ANDERSON, GLEASON, PAPPAGEORGE, HARDIMAN, KUIPERS, RICHARDVILLE and GILBERT and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled "The Michigan penal code," (MCL 750.1 to 750.568) by adding section 411u.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           SEC. 411U. (1) A PERSON SHALL NOT CAUSE, ENCOURAGE, RECRUIT,  
2 SOLICIT, OR COERCE ANOTHER TO JOIN, PARTICIPATE IN, OR ASSIST A  
3 GANG. A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A FELONY  
4 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A FINE OF  
5 NOT MORE THAN \$5,000.00, OR BOTH.

6           (2) A PERSON SHALL NOT COMMUNICATE, DIRECTLY OR INDIRECTLY, TO  
7 ANOTHER PERSON A THREAT OF INJURY OR DAMAGE TO THE PERSON OR  
8 PROPERTY OF THAT PERSON OR TO AN ASSOCIATE OR RELATIVE OF THAT  
9 PERSON WITH THE INTENT TO DO EITHER OF THE FOLLOWING:

1 (A) DETER THE OTHER PERSON FROM ASSISTING A MEMBER OR  
2 ASSOCIATE OF A GANG TO WITHDRAW FROM THE GANG.

3 (B) PUNISH OR RETALIATE AGAINST THE OTHER PERSON FOR HAVING  
4 WITHDRAWN FROM A GANG.

5 (3) A PERSON WHO VIOLATES SUBSECTION (2) IS GUILTY OF A FELONY  
6 PUNISHABLE FOR NOT MORE THAN 20 YEARS OR A FINE OF NOT MORE THAN  
7 \$20,000.00, OR BOTH.

8 (4) A SENTENCE IMPOSED UNDER THIS SECTION IS IN ADDITION TO A  
9 SENTENCE IMPOSED FOR THE CONVICTION OF ANOTHER FELONY OR ATTEMPT TO  
10 COMMIT A FELONY ARISING OUT OF THE SAME TRANSACTION AND MAY BE  
11 ORDERED TO BE SERVED CONSECUTIVELY WITH AND PRECEDING A TERM OF  
12 IMPRISONMENT IMPOSED FOR THE CONVICTION OF THAT FELONY OR ATTEMPT  
13 TO COMMIT THAT FELONY.

14 (5) AS USED IN THIS SECTION:

15 (A) "COURSE OR PATTERN OF CRIMINAL ACTIVITY" MEANS 2 OR MORE  
16 GANG-RELATED CRIMINAL OFFENSES COMMITTED IN WHOLE OR IN PART WITHIN  
17 THIS STATE TO WHICH BOTH OF THE FOLLOWING APPLY:

18 (i) ONE OR MORE GANG-RELATED CRIMINAL OFFENSES WERE COMMITTED  
19 AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS  
20 SECTION.

21 (ii) TWO GANG-RELATED CRIMINAL OFFENSES WERE COMMITTED WITHIN A  
22 5-YEAR PERIOD.

23 (B) "GANG" MEANS A COMBINATION, CONFEDERATION, ALLIANCE,  
24 NETWORK, CONSPIRACY, UNDERSTANDING, OR OTHER SIMILAR CONJOINING OF  
25 3 OR MORE PERSONS WITH AN ESTABLISHED HIERARCHY THAT, THROUGH ITS  
26 MEMBERSHIP OR THROUGH THE AGENCY OF A MEMBER, ENGAGES IN A COURSE  
27 OR PATTERN OF CRIMINAL ACTIVITY.

1 (C) "GANG MEMBER OR MEMBER OF A GANG" MEANS 1 OR MORE OF THE  
2 FOLLOWING:

3 (i) A PERSON WHO BELONGS TO A GANG.

4 (ii) A PERSON WHO KNOWINGLY ACTS IN THE CAPACITY OF AN AGENT  
5 FOR OR ACCESSORY TO, IS LEGALLY ACCOUNTABLE FOR, OR VOLUNTARILY  
6 ASSOCIATES HIMSELF OR HERSELF WITH A COURSE OR PATTERN OF GANG-  
7 RELATED CRIMINAL ACTIVITY, WHETHER IN A PREPARATORY, EXECUTORY, OR  
8 COVER-UP PHASE OF AN ACTIVITY.

9 (iii) A PERSON WHO KNOWINGLY PERFORMS, AIDS, OR ABETS A GANG-  
10 RELATED ACTIVITY.

11 (D) "GANG-RELATED" MEANS A CRIMINAL ACTIVITY, ENTERPRISE,  
12 PURSUIT, OR UNDERTAKING DIRECTED, ORDERED, AUTHORIZED OR REQUESTED  
13 BY, CONSENTED OR AGREED TO, ACQUIESCED IN, OR RATIFIED BY A GANG  
14 LEADER, OFFICER, OR GOVERNING OR POLICY-MAKING PERSON OR AUTHORITY,  
15 OR BY AN AGENT, REPRESENTATIVE, OR DEPUTY OF ANOTHER OFFICER,  
16 PERSON, OR AUTHORITY DESCRIBED IN THIS SUBDIVISION, WITH THE INTENT  
17 TO DO 1 OR MORE OF THE FOLLOWING:

18 (i) INCREASE THE GANG'S SIZE, MEMBERSHIP, PRESTIGE, DOMINANCE,  
19 OR CONTROL OF A GEOGRAPHICAL AREA.

20 (ii) INVOLVE THE GANG IN CRIMINAL ACTIVITY.

21 (iii) EXACT REVENGE OR RETRIBUTION FOR THE GANG OR A MEMBER OF  
22 THE GANG.

23 (iv) OBSTRUCT JUSTICE OR INTIMIDATE OR ELIMINATE A WITNESS  
24 AGAINST THE GANG OR A MEMBER OF THE GANG.

25 (v) OTHERWISE DIRECTLY OR INDIRECTLY CAUSE A BENEFIT,  
26 AGGRANDIZEMENT, GAIN, PROFIT, OR OTHER ADVANTAGE TO OR FOR THE GANG  
27 OR ITS REPUTATION, INFLUENCE, OR MEMBERSHIP.

1           (6) IN A PROSECUTION UNDER THIS SECTION, IT IS NOT NECESSARY  
2 TO PROVE THAT A PARTICULAR CONSPIRACY, COMBINATION, OR CONJOINING  
3 OF PERSONS POSSESSES, ACKNOWLEDGES, OR IS KNOWN BY A COMMON NAME,  
4 BELIEF, STRUCTURE, LEADERSHIP OR COMMAND STRUCTURE, METHOD OF  
5 OPERATION OR CRIMINAL ENTERPRISE, CONCENTRATION OR SPECIALTY,  
6 MEMBERSHIP, AGE, OR OTHER QUALIFICATIONS, INITIATION RITES,  
7 GEOGRAPHICAL OR TERRITORIAL SITES OR BOUNDARY OR LOCATION, OR OTHER  
8 UNIFYING MARK, MANNER, PROTOCOL, OR METHOD OF EXPRESSING OR  
9 INDICATING MEMBERSHIP WITH THE CONSPIRACY'S EXISTENCE. HOWEVER,  
10 EVIDENCE REASONABLY TENDING TO SHOW OR DEMONSTRATE THE EXISTENCE OF  
11 OR MEMBERSHIP IN A CONSPIRACY, CONFEDERATION, OR OTHER ASSOCIATION  
12 DESCRIBED IN THIS SUBSECTION OR PROBATIVE OF THE EXISTENCE OF OR  
13 MEMBERSHIP IN A CONSPIRACY, CONFEDERATION, OR OTHER ASSOCIATION  
14 DESCRIBED IN THIS SUBSECTION IS ADMISSIBLE IN AN ACTION OR  
15 PROCEEDING BROUGHT UNDER THIS SECTION.