

108TH CONGRESS
2D SESSION

S. 2333

To prohibit members of criminal street gangs from possessing firearms.

IN THE SENATE OF THE UNITED STATES

APRIL 21, 2004

Mr. ALLEN introduced the following bill; which was read twice and referred
to the Committee on the Judiciary

A BILL

To prohibit members of criminal street gangs from
possessing firearms.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Criminal Gang Activity
5 Act of 2004”.

6 **SEC. 2. AMENDMENT TO TITLE 18.**

7 Section 922(g) of title 18, United States Code, is
8 amended—

9 (1) in paragraph (8), by striking “or” after the
10 semicolon;

1 (2) in paragraph (9), by striking the comma at
2 the end and inserting “; or”; and

3 (3) by adding after paragraph (9) the following:

4 “(10) who participates in a criminal street gang
5 as described in subsection (z);”.

6 **SEC. 3. CRIMINAL STREET GANGS.**

7 Section 922 of title 18, United States Code, is
8 amended by adding at the end thereof the following:

9 “(z) As used in subsection (g)(10):

10 “(1) The term ‘criminal street gang’ means a
11 formal or informal group, club, organization, or as-
12 sociation of 3 or more individuals, who act in con-
13 cert, or agree to act in concert, with a purpose that
14 any of these persons alone, or in any combination,
15 commit or will commit, 2 or more predicate gang
16 crimes, 1 of which occurs after the date of enact-
17 ment of this subsection and the last of which occurs
18 not later than 10 years (excluding any period of im-
19 prisonment) after the commission of a prior predi-
20 cate gang crime, provided that the activities of the
21 criminal street gang affect interstate or foreign com-
22 merce.

23 “(2) The term ‘predicate gang crime’ means—

24 “(A) any act or threat, or attempted act or
25 threat, which is chargeable under Federal or

1 State law and punishable by imprisonment for
2 more than 1 year, involving murder, attempted
3 murder, manslaughter, gambling, kidnapping,
4 robbery, extortion, arson, obstruction of justice,
5 tampering with or retaliating against a witness,
6 victim, or informant, burglary, sexual assault,
7 carjacking, or manufacturing, importing, distrib-
8 uting, possessing with intent to distribute, or
9 otherwise dealing in a controlled substance or
10 listed chemicals (as those terms are defined in
11 section 102 of the Controlled Substances Act (21
12 U.S.C. 802));

13 “(B) any act punishable by imprisonment
14 for more than 1 year under section 844 (relat-
15 ing to explosive materials), section 922(g)(1)
16 (where the underlying conviction is a serious
17 violent felony (as defined in section
18 3559(c)(2)(F) of this title) or is a serious drug
19 offense (as defined in section 942(e)(2)(A) of
20 this title), or subsection (a)(2), (b), (c), (g), or
21 (h) of section 924 (relating to receipt, posses-
22 sion, and transfer of firearms), sections 1028
23 and 1029 (relating to fraud and related activity
24 in connection with identification documents or
25 access devices), section 1503 (relating to ob-

1 struction of justice), section 1510 (relating to
2 obstruction of criminal investigations), section
3 1512 (relating to tampering with a witness, vic-
4 tim, or informant), or section 1513 (relating to
5 retaliating against a witness, victim, or inform-
6 ant), section 1951 (relating to interference with
7 commerce, robbery or extortion), section 1952
8 (relating to racketeering), section 1956 (relat-
9 ing to the laundering of monetary instruments),
10 section 1957 (relating to engaging in monetary
11 transactions in property derived from specified
12 unlawful activity), section 1958 (relating to use
13 of interstate commerce facilities in the commis-
14 sion of murder-for-hire), sections 2312 through
15 2315 (relating to interstate transportation of
16 stolen motor vehicles or stolen property); or

17 “(C) any act involving the Immigration
18 and Nationality Act, section 274 (relating to
19 brining in and harboring certain aliens), section
20 277 (relating to aiding or assisting certain
21 aliens to enter the United States), or section
22 278 (relating to importation of alien for im-
23 moral purpose).

24 “(3) The term ‘State’ means each of the several
25 States of the United States, the District of Colum-

1 bia, and any commonwealth, territory, or possession
2 of the United States.

3 “(4) The term ‘participates in a criminal street
4 gang’ means—

5 “(A) to participate in a criminal street
6 gang by committing, or conspiring or attempt-
7 ing to commit, 2 or more predicate gang
8 crimes—

9 “(i) in furtherance or in aid of the ac-
10 tivities of a criminal street gang; or

11 “(ii) for the purpose of gaining en-
12 trance to or maintaining or increasing po-
13 sition in such a gang; or

14 “(B) to employ, use, command, counsel,
15 persuade, induce, entice, or coerce any indi-
16 vidual to commit, cause to commit, or facilitate
17 the commission of, a predicate gang crime—

18 “(i) in furtherance or in aid of the ac-
19 tivities of a criminal street gang; or

20 “(ii) for the purpose of gaining en-
21 trance to or maintaining or increasing po-
22 sition in such a gang.”.

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