

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 1961 is amended by adding
5 Article 33G as follows:

6 (720 ILCS 5/Art. 33G heading new)

7 ARTICLE 33G.

8 ILLINOIS STREET GANG AND RACKETEER INFLUENCED AND CORRUPT

9 ORGANIZATIONS LAW

10 (720 ILCS 5/33G-1 new)

11 Sec. 33G-1. Short title. This Article may be cited as the
12 Illinois Street Gang and Racketeer Influenced and Corrupt
13 Organizations Law (or "RICO").

14 (720 ILCS 5/33G-2 new)

15 Sec. 33G-2. Legislative declaration. The substantial harm
16 inflicted on the people and economy of this State by pervasive
17 violent street gangs and other forms of enterprise criminality,
18 is legitimately a matter of grave concern to the people of this
19 State who have a basic right to be protected from that criminal
20 activity and to be given adequate remedies to redress its
21 harms. Whereas the current laws of this State provide

1 inadequate remedies, procedures and punishments, the Illinois
2 General Assembly hereby gives the supplemental remedies of the
3 Illinois Street Gang and Racketeer Influenced and Corrupt
4 Organizations Law full force and effect under law for the
5 common good of this State and its people.

6 (720 ILCS 5/33G-3 new)

7 Sec. 33G-3. Definitions. As used in this Article:

8 (a) "Another state" means any State of the United States
9 (other than the State of Illinois), or the District of
10 Columbia, or the Commonwealth of Puerto Rico, or any territory
11 or possession of the United States, or any political
12 subdivision, or any department, agency, or instrumentality
13 thereof.

14 (b) "Enterprise" includes:

15 (1) any partnership, corporation, association,
16 business or charitable trust, or other legal entity; and

17 (2) any group of individuals or other legal entities,
18 or any combination thereof, associated in fact although not
19 itself a legal entity. An association in fact must be held
20 together by a common purpose of engaging in a course of
21 conduct, and it may be associated together for purposes
22 that are both legal and illegal. An association in fact
23 must:

24 (A) have an ongoing organization or structure,
25 either formal or informal;

1 (B) the various members of the group must function
2 as a continuing unit, even if the group changes
3 membership by gaining or losing members over time; and

4 (C) have an ascertainable structure distinct from
5 that inherent in the conduct of a pattern of predicate
6 activity.

7 As used in this Article, "enterprise" includes licit and
8 illicit enterprises.

9 (c) "Labor organization" includes any organization, labor
10 union, craft union, or any voluntary unincorporated
11 association designed to further the cause of the rights of
12 union labor that is constituted for the purpose, in whole or in
13 part, of collective bargaining or of dealing with employers
14 concerning grievances, terms or conditions of employment, or
15 apprenticeships or applications for apprenticeships, or of
16 other mutual aid or protection in connection with employment,
17 including apprenticeships or applications for apprenticeships.

18 (d) "Operation or management" means directing or carrying
19 out the enterprise's affairs and is limited to any person who
20 knowingly serves as a leader, organizer, operator, manager,
21 director, supervisor, financier, advisor, recruiter, supplier,
22 or enforcer of an enterprise in violation of this Article.

23 (e) "Predicate activity" means any act that is a Class 2
24 felony or higher and constitutes a violation or violations of
25 any of the following provisions of the laws of the State of
26 Illinois (as amended or revised as of the date the activity

1 occurred or, in the instance of a continuing offense, the date
2 that charges under this Article are filed in a particular
3 matter in the State of Illinois) or any act under the law of
4 another jurisdiction for an offense that could be charged as a
5 Class 2 felony or higher in this State:

6 (1) under the Criminal Code of 1961: 8-1.2
7 (solicitation of murder for hire), 9-1 (first degree
8 murder), 9-3.3 (drug-induced homicide), 10-1 (kidnapping),
9 10-2 (aggravated kidnapping), 10-3.1 (aggravated unlawful
10 restraint), 10-4 (forcible detention), 10-5(b)(10) (child
11 abduction), 10-9 (trafficking in persons, involuntary
12 servitude, and related offenses), 11-1.20 (criminal sexual
13 assault), 11-1.30 (aggravated criminal sexual assault),
14 11-1.40 (predatory criminal sexual assault of a child),
15 11-1.60 (aggravated criminal sexual abuse), 11-6 (indecent
16 solicitation of a child), 11-6.5 (indecent solicitation of
17 an adult), 11-14.3(a)(2)(A) and (a)(2)(B) (promoting
18 prostitution), 11-14.4 (promoting juvenile prostitution),
19 11-18.1 (patronizing a minor engaged in prostitution;
20 patronizing a juvenile prostitute), 12-3.05 (aggravated
21 battery), 12-6.4 (criminal street gang recruitment),
22 12-6.5 (compelling organization membership of persons),
23 12-7.3 (stalking), 12-7.4 (aggravated stalking), 12-7.5
24 (cyberstalking), 12-11 (home invasion), 12-11.1 (vehicular
25 invasion), 18-1 (robbery), 18-2 (armed robbery), 18-3
26 (vehicular hijacking), 18-4 (aggravated vehicular

1 hijacking), 18-5 (aggravated robbery), 19-1 (burglary),
2 19-3 (residential burglary), 20-1 (arson), 20-1.1
3 (aggravated arson), 20-1.2 (residential arson), 20-1.3
4 (place of worship arson), 24-1.2 (aggravated discharge of a
5 firearm), 24-1.2-5 (aggravated discharge of a machine gun
6 or silencer equipped firearm), 24-1.8 (unlawful possession
7 of a firearm by a street gang member), 24-3.2 (unlawful
8 discharge of firearm projectiles), 24-3.9 (aggravated
9 possession of a stolen firearm), 24-3A (gunrunning), 26-5
10 (dog-fighting), 29D-14.9 (terrorism), 29D-15 (soliciting
11 support for terrorism), 29D-15.1 (causing a catastrophe),
12 29D-15.2 (possession of a deadly substance), 29D-20
13 (making a terrorist threat), 29D-25 (falsely making a
14 terrorist threat), 29D-29.9 (material support for
15 terrorism), 29D-35 (hindering prosecution of terrorism),
16 31A-1.2 (unauthorized contraband in a penal institution),
17 or 33A-3 (armed violence);

18 (2) under the Cannabis Control Act: Sections 5
19 (manufacture or delivery of cannabis), 5.1 (cannabis
20 trafficking), or 8 (production or possession of cannabis
21 plants), provided the offense either involves more than 500
22 grams of any substance containing cannabis or involves more
23 than 50 cannabis sativa plants;

24 (3) under the Illinois Controlled Substances Act:
25 Sections 401 (manufacture or delivery of a controlled
26 substance), 401.1 (controlled substance trafficking), 405

1 (calculated criminal drug conspiracy), or 405.2 (street
2 gang criminal drug conspiracy); or

3 (4) under the Methamphetamine Control and Community
4 Protection Act: Sections 15 (methamphetamine
5 manufacturing), or 55 (methamphetamine delivery).

6 (f) "Pattern of predicate activity" means:

7 (1) at least 3 occurrences of predicate activity that
8 are in some way related to each other and that have
9 continuity between them, and that are separate acts. Acts
10 are related to each other if they are not isolated events,
11 including if they have similar purposes, or results, or
12 participants, or victims, or are committed a similar way,
13 or have other similar distinguishing characteristics, or
14 are part of the affairs of the same enterprise. There is
15 continuity between acts if they are ongoing over a
16 substantial period, or if they are part of the regular way
17 some entity does business or conducts its affairs; and

18 (2) which occurs after the effective date of this
19 Article, and the last of which falls within 3 years
20 (excluding any period of imprisonment) after the first
21 occurrence of predicate activity.

22 (g) "Unlawful death" includes the following offenses:
23 under the Criminal Code of 1961: Sections 9-1 (first degree
24 murder) or 9-2 (second degree murder).

1 Sec. 33G-4. Prohibited activities.

2 (a) It is unlawful for any person, who intentionally
3 participates in the operation or management of an enterprise,
4 directly or indirectly, to:

5 (1) knowingly do so, directly or indirectly, through a
6 pattern of predicate activity;

7 (2) knowingly cause another to violate this Article; or

8 (3) knowingly conspire to violate this Article.

9 Notwithstanding any other provision of law, in any
10 prosecution for a conspiracy to violate this Article, no person
11 may be convicted of that conspiracy unless an overt act in
12 furtherance of the agreement is alleged and proved to have been
13 committed by him, her, or by a coconspirator, but the
14 commission of the overt act need not itself constitute
15 predicate activity underlying the specific violation of this
16 Article.

17 (b) It is unlawful for any person knowingly to acquire or
18 maintain, directly or indirectly, through a pattern of
19 predicate activity any interest in, or control of, to any
20 degree, of any enterprise, real property, or personal property
21 of any character, including money.

22 (c) Nothing in this Article shall be construed as to make
23 unlawful any activity which is arguably protected or prohibited
24 by the National Labor Relations Act, the Illinois Educational
25 Labor Relations Act, the Illinois Public Labor Relations Act,
26 or the Railway Labor Act.

1 (d) The following organizations, and any officer or agent
2 of those organizations acting in his or her official capacity
3 as an officer or agent, may not be sued in civil actions under
4 this Article:

5 (1) a labor organization; or

6 (2) any business defined in Division D, E, F, G, H, or
7 I of the Standard Industrial Classification as established
8 by the Occupational Safety and Health Administration, U.S.
9 Department of Labor.

10 (e) Any person prosecuted under this Article may be
11 convicted and sentenced either:

12 (1) for the offense of conspiring to violate this
13 Article, and for any other particular offense or offenses
14 that may be one of the objects of a conspiracy to violate
15 this Article; or

16 (2) for the offense of violating this Article, and for
17 any other particular offense or offenses that may
18 constitute predicate activity underlying a violation of
19 this Article.

20 (f) The State's Attorney, or a person designated by law to
21 act for him or her and to perform his or her duties during his
22 or her absence or disability, may authorize a criminal
23 prosecution under this Article. Prior to any State's Attorney
24 authorizing a criminal prosecution under this Article, the
25 State's Attorney shall adopt rules and procedures governing the
26 investigation and prosecution of any offense enumerated in this

1 Article. These rules and procedures shall set forth guidelines
2 which require that any potential prosecution under this Article
3 be subject to an internal approval process in which it is
4 determined, in a written prosecution memorandum prepared by the
5 State's Attorney's Office, that (1) a prosecution under this
6 Article is necessary to ensure that the indictment adequately
7 reflects the nature and extent of the criminal conduct involved
8 in a way that prosecution only on the underlying predicate
9 activity would not, and (2) a prosecution under this Article
10 would provide the basis for an appropriate sentence under all
11 the circumstances of the case in a way that a prosecution only
12 on the underlying predicate activity would not. No State's
13 Attorney, or person designated by law to act for him or her and
14 to perform his or her duties during his or her absence or
15 disability, may authorize a criminal prosecution under this
16 Article prior to reviewing the prepared written prosecution
17 memorandum. However, any internal memorandum shall remain
18 protected from disclosure under the attorney-client privilege,
19 and this provision does not create any enforceable right on
20 behalf of any defendant or party, nor does it subject the
21 exercise of prosecutorial discretion to judicial review.

22 (g) A labor organization and any officer or agent of that
23 organization acting in his or her capacity as an officer or
24 agent of the labor organization are exempt from prosecution
25 under this Article.

1 (720 ILCS 5/33G-5 new)

2 Sec. 33G-5. Penalties. Under this Article, notwithstanding
3 any other provision of law:

4 (a) Any violation of subsection (a) of Section 33G-4 of
5 this Article shall be sentenced as a Class X felony with a term
6 of imprisonment of not less than 7 years and not more than 30
7 years, or the sentence applicable to the underlying predicate
8 activity, whichever is higher, and the sentence imposed shall
9 also include restitution, and or a criminal fine, jointly and
10 severally, up to \$250,000 or twice the gross amount of any
11 intended proceeds of the violation, if any, whichever is
12 higher.

13 (b) Any violation of subsection (b) of Section 33G-4 of
14 this Article shall be sentenced as a Class X felony, and the
15 sentence imposed shall also include restitution, and or a
16 criminal fine, jointly and severally, up to \$250,000 or twice
17 the gross amount of any intended proceeds of the violation, if
18 any, whichever is higher.

19 (c) Wherever the unlawful death of any person or persons
20 results as a necessary or natural consequence of any violation
21 of this Article, the sentence imposed on the defendant shall
22 include an enhanced term of imprisonment of at least 25 years
23 up to natural life, in addition to any other penalty imposed by
24 the court, provided:

25 (1) the death or deaths were reasonably foreseeable to
26 the defendant to be sentenced; and

1 (2) the death or deaths occurred when the defendant was
2 otherwise engaged in the violation of this Article as a
3 whole.

4 (d) A sentence of probation, periodic imprisonment,
5 conditional discharge, impact incarceration or county impact
6 incarceration, court supervision, withheld adjudication, or
7 any pretrial diversionary sentence or suspended sentence, is
8 not authorized for a violation of this Article.

9 (720 ILCS 5/33G-6 new)

10 Sec. 33G-6. Remedial proceedings, procedures, and
11 forfeiture. Under this Article:

12 (a) The circuit court shall have jurisdiction to prevent
13 and restrain violations of this Article by issuing appropriate
14 orders, including:

15 (1) ordering any person to disgorge illicit proceeds
16 obtained by a violation of this Article or divest himself
17 or herself of any interest, direct or indirect, in any
18 enterprise or real or personal property of any character,
19 including money, obtained, directly or indirectly, by a
20 violation of this Article;

21 (2) imposing reasonable restrictions on the future
22 activities or investments of any person or enterprise,
23 including prohibiting any person or enterprise from
24 engaging in the same type of endeavor as the person or
25 enterprise engaged in, that violated this Article; or

1 (3) ordering dissolution or reorganization of any
2 enterprise, making due provision for the rights of innocent
3 persons.

4 (b) Any violation of this Article is subject to the
5 remedies, procedures, and forfeiture as set forth in
6 subsections (f) through (s) of Section 29B-1 of this Code.

7 (720 ILCS 5/33G-7 new)

8 Sec. 33G-7. Construction. In interpreting the provisions
9 of this Article, the court shall construe them in light of the
10 applicable model jury instructions set forth in the Federal
11 Criminal Jury Instructions for the Seventh Circuit (1999) for
12 Title IX of Public Law, 91-452, 84 Stat. 922 (as amended in
13 Title 18, United States Code, Sections 1961 through 1968),
14 except to the extent that it is inconsistent with the plain
15 language of this Article.

16 (720 ILCS 5/33G-8 new)

17 Sec. 33G-8. Limitations. Under this Article,
18 notwithstanding any other provision of law, but otherwise
19 subject to the periods of exclusion from limitation as provided
20 in Section 3-7 of this Code, the following limitations apply:

21 (a) Any action, proceeding, or prosecution brought under
22 this Article must commence within 5 years of one of the
23 following dates, whichever is latest:

24 (1) the date of the commission of the last occurrence

1 of predicate activity in a pattern of that activity, in the
2 form of an act underlying the alleged violation of this
3 Article; or

4 (2) in the case of an action, proceeding, or
5 prosecution, based upon a conspiracy to violate this
6 Article, the date that the last objective of the alleged
7 conspiracy was accomplished, defeated or abandoned
8 (whichever is later); or

9 (3) the date any minor victim of the violation attains
10 the age of 18 years or the date any victim of the violation
11 subject to a legal disability thereafter gains legal
12 capacity.

13 (b) Any action, proceeding, or prosecution brought under
14 this Article may be commenced at any time against all
15 defendants if the conduct of any defendant, or any part of the
16 overall violation, resulted in the unlawful death of any person
17 or persons.

18 (720 ILCS 5/33G-9 new)

19 Sec. 33G-9. Repeal. This Article is repealed 5 years after
20 it becomes law.

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.