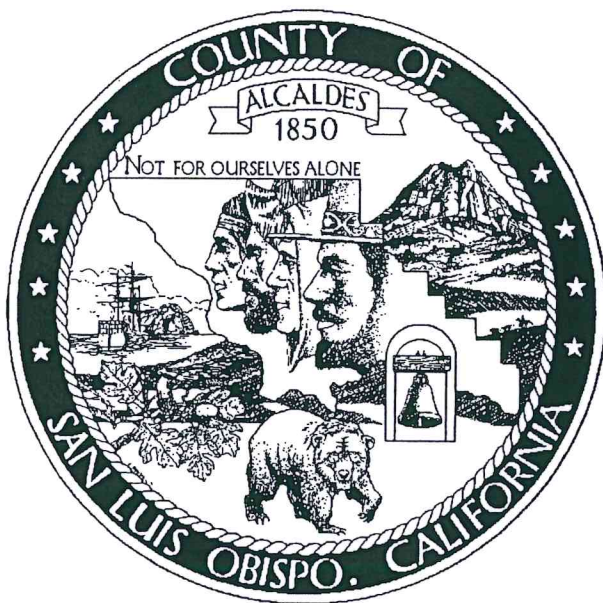


**PROPOSITION 21  
GANG VIOLENCE AND JUVENILE CRIME  
PREVENTION ACT OF 1988**



OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF SAN LUIS OBISPO

Gerald T. Shea  
District Attorney

**PROPOSITION 21**  
**GANG VIOLENCE AND JUVENILE CRIME PREVENTION ACT OF 1998**

Proposed Changes to Existing Law Regarding Gang Cases and  
Serious (PC 1192.7) and Violent (PC667.5(c)) Felony Gang Enhancements

Gang Enhancements:

Adults

- Increases penalties for gang enhancement to 2, 3, 4 years
- Adds enhanced penalty of 5 months for commission of street gang serious felony (1192.7(c))
- Adds enhanced penalty of 10 months for commission of street gang violation (667.5(c))
- Adds on/near school (1000 feet) as factor in aggravation
- Adds conviction of gang involved home invasion robbery, carjack, shooting car/home, 12022.55 if 1192.7 or 667.5(b) felony

Plus specific intent to promote / further / assist street gang = indeterminate term with minimum term calculated to be greater of 1170 PC sentence including enhancements / 15 years if one of above enumerated offenses; prison 7 years if extortion or threats to victims or witnesses.

- Except as enumerated, a sentence for listed crime above must serve 15 calendar years.
- If probation granted for felony or misdemeanor, must serve minimum of 180 days.
- "Pattern of street gang activity" means commission or attempted commission and adds conspiracy to commit, or solicitation of, sustained juvenile petition for or conviction of 2 or more of the listed offenses provided 1 occurred after the effective date of this chapter, last occurred within 3 years after a prior offenses and the offenses were committed on separate occasions or by 2 or more people.
- Allows the court to strike additional punishment for enhancements or refuse to impose minimum jail sentence for misdemeanors – in unusual circumstances.
- States that for a conviction or to sustain a petition all that need be proven is "active participation".

- Amends PC 186.26(a), soliciting or recruiting another to actively participate in a street gang with intent that recruited/solicited person promote, further, or assist any felonious conduct by the street gang = 16 months, 2, 3 years
- Amends 186.26(b), threatening another with physical violence on 2 or more occasions within a 30-day period with intent to coerce, involve or solicit active participation in street gang = 2, 3, 4 years.
- Amends 186.26(c), Use of physical violence to do above or to prevent person from leaving street gang = 3, 4, 5 years
- Amends 186.26(d), If person above solicited, recruited, coerced or threatened is a minor = + 3 years
- Amends 186.30(a), Conviction for Section (b) must register with sheriff or police where reside.
  - Applies to minor as well, 186.22(a), (b) or any crime court finds gang related
  - Registration terminates after 5 years after last imposition of registration requirement
  - Violation of registration = misdemeanor
  - Knowingly fail to register (conviction or sustained petition) = 16 months, 2, 3 years
  - Amends 190.2(a) Special circumstances
    - Adds (22) defendant intentionally killed the victim while defendant was an active participant in a street gang and murder was carried out to further activities of street gang
  - Amends 594(b)(1) PC Malicious Mischief
    - \$400 + = Felony/misdemeanor + \$10,000; if damage = \$10 - fine not more than \$50,000
    - -\$400 = 1 years/1000 misdemeanor
    - Wiretap - Adds any felony violation of 186.22

If PC to believe - committed/about to commit



- Amends 667.5(c) - Violent Felonies
  - Any robbery
  - Any kidnap
  - Adds arson of inhabited structure or property
  - Adds causing explosion/destructive device causing death, mayhem, GBI
  - Adds assault with intent to commit mayhem, rape, sodomy, oral copulation
  - Any carjacking
  - Adds extortion
  - Adds threats to victims/witnesses as felony per 186.22
  - Adds any first degree burglary where another person was in the residence
  - Adds any violation of 12022.53 PC (firearm use in enumerated felonies)
- Amends PC 1192.7(c) - Serious Felonies
  - Adds exploding a destructive device or any explosive causing bodily injury
  - Adds any first degree burglary
  - Adds any felony which = Felony 186.22
  - Adds assault with intent to commit mayhem, rape, sodomy, oral copulation
  - Adds throwing acid/flammable substances
  - Adds assault with deadly weapon, firearm, machine gun, assault weapon of semi automatic firearm or assault on a peace officer or firefighter
  - Adds assault with deadly weapon on public transit worker, custodial officer, school employee
  - Adds discharge of a firearm at an inhabited dwelling, vehicle, aircraft
  - Adds rape or penetration by foreign object in concert
  - Adds continual sexual abuse of a child
- Amends Welfare & Institutions Code Section 602(a) - Minor 14 years + who commits any of the following shall be prosecuted under general law in a criminal court:
  - Murder, PC 187, with special and per 190.2(a), plus minor personally killed the victim
  - Sex offenses/personal commission/one strike law - 667.61(d) or (e)
    - Rape
    - Spousal rape

- Forcible sex offenses (PC 264.1)
  - Forcible lewd and lascivious act on child under 14 (PC288(b))
  - Forcible penetration by foreign object
  - Forcible sodomy/oral copulation
  - Lewd and lascivious act on child under 14 (PC 288(a))
- Amends Welfare & Institutions Code Section 602(d)(1) - DA may file an accusatory pleading in adult court against any minor 16 years + who is accused of committing an offense listed in 707(b). DA may file in adult court against a minor 14 years + if:
    - Crime punishable by death or life imprisonment
    - Personal use of firearm during attempt/commission of a felony (PC 12022.5)
    - 707(b) offense if any following apply:
      - 1) Prior finding of 707(b) offense
      - 2) Offense committed for benefit / at direction of / in association with street gang with specific intent to promote, further, assist gang crime conduct
      - 3) Intimidating or interfering with a person's civil rights because of race, color, religion, ancestry, national origin, gender or sex orientation or because minor perceives such
      - 4) Victim is 65 + or is blind, deaf, quadriplegic, paraplegic, developmentally disabled, or confined to wheel chair
- W&I Code Section 707(b) - Fitness
    - Amended to include any robbery;
    - amended to include any offense described in PC 1022.53 (firearm use with enumerated felonies)
    - amended to include voluntary manslaughter (PC 192(a))

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