

103^D CONGRESS
2^D SESSION

H. R. 4441

To clarify that a reasonable suspicion, sufficient to support a constitutional stop and frisk by a law enforcement officer, includes membership in a criminal street gang that engages in a pattern of criminal gang activity.

IN THE HOUSE OF REPRESENTATIVES

MAY 17, 1994

Mr. PORTMAN (for himself and Mr. CONDIT) introduced the following bill;
which was referred to the Committee on the Judiciary

A BILL

To clarify that a reasonable suspicion, sufficient to support a constitutional stop and frisk by a law enforcement officer, includes membership in a criminal street gang that engages in a pattern of criminal gang activity.

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. GENERAL RULE.**

4 It shall constitute a reasonable suspicion, sufficient
5 to support a constitutional stop and frisk by a law enforce-
6 ment officer, that the officer knows or has reason to be-
7 lieve that the person who is subject to that stop and
8 frisk—

1 (1) actively participates in a criminal street
2 gang; and

3 (2) knows that such criminal street gang en-
4 gages in a pattern of criminal gang activity.

5 **SEC. 2. DEFINITIONS.**

6 As used in this Act—

7 (1) the term “criminal street gang” means any
8 ongoing organization, association, or group of 3 or
9 more persons, whether formal or informal—

10 (A) having as one of its primary activities
11 the commission of one or more criminal acts de-
12 scribed in paragraph (2);

13 (B) having a common name or common
14 identifying sign or symbol; and

15 (C) whose members individually or collec-
16 tively engage in or have engaged in a pattern
17 of criminal gang activity; and

18 (2) the term “pattern of criminal gang activity”
19 means the commission, attempted commission, or so-
20 licitation of 2 or more criminal offenses that are
21 committed on separate occasions or by 2 or more
22 persons and constitute one of the following crimes:

23 (A) Assault with a deadly weapon or by
24 means for force likely to produce great bodily
25 injury.

1 (B) Robbery.

2 (C) Unlawful homicide or manslaughter.

3 (D) The sale, possession for sale, transpor-
4 tation, manufacture, offer for sale, or offer to
5 manufacture of a controlled substance.

6 (E) Shooting at an inhabited dwelling or
7 occupied motor vehicle.

8 (F) Arson.

9 (G) The intimidation of witnesses and vic-
10 tims.

11 (H) Grand theft of any vehicle, trailer, or
12 vessel.

13 (I) Any other crime that is a crime of vio-
14 lence (as defined for the purposes of title 18,
15 United States Code) that carries a risk of phys-
16 ical injury or death of an individual.

○