

# A BILL

## FOR

AN ACT TO MAKE PROVISION FOR THE MAINTENANCE OF PUBLIC SAFETY AND ORDER THROUGH DISCOURAGING MEMBERSHIP OF CRIMINAL GANG AND THE SUPPRESSION OF CRIMINAL ACTIVITIES AND FOR OTHER RELATED MATTERS

*Sponsored by Senator Jibril Barau*

[ ] Commencement

BE IT ENACTED by the National Assembly of the Federal Republic as follows:

- 1           **1. This Bill may be cited as the Anti-Criminal Gang, Bill 2015.**           Citation
- 2           **2. -(i) In this Bill unless the context otherwise requires:**           Interpretation
- 3           "ammunition" has the meaning assigned to it in the Firearms Act;
- 4           "bullet-proof vest" means a vest or article of covering that is capable of
- 5           providing or intended to provide protection from the penetration of bullets
- 6           or similar projectiles;
- 7           "child" means a person who is under eighteen years of age;
- 8           "firearm" has the meaning assigned to it in the Firearms Act;
- 9           "Criminal Gang means a combination of two or more persons, whether
- 10          formally or informally organized, that, through its membership or through
- 11          an agent, engages in any criminal related activity;
- 12          "leader" means a person who knowingly initiates, organizes, plails,
- 13          finances, directs, manages or supervises any criminal-gang related activity;
- 14          "gang member" means a person who belongs to a gang, or a person who
- 15          knowingly acts in the capacity of an agent for or an accessory to, or
- 16          voluntarily associates himself with any gang-related activity, whether in a
- 17          preparatory, executory or concealment phase of any such activity, or a
- 18          person who knowingly performs, aids, or abets any such activity;
- 19          "Criminal related activity" means any criminal activity, enterprise, pursuit

1 or undertaking in relation to any of the offences listed in the First Schedule  
2 acquiesced in, or consented or agreed to, or directed, ordered, authorized,  
3 requested or ratified by any member, including a leader;

4 "harbours" means giving refuge or shelter to another person and encouraging  
5 or supporting, whether tacitly or explicitly, that person in committing any  
6 Criminal related activity;

7 "law enforcement authorities" includes:

8 (a) the Police Force established under the Police Act;

9 (b) the Nigerian Customs Service established under the Customs Act;

10 (c) the Nigerian Armed Force established under the Armed Forces  
11 Act;

12 (d) the Prison Service established under the Prison Service Act; and

13 any other agency in which investigative powers, similar to those exercisable by  
14 a police officer appointed under the Police Act, are lawfully vested;

15 "recruits" includes counsel, procure, lure, solicit, incite or induce;

16 "school" includes an orphanage or any establishment for the conduct of  
17 technical or vocational training or social programmes designed for youth.

Membership of  
Criminal Gangs

18 **3.-(1) It is hereby declared that Gangs are unlawful and any person:**

19 (a) who is a member; or

20 (b) who, in order to gain an unlawful benefit, professes to be a  
21 member when in fact he is not, whether by telling anyone that he is a gang  
22 member or otherwise suggesting to anyone that he is a member, commits an  
23 offence and is liable on summary conviction to imprisonment for ten years and  
24 on any subsequent conviction on indictment to imprisonment for twenty years.

25 (2) A person who is a gang leader commits an offence and is liable on  
26 conviction on indictment to imprisonment for twenty-five years.

27 (3) A person who is a police officer, prison officer, member of the  
28 Armed Forces, , member of an agency involved in law enforcement, and is a  
29 member, commits an offence and is liable on conviction on indictment to  
30 imprisonment for twenty-five years.

1 (4) A gang member who unlawfully and maliciously:  
 2 (a) by any means whatsoever, wounds or causes grievous bodily  
 3 harm to; or (b) shoots at with intent to do some grievous bodily harm,

4 (4) A police officer, prison officer, member of the Armed Forces or  
 5 any person involved in law enforcement, who connives or conceal  
 6 information about a gang commits an offence and is liable- on conviction on  
 7 indictment to imprisonment for thirty years.

8 (5) For the purpose of this Act, it shall not be necessary to show that  
 9 a particular gang possesses, acknowledges or is known by any common  
 10 name, insignia, flag, means of recognition, secret signal or code, creed,  
 11 belief, structure, leadership or command structure, method of operation or  
 12 criminal enterprise, concentration or speciality, membership, age or other  
 13 qualification, initiation rites, geographical or territorial situs, boundary or  
 14 location, or other unifying mark, manner, protocol or method of expressing  
 15 or indicating its membership when the gang's existence can be demonstrated  
 16 by a preponderance of other admissible evidence, but any evidence  
 17 reasonably tending to show or demonstrate the existence of or membership  
 18 in a gang shall be admissible in any action or proceedings brought under this  
 19 Act.

20 4. A person who, by any means, coerces, encourages, entices, aids  
 21 or abets another person to be a gang member commits an offence and is  
 22 liable on conviction on indictment to imprisonment for twenty-five years.

Coercing or  
 Encouraging  
 Gang Membership

23 5. A person who prevents or attempts to prevent a member from  
 24 leaving the membership of a gang, whether by coercion or otherwise,  
 25 commits an offence and is liable on conviction on indictment to  
 26 imprisonment for twenty-five years.

Preventing  
 Member from  
 Renouncing  
 Membership

27 6. -(1) A person who, whether or not he is a member:

28 (a) commits a criminal-related activity at the direction of any gang  
 29 member;

Participation in  
 Criminal Activity  
 in Association  
 with Criminal  
 Gang

30 (b) knowingly assists, aids or abets any member to carry out a



1 criminal-related activity;

2 (c) assists in the concealment of a gang-related activity by the gang; or

3 (d) knowingly commits, assists, aids or abets in the commission of an  
4 activity at the direction of, or in concert with, or for the benefit of, the  
5 organisation, or conceals or assists in the concealment of the same, commits an  
6 offence and is liable on conviction on indictment to imprisonment for twenty  
7 years.

8 (2) It is a defence for a person charged for an offence under subsection  
9 (1)(a) or (c) to prove that he did not know that any person under whose  
10 direction he acted, or whom he assisted, aided or abetted to carry out the  
11 offence, or for whom he concealed or assisted in the concealment of the  
12 offence, as the case may be, was or might be a gang member.

Possession of  
Bullet-Proof  
Vest Firearm  
or Ammunition  
for benefit of  
Gang

13 7. A person who has in his possession or under his care or control a  
14 bullet-proof vest, firearm or ammunition, whether lawfully obtained or not,  
15 which he intends to use or ought to know may be used for the benefit of or at the  
16 direction of a gang, or any gang member, commits an offence and is liable on  
17 conviction on indictment to imprisonment for fifteen years.

Harbouring or  
Concealing Gang  
Members

18 8.-(1) A person who harbours a person whom he knows or ought to  
19 know is a gang member or is wanted by any member of the, law enforcement  
20 authorities for any gang-related activity commits an offence' and is liable on  
21 summary conviction to imprisonment for five years.

22 (2) Where in subsection (1):

23 (a) the gang member or person wanted by any member of the law  
24 enforcement authorities for any criminal-related activity is a child; and

25 (b) the person convicted is the parent or is acting in loco parentis of the  
26 child, the Court, in sentencing the person convicted, shall take into  
27 consideration mitigating factors such as any efforts made by the person  
28 convicted to reform or rehabilitate the child.

29 (3) A person who conceals a person whom he knows or ought to know  
30 is a gang member or is wanted by any member of the law enforcement

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1 authorities for any gang-related activity commits an offence and is liable on  
2 summary conviction to imprisonment for ten years.

3 (4) A person charged with an offence under subsection (3) conceals  
4 another person if the person charged:

5 (a) knows or ought to know that the other person is a gang member  
6 or is wanted by any member of the law enforcement authorities in  
7 connection with the investigation or for the commission of any criminal-  
8 related activity; and

9 (b) in response to an enquiry from a member of the law  
10 enforcement authorities as to the whereabouts of the other person, does not  
11 reveal the whereabouts to the enquirer, despite knowing where the other  
12 person is located.

13 9.-(1) A person who recruits or attempts to recruit a person who is  
14 not a child to a gang or otherwise solicits or invites support for criminal  
15 gangs commits an offence and is liable on conviction on indictment to  
16 imprisonment for ten years.

Recruiting  
Members

17 (2) A person who recruits to a criminal gang a person whom he  
18 knows or ought to know is a child commits an offence and is liable on  
19 conviction on indictment to imprisonment for fifteen years.

20 (3) Notwithstanding subsection (2), a person who within five  
21 hundred metres of a school or place of worship recruits to a criminal  
22 organization a person whom he knows or ought to know is a child commits  
23 an offence and is liable on conviction on indictment to imprisonment for  
24 twenty years.

25 10.-(1) A police officer may arrest without a warrant a person  
26 whom he has reasonable cause to believe to be a member of a criminal  
27 organization or whom he has reasonable cause to believe has committed an  
28 offence under this Act.

Police Powers  
of entry search  
and arrest

29 (2) A police officer may, with a warrant issued by a Magistrate so  
30 enabling him to do, enter any dwelling house and search the same if he has

1 reasonable cause to believe that a member may be found in that dwelling house.

2 (3) A police officer may enter without a warrant and search any place  
3 or premises not used as a dwelling house if he has reasonable cause to believe  
4 that a gang member may be found in such place or premises.

Time limit for  
Police detention  
of suspect

5 11.-(1) Notwithstanding any law to the contrary, a police officer may,  
6 without a warrant, detain for a period not exceeding seventy two hours a person  
7 whom he reasonably suspect of having committed an offence under this Act  
8 without charging him for the offence.

9 (2). The time from which the period of detention is to be effective  
10 shall be the time at which the person is arrested and detained.

11 (3) Where a person is detained under subsection (1), the police officer  
12 who made the detention shall, without delay:

13 (a) inform the person of the grounds for his detention;

14 (b) cause to be maintained a custody record relating to the person  
15 detained; and

16 (c) record the grounds for detention in the person's custody record.

17 (4) Where additional grounds arise for continuing to detain a person  
18 within the seventy-two hour period under subsection (1), the police officer who  
19 made the detention shall record those grounds in the person's custody record  
20 and provide the person or his attorney at- law with a copy of the custody record,  
21 upon request.

22 (5) Where a person is detained without charge under subsection (1), a  
23 police officer of the rank of superintendent or above who is responsible for the  
24 police station at which the person is detained, hereafter referred to as "the  
25 senior officer", shall, within forty-eight hours of the time referred to in  
26 subsection (2), review the grounds for detention and where the senior officer is  
27 satisfied that the detention of the person is not reasonably required in the  
28 public's interest having regard to the stage of the investigation, the senior  
29 officer shall order that the person be released forthwith.

30 (6) Where, nearing the expiration of the period referred to in

1 subsection (1), the senior officer has reasonable grounds for believing that  
2 the continued detention of the person without charge is necessary to secure  
3 or preserve evidence relating to an offence or to obtain such evidence by  
4 questioning the detained person, the senior officer may apply ex parte to a  
5 Magistrate, in the manner prescribed in Form 1 of the Second Schedule, for a  
6 detention order.

7 (7) A Magistrate may make an order under subsection (6) for the  
8 further detention of the person named in the application if he is satisfied that  
9 there are reasonable grounds to believe that:

10 (a) the further detention of the person to whom the application  
11 relates is justified; and

12 (b) the investigation is being conducted diligently and  
13 expeditiously.

14 (8) The period for which a detention order may be granted under  
15 subsection (7) shall be such period as the Court thinks fit; having regard to  
16 the evidence before it, but the period shall end not later than one hundred and  
17 forty-four hours after the effective time of the arrest and detention referred  
18 to in subsection (2).

19 **12.-(1)** Subject to subsections (2) and (3), the Court which convicts  
20 a person of an offence under this Act shall, in addition to any other penalty,  
21 order the forfeiture of any property which, at the time of the offence, he had  
22 in his possession or under his control provided it is shown that he had such  
23 property for the use or benefit of an organisation.

Forfeiture of  
Property

24 (2) Property subject to forfeiture under subsection (1) shall  
25 include:

26 (a) all profits, proceeds and instrumentalities relating to criminal-  
27 related activity or the recruitment of members; and

28 (b) all property used or intended or attempted to be used to  
29 facilitate criminal-related activity or the recruitment of members.

30 (3) When person, other than the convicted person, claims to be the

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1 owner of or otherwise, interested in any property which can be forfeited by  
2 order under this section the Court shall, before making such an order in respect  
3 of it, give him an opportunity to be heard.

4 (4) The Court may give directions-as--to the storage, investment and  
5 disposal of property forfeited by order under subsection (1).

Amendment of  
Schedules

6 13. The Minister with responsibility for national security may by  
7 Order, subject to affirmative resolution of the National Assembly, amend the  
8 Schedules to this Act.

9 FIRST SCHEDULE

10 CRIMINAL GANG-RELATED ACTIVITY OFFENCES

11 (Section 4)

- 12 1. Possession of imitation firearms in pursuance of any criminal  
13 offence.
- 14 2. Larceny of a motor vehicle
- 15 3. Arson
- 16 4. Receiving stolen goods
- 17 5. Gang membership
- 18 6. Coercing or encouraging gang membership
- 19 7. Preventing member from Renouncing
- 20 8. Participation in criminal activity in association with criminal gangs
- 21 9. Possession of bullet-proof vest, firearm or ammunition for benefit  
22 of gang.
- 23 10. Harboursing or concealing gang members
- 24 11. Recruiting gang members
- 25 12. Threatening to publish with intent to extort
- 26 13. Demanding money with menaces
- 27 14. Murder
- 28 15. Shooting or wounding with intent to do grievous bodily harm,  
29 unlawful wounding 16. Robbery, robbery with aggravation, robbery with  
30 violence.



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- 1                   17. Assault occasioning actual bodily harm
  - 2                   18. Possession and use of a firearm or ammunition with intent to
  - 3                   endanger life.
  - 4                   19. Possession of a firearm or ammunition without licence
  - 5                   certificate or permit.
  - 6                   20. Trafficking in a dangerous drug or being in possession of a
  - 7                   dangerous drug for the purpose of trafficking
  - 8                   21. Rape
  - 9                   22. Grievous sexual assault
  - 10                  23. Kidnapping
  - 11                  24. Kidnapping for ransom
  - 12                  25. Knowingly negotiating to obtain a ransom
  - 13                  26. An attempt to commit any offence listed in this Schedule
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**SECOND SCHEDULE**

**FORM I**

[Section 11(6)]

**APPLICATION FOR DETENTION ORDER**

I \_\_\_\_\_,  
*(name of applicant)* \_\_\_\_\_ *(office of applicant)*

hereby apply under section 11(6) of the Anti-Gang Act for a Detention Order in favour of \_\_\_\_\_ a person detained in police custody since  
*(name of person detained)*

\_\_\_\_\_, in connection with \_\_\_\_\_  
*(date and time of detention)* *(details of alleged offence)*

*of the Anti-Gang Act provide the grounds upon and period for which a Magistrate may make a Detention Order]*

The grounds of the application are—

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Certificate of truth

I believe that the contents of this application are true.

Signed: \_\_\_\_\_  
*(Applicant)*

Dated the day of 20 \_\_\_\_\_