



THE PARLIAMENT OF  
TRINIDAD AND TOBAGO

**BILL ESSENTIALS**

Date Introduced: March 2, 2021

House: Senate

Minister: Honourable Attorney  
General and Minister of Legal Affairs

Bill No: 3 of 2021

Links: The links to the Bill, and its  
progress can be found on the Bill's  
home page through the Parliament's  
Website

<http://www.ttparliament.org/legislations/b2021s03.pdf>

# BILL ESSENTIALS

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1<sup>ST</sup> SESSION, 12<sup>TH</sup> PARLIAMENT

## The Anti-Gang Bill, 2021

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## BACKGROUND






1. The **Anti-Gang Bill, 2021** (“**the Bill**”) provides for the maintenance of public safety and order by discouraging membership of criminal gangs and the suppression of criminal gang activity.
2. This Bill was introduced in the Senate by the Honourable Attorney General and Minister of Legal Affairs on March 02, 2021.
3. The **Anti-Gang Act, 2018** legislated for similar matters, but provided for the duration of the operation of the legislation via a ***sunset clause*** and the legislation continued in force for a period of ***thirty (30) months*** from the date of its commencement.
4. In 2020, the **Anti-Gang (Amendment) Bill, 2020** was introduced to amend the **Anti-Gang Act, 2018** and to extend its duration. However, the **Anti-Gang (Amendment) Bill, 2020** was defeated in the House of Representatives on November 20, 2020. As a result, the **Anti-Gang Act, 2018** expired on November 29, 2020 and is no longer enforceable.

## KEY FEATURES OF THE BILL

### COMMENCEMENT







5. The Bill will come into effect on such date as fixed by the President by Proclamation.

### DEFINITIONS

6. **Clause 3** of the Bill proposes to define certain key terms for the purpose of this legislation:
  -  A “*gang*” means a combination of two or more persons, whether formally or informally organised, who engage in gang–related activity;
  -  A “*gang leader*” means a person who initiates, organises, plans, finances, directs, manages or supervises a gang;
  -  A “*gang member*” means a person who belongs to a gang, or associates himself with a gang–related activity;
  -  “*Gang–related activity*” means an offence, an attempt to commit an offence, the aiding, abetting, counselling or procuring of an offence or a conspiracy to commit an offence listed in the First Schedule, which a gang leader or gang member plans, directs, orders, authorises, or requests; and
  -  “*School*” includes a community residence as defined under the Children’s Community Residences, Foster Care and Nurseries Act, recreation ground or

park, or an establishment for the conduct of technical or vocational training, or educational, sporting or social programmes, designed for children.

## EVIDENCE IN RELATION TO A GANG

7. **Clause 4** of the Bill prescribes the evidence which may reasonably demonstrate the existence of, or membership in a gang.
8. The following will be considered admissible evidence to show or demonstrate the existence of or membership in a gang:
-  Where a person admits to being a gang leader or member;
  -  Evidence of association or involvement with a gang with the intention of facilitating the commission of gang-related activity or promoting, furthering or assisting gang-related activity;
  -  Evidence of criminal activity with some link or involvement with a gang;
  -  Evidence of knowingly assisting or facilitating the concealment, transportation or disposal of evidence of gang-related activity;
  -  A statement or information that has been distributed or communicated on behalf of or in the name of a gang; and
  -  A statement by or on behalf of a person indicating involvement in the commission of a crime by a gang.

It will not be necessary to show that a particular gang possesses or is known by a common name, insignia or other means of recognition.

## PART II - OFFENCES

9. **Clauses 5 to 14** creates the following offences:

Clause	Offence	Penalty
<b>Clause 5</b>	Being a gang leader	On conviction on indictment to imprisonment for <b>twenty-five (25) years</b> .
	Being a gang member	<ul style="list-style-type: none"> <li>▪ First offence – on summary conviction to imprisonment for <b>ten (10) years</b>; or</li> <li>▪ A subsequent offence – on summary conviction to imprisonment for <b>twenty (20) years</b>.</li> </ul>
	A person who performs an act as a condition for membership in a gang	<ul style="list-style-type: none"> <li>▪ First offence – on summary conviction to imprisonment for <b>ten (10) years</b>; or</li> <li>▪ A subsequent offence – on summary conviction to imprisonment for <b>twenty (20) years</b>.</li> </ul>

	A person who professes to be a gang leader or gang member to gain a benefit for himself or another person or to intimidate others or promote a gang	<ul style="list-style-type: none"> <li>▪ First offence – on summary conviction to imprisonment for <b>ten (10) years</b>; or</li> <li>▪ A subsequent offence – on summary conviction to imprisonment for <b>twenty (20) years</b>.</li> </ul>
	A person who is a member of law enforcement authority or a person involved in intelligence gathering who commits an offence under this clause	On conviction on indictment to imprisonment for <b>twenty-five (25) years</b> .
	A gang leader or member who intentionally wounds, causes grievous bodily harm to or shoots at a member of law enforcement authority intending to do some grievous bodily harm	On conviction on indictment to imprisonment for <b>thirty (30) years</b> .
<b>Clause 6</b>	Coercing or encouraging, enticing, aiding or abetting another person to be a gang leader or gang member	On conviction on indictment to imprisonment for <b>twenty-five (25) years</b> .
<b>Clause 7</b>	<p>Intentionally taking retaliatory action against another person’s relatives, friends, associates or property on account of that other person:</p> <ul style="list-style-type: none"> <li>▪ Refusing to become or ceasing to be a gang leader, gang member;</li> <li>▪ Giving information, assisting in investigations or giving evidence in relation to a gang, gang leader, gang member or gang-related activity;</li> <li>▪ Refusing to comply with an order of a gang leader or gang member;</li> <li>▪ Refusing to participate in retaliatory action; or</li> <li>▪ Refusing to provide funding or resources to a gang leader, gang member or gang.</li> </ul>	On conviction on indictment to imprisonment for <b>thirty (30) years</b> .

<b>Clause 8</b>	Counselling, giving instruction or guidance to, financing or providing support to a gang	On conviction on indictment to imprisonment for <b>twenty-five (25)</b> years.
<b>Clause 9</b>	Preventing a gang or gang member from leaving a gang	On conviction on indictment to imprisonment for <b>twenty-five (25)</b> years.
<b>Clause 10</b>	Using or having a bullet-proof vest, firearm, ammunition, or prohibited weapon in the commission of gang-related activity	On conviction on indictment to imprisonment for <b>fifteen (15)</b> years.  It would be a defence if the person charged could prove that they could not have reasonably known that the bullet-proof vest, firearm, ammunition or prohibited weapon in their possession would be used in the commission of a gang-related activity
<b>Clause 11</b>	Harbouring a gang member	On summary conviction to imprisonment for <b>ten (10)</b> years.  It would be a defence if the person charged could prove that they could not have reasonably known that the person they were harbouring was a gang leader or gang member.
<b>Clause 12</b>	Concealing a gang member, gang leader or gang related activity	On summary conviction to imprisonment for <b>fifteen (15)</b> years.  It would be a defence if the person charged could prove that he could not have reasonably known that the person he was concealing was a gang leader or gang member.
<b>Clause 13</b>	Recruiting another person to a gang	Imprisonment for <b>ten (10)</b> years on summary conviction; Imprisonment for <b>twenty (20)</b> years on conviction on indictment  If a person recruits a child to a gang they are liable on summary conviction to imprisonment for <b>fifteen (15)</b> years or conviction on indictment to imprisonment for <b>twenty-five (25)</b> years.  If a person recruits a child to a gang within five hundred (500) metres of a school or place of worship, they would be liable to imprisonment for <b>twenty-five (25)</b> years on conviction on indictment.
<b>Clause 14</b>	Disclosing to another person prejudicial information about an	A fine of <b>One Hundred Thousand Dollars (\$100,000)</b> and imprisonment for <b>twenty (20)</b> years.

	ongoing or proposed investigation by law enforcement	It is a defence if the person charged could prove that he did not know that the disclosure was likely to be prejudicial to the investigation.
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## POWERS OF POLICE OFFICERS

10. **Clause 15** empowers a police officer:

- a) to arrest, without a warrant, a person who he has reasonable cause to believe is a gang leader, gang member or who he has reasonable cause to believe has committed an offence under the Act;
- b) to enter and search a dwelling house, with a warrant issued by a Magistrate, where the Magistrate is satisfied by evidence on oath that there is a reasonable ground for believing that a gang member, gang leader or a person whom the Magistrate has reasonable cause to believe has committed an offence under this Act, may be found in the dwelling house; and
- c) to enter any other place or premises not used as a dwelling house (including a building, ship, vessel, carriage, box or receptacle), without a warrant, where he has reasonable cause to believe that a gang leader, gang member or a person whom he has reasonable cause to believe has committed an offence under this Act may be found.

11. **Clause 16 (1)** permits a police officer to detain a person without a warrant for a period not exceeding forty-eight (48) hours where he has reasonable cause to believe that person has:

- a) committed, is about to commit or is committing; or
- b) interfered with an investigation of,

an offence under this Act without charging him for the offence.

12. **Clause 16(2)** states that the forty-eight (48) hour period of detention will take effect from the time at which the person is arrested or detained.

13. **Clause 16(3)** requires the police officer upon detaining a person must, without delay, inform the person of the grounds for his detention and record the grounds for his detention in the station diary.

14. **Clause 16(4)** provides that where a police officer has reasonable grounds to believe that it is necessary to detain a person beyond the forty-eight (48) hour detention period to:

- a) obtain, secure or preserve evidence relating to an offence under this Act;
- b) prevent interference with an investigation of an offence under this Act; or
- c) prevent the commission of an offence,

the officer may make an ex parte application for a detention order to a Judge within thirty-six (36) hours of the person's detention, in the form set out in the Second Schedule. This application must be supported by evidence on oath.

15. **Clause 16(5)** empowers a Judge to grant a detention order for the further detention of a person if he is satisfied that there are reasonable grounds to believe that:
- a) the further detention of the person is justified; and
  - b) the investigation is being conducted diligently and expeditiously.
16. **Clause 16(6)** allows the Court to make a detention order for such period as it thinks fit, after considering the evidence presented before it. The detention period must not exceed fourteen (14) days after the time of the arrest and detention.
17. **Clause 16(7)** enables a person detained pursuant to a detention order to make an application to a Judge providing reasons why the detention order should be set aside.

## FORFEITURE OF PROPERTY

18. Where a person is convicted of an offence under the proposed legislation, **Clause 17(1)** authorises the Court to order that any property which has been used for, in connection with or was obtained as a result of, or in connection with the commission of an offence to be forfeited to the State in accordance with the **Proceeds of Crime Act Chap. 11:27**.<sup>1</sup> The Court is empowered to give directions as to the storage, investment and disposal of the forfeited property.
19. **Clause 17(3)** defines "*property*" as real or personal property, located within or outside of Trinidad and Tobago and includes:
- a) a right, interest, title, claim, chose in action, power, privilege, whether present or future and whether vested or contingent, in relation to property, or which is otherwise of value;
  - b) a conveyance executed for conveying, assigning, appointing, surrendering, or otherwise transferring or disposing of immovable property whereof the person executing the conveyance is proprietor or possessed or wherein he is entitled to a contingent right, either for his whole interest or for a lesser interest;

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<sup>1</sup> Chap 11:27 [https://rgd.legalaffairs.gov.tt/laws2/alphabetical\\_list/lawspdfs/11.27.pdf](https://rgd.legalaffairs.gov.tt/laws2/alphabetical_list/lawspdfs/11.27.pdf)

- c) a monetary instrument;
- d) any other instrument or securities;
- e) any business;
- f) a vehicle, boat, aircraft or other means of conveyance of any description; and
- g) any other tangible or intangible property.

## MISCELLANEOUS

20. **Clauses 18 and 19** empower the Minister of National Security to:

- a) amend the Second Schedule, subject to the negative resolution of Parliament; and
- b) make regulations generally for the better carrying out of the provisions of the legislation, subject to the negative resolution of Parliament.

21. **Clause 20** proposes consequential amendments to the Second Schedule of the **Proceeds of Crime Act** to include participation in gangs and gang-related activity as a category of specified offence. The effect of this is that the proceeds of participation in gangs and gang related activity could be confiscated under the **Proceeds of Crime Act**.

22. The **First Schedule** contains the list of gang-related activity offences.

23. The **Second Schedule** contains the form which is to be used in an application for a detention order.

## COMPARATIVE LEGISLATION

SIMILARITIES	DIFFERENCES
<b>THE CRIMINAL JUSTICE (SUPPRESSION OF CRIMINAL ORGANIZATIONS) ACT, 2014 JAMAICA</b>	
<ul style="list-style-type: none"> <li>▪ The Act makes it an offence to:                             <ul style="list-style-type: none"> <li>✓ Form or establish a criminal organization;</li> <li>✓ Lead a criminal organization;</li> <li>✓ Be a part of or participate in or facilitate a serious offence by a criminal organization;</li> <li>✓ Recruit a child or adult to be a part of or participate in a criminal organization;</li> <li>✓ Knowingly provide a benefit to or obtaining a benefit from a criminal organization;</li> <li>✓ Conceal the proceeds of criminal activity;</li> <li>✓ Aid and abet a criminal organization;</li> <li>✓ Profess to be a part of or participant in a criminal organization or to obtain a benefit therefrom;</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ The Act makes it an offence to impersonate a law enforcement officer.</li> <li>▪ Where a citizen of Jamaica or a person who is not a citizen but is resident in Jamaica, carries out an act or is responsible for an omission which would constitute an offence under the Act, he is liable to be prosecuted as if the act or omission had occurred in Jamaica.</li> <li>▪ A Court, hearing a case in exercise of its jurisdiction under the Act may direct the protection of the identity of any person, including a witness, in the interest of the administration of justice, public safety, public order or morality.</li> </ul>



- ✓ Prevent a person from ceasing to be a part of or a participant in a criminal organization; and
- ✓ Take retaliatory action.

**SERIOUS AND ORGANISED CRIME (CONTROL) ACT 2008 AUSTRALIA**

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| <ul style="list-style-type: none"> <li>▪ The Act makes it an offence to recruit a person to become member of declared organisation.</li> </ul> | <ul style="list-style-type: none"> <li>▪ Declarations of criminal organisations are made upon application by the Commissioner of Police to the Court. These declarations are published in the Gazette and in a newspaper circulating generally throughout the State.</li> <li>▪ The Commissioner may also apply to the court for a control order relating to a person who is or has been a member of a declared organisation or engages or has engaged in serious criminal activity and associates or has associated with a member of a declared organisation. The order will prohibit a person from:             <ul style="list-style-type: none"> <li>✓ associating with a specified person or persons of a specified class;</li> <li>✓ holding an authorisation to carry on a prescribed activity while the control order remains in force;</li> <li>✓ being present at, or being in the vicinity of, a specified place or premises or a place or premises of a specified class;</li> <li>✓ possessing a specified article or weapon, or articles or weapons of a specified class;</li> <li>✓ carrying on his or her person more than a specified amount of cash;</li> <li>✓ using for communication purposes, or being in possession of, a telephone, mobile phone, computer or other communication device except as may be specified; and or</li> <li>✓ engaging in other conduct of a specified kind that the Court considers could be relevant to the commission of serious criminal offences.</li> </ul> </li> <li>▪ To contravene a control order is an offence which carries a maximum penalty of imprisonment for five (5) years.</li> <li>▪ The Act makes it an offence to:             <ul style="list-style-type: none"> <li>✓ Permit premises to be habitually used as place of resort by members of declared organization.</li> <li>✓ Associate with a person who is a member of a declared organisation or the subject of a control order.</li> </ul> </li> <li>▪ The Act applies in relation to a child in the same way as it applies to an adult (a child means a person under 18 years of age), however, a control order may not be made in relation to a child who is under 16 years of age.</li> </ul> |
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## CRIMINAL CODE 1985 CANADA

<ul style="list-style-type: none"> <li>▪ The Code makes it an offence to:           <ul style="list-style-type: none"> <li>✓ Possess any explosive substance for the benefit of, at the direction of or in association with a criminal organization;</li> <li>✓ Participate in or contribute to any activity of the criminal organization;</li> <li>✓ Recruit, solicit, encourage, coerce or invite a person to join a criminal organization.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ The Code makes it an offence to:           <ul style="list-style-type: none"> <li>✓ knowingly instructs, directly or indirectly, any person to commit an offence for the benefit of, at the direction of, or in association with a criminal organization;</li> <li>✓ Engage in any conduct with the intent to provoke a state of fear in a group of persons or the general public in order to impede the administration of criminal justice, a justice system participant in order to impede him or her in the performance of his or her duties or a journalist in order to impede him or her in the transmission to the public of information in relation to a criminal organization.</li> <li>▪ In determining whether an accused participates in or contributes to any activity of a criminal organization, the Court may consider, among other factors, whether the accused:               <ul style="list-style-type: none"> <li>✓ uses a name, word, symbol or other representation that identifies, or is associated with, the criminal organization;</li> <li>✓ frequently associates with any of the persons who constitute the criminal organization;</li> <li>✓ receives any benefit from the criminal organization; or</li> <li>✓ repeatedly engages in activities at the instruction of any of the persons who constitute the criminal organization.</li> </ul> </li> </ul> </li> </ul>
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## REFERENCES

## KEY LEGISLATION

**The Anti-Gang Bill, 2021**

<http://www.ttparliament.org/legislations/b2021s03.pdf>

**The Proceeds of Crime Act**

[https://rgd.legalaffairs.gov.tt/laws2/alphabetical\\_list/lawspdfs/11.27.pdf](https://rgd.legalaffairs.gov.tt/laws2/alphabetical_list/lawspdfs/11.27.pdf)

## LEGISLATION FROM OTHER JURISDICTIONS

**Jamaica - Criminal Justice (Suppression of Criminal Organizations) Act, 2014**

[http://www.japarliament.gov.jm/attachments/341\\_The%20Disruption%20and%20Suppression%20of%20criminal%20organizations.pdf](http://www.japarliament.gov.jm/attachments/341_The%20Disruption%20and%20Suppression%20of%20criminal%20organizations.pdf)




**Australia - Serious and Organised Crime (Control) Act 2008**

[https://www.legislation.sa.gov.au/LZ/C/A/SERIOUS%20AND%20ORGANISED%20CRIME%20\(CONTROL\)%20ACT%202008/CURRENT/2008.13.UN.PDF](https://www.legislation.sa.gov.au/LZ/C/A/SERIOUS%20AND%20ORGANISED%20CRIME%20(CONTROL)%20ACT%202008/CURRENT/2008.13.UN.PDF)

 **Canada - The Criminal Code, 1985**  
<http://laws-lois.justice.gc.ca/PDF/C-46.pdf>

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## OTHER USEFUL MATERIAL

-  **Katz, C.M., D. Choate, and A. Fox. 2010. Understanding and Preventing Gang Membership in Trinidad and Tobago. Phoenix: Arizona State University.**  
[https://www.researchgate.net/profile/Charles\\_Katz/publication/282981088\\_Understanding\\_and\\_Preventing\\_Gang\\_Membership\\_in\\_Trinidad\\_and\\_Tobago/links/5625852408aed3d3f137154e/Understanding-and-Preventing-Gang-Membership-in-Trinidad-and-Tobago.pdf](https://www.researchgate.net/profile/Charles_Katz/publication/282981088_Understanding_and_Preventing_Gang_Membership_in_Trinidad_and_Tobago/links/5625852408aed3d3f137154e/Understanding-and-Preventing-Gang-Membership-in-Trinidad-and-Tobago.pdf)
-  **Katz, C.M., and A. Fox. 2010. "Risk and Protective Factors Associated with Gang Involved Youth in a Caribbean Nation: Analysis of the Trinidad and Tobago Youth Survey". Pan-American Journal of Public Health/Revista Panamericana de Salud Pública 27(3): 187–202.**  
<https://www.scielosp.org/pdf/rpsp/v27n3/a06v27n3.pdf>
-  **Katz, C.M., E.R. Maguire, and D. Choate. 2011. "A Cross-National Comparison of Gangs in the United States and Trinidad and Tobago". International Criminal Justice Review 21(3): 243–62.**  
<http://cvpcs.asu.edu/sites/default/files/content/products/katz%20maguire%20choatePDF>



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