

506.150 Criminal gang activity or recruitment -- Actions not constituting defenses.

- (1) To establish the existence of a "criminal gang" as defined in KRS 506.135, competent evidence that is probative of the existence of or membership in a criminal gang shall be admissible, including two (2) or more of the following:
 - (a) Self-proclamation, either at the time of arrest or any time before or thereafter;
 - (b) A common name, insignia, flag, or means of recognition;
 - (c) Common identifying hand or body signs, signals, graffiti, or code;
 - (d) A common identifying mode, style, or color of dress;
 - (e) An identifying tattoo or body marking;
 - (f) Membership, age, or other qualifications;
 - (g) Creed of belief;
 - (h) An organizational or command structure, overt or covert;
 - (i) A de facto claim of territory or jurisdiction;
 - (j) Participation, whether present or under direction, in an initiation ritual;
 - (k) Directing or ordering participation in an initiation ritual;
 - (l) A concentration or specialty;
 - (m) A method of operation or criminal enterprise;
 - (n) Identification as a gang member by a reliable informant;
 - (o) Identification as a criminal gang member by the alleged gang member's parent or guardian;
 - (p) Self-proclamation of association, whether for business or enjoyment, with criminal gang members;
 - (q) Identification through criminal gang publications, rosters, or bylaws;
 - (r) Participation in some form of verbal or written communication indicating the commission of a crime by the criminal gang;
 - (s) Participation in photos or social media interaction with criminal gang members promoting or furthering criminal activity; or
 - (t) Having committed or planning to commit crime or a criminal activity to target a rival criminal gang.
- (2) It is no defense to prosecution under KRS 506.120, 506.140, 506.160, or 506.170 that:
 - (a) One (1) or more members of the gang are not criminally responsible for the offense;
 - (b) One (1) or more members of the gang have been acquitted, have not been prosecuted or convicted, have been convicted of a different offense, or are under prosecution;
 - (c) A person has been charged with, acquitted, or convicted of any offense under KRS 506.120, 506.140, 506.160, or 506.170;
 - (d) The participants may not know each other's identity;

- (e) The membership in the criminal gang may change from time to time; or
 - (f) The participants may stand in a wholesaler-retailer or other arm's length arrangement in the conduct of illicit distribution or other operations.
- (3) Once the initial combination of three (3) or more persons is formed, the number or identity of persons remaining in the gang is immaterial as long as two (2) or more persons in the gang, excluding the defendant, are involved in a continuing pattern of criminal gang activity constituting a violation of KRS 506.120, 506.140, 506.160, or 506.170.

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History: Amended 2018 Ky. Acts ch. 202, sec. 4, effective April 26, 2018. -- Amended 2000 Ky. Acts ch. 431, sec. 2, effective July 14, 2000. -- Created 1998 Ky. Acts ch. 606, sec. 84, effective July 15, 1998.