

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

- (1) To establish the existence of a "criminal gang" as defined in KRS 506.140, any competent evidence that is probative of the existence of or membership in a criminal gang shall be admissible, including the following:
 - (a) Self-proclamation;
 - (b) A common name, insignia, flag, or means of recognition;
 - (c) Common identifying hand or body signs, signals, 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) An initiation ritual;
 - (k) A concentration or specialty; or
 - (l) A method of operation or criminal enterprise.
- (2) It is no defense to prosecution under KRS 506.140 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 506.140;
 - (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 five (5) or more persons is formed, the number or identity of persons remaining in the gang is immaterial as long as four (4) or more persons in the gang, excluding the defendant, are involved in a continuing pattern of criminal activity as defined in KRS 506.140 constituting a violation of KRS 506.140.

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