

ENROLLED SENATE
BILL NO. 74

By: Cole, Haney, Henry, Rozell,
Williams (Penny) and Horner
of the Senate

and

Davis, Boyd (Laura),
O'Neal, Smaligo, Case,
Roach, Coleman, Greenwood,
Weaver and Voskuhl of the
House

An Act relating to runaway children; amending 21 O.S.
1991, Section 856, as last amended by Section 1,
Chapter 212, O.S.L. 1993 (21 O.S. Supp. 1995,
Section 856), which relates to contributing to the
delinquency of minors and runaway children;
providing definitions; adding clarifying language;
criminalizing harbouring certain runaway children;
providing penalty; amending 74 O.S. 1991, Section
150.12A, which relates to reports to the Oklahoma
State Bureau of Investigation; providing for
reporting of certain runaway persons by certain
officials; providing for certain action upon
location or discovery of missing or runaway
persons; providing for establishment of joint
procedures; requiring certain reporting if family
abduction is suspected; providing for program to
publicize names and pictures of runaway children
and toll free number; providing for codification;
providing an effective date; and declaring an
emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 21 O.S. 1991, Section 856, as last amended by Section 1, Chapter 212, O.S.L. 1993 (21 O.S. Supp. 1995, Section 856), is amended to read as follows:

Section 856. A. 1. Except as otherwise specifically provided by law, every person who shall knowingly or willfully cause, aid, abet or encourage a minor to be, to remain, or to become a delinquent child or a runaway child, upon conviction, shall, for the first offense, be guilty of a misdemeanor punishable by imprisonment in a county jail not to exceed one (1) year, or by a fine not to exceed One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

2. For purposes of prosecution under this subsection, a "runaway child" means an unemancipated minor who is voluntarily absent from the home without a compelling reason, without the consent of a custodial parent or other custodial adult and without the parent or other custodial adult's knowledge as to the child's whereabouts. "Compelling reason" means imminent danger from incest, a life-threatening situation, or equally traumatizing circumstance. A person aiding a runaway child pursuant to paragraph (4) of subsection (a) of Section 5 of Title 76 of the Oklahoma Statutes or aiding a child based upon a reasonable belief that the child is in physical, mental or emotional danger and with notice to the Department of Human Services or a local law enforcement agency of the location of the child within twelve (12) hours of aiding the child shall not be subject to prosecution under this section.

B. Every person convicted of a second or any subsequent violation of this section shall be guilty of a felony and punishable by imprisonment in the custody of the Department of Corrections not to exceed three (3) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

C. Every person eighteen (18) years of age or older who shall knowingly or willfully cause, aid, abet, or encourage a minor to commit or participate in committing an act that would be a felony if committed by an adult shall, upon conviction, be guilty of a felony punishable by the maximum penalty allowed for conviction of the offense or offenses which the person caused, aided, abetted, or encouraged the minor to commit or participate in committing.

D. Every person who shall knowingly or willfully cause, aid, abet, encourage, solicit, or recruit a minor to participate, join, or associate with any criminal street gang, as defined by subsection F of this section, or any gang member for the purpose of committing any criminal act shall, upon conviction, be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for a term not to exceed one (1) year, or a fine not to exceed Three Thousand Dollars (\$3,000.00), or both such fine and imprisonment.

E. Every person convicted of a second or subsequent violation of subsection D of this section shall be guilty of a felony punishable by imprisonment in the State Penitentiary for a term not to exceed five (5) years or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

F. "Criminal street gang" means any ongoing organization, association, or group of five or more persons that specifically either promotes, sponsors, or assists in, or participates in, and requires as a condition of membership or continued membership, the commission of one or more of the following criminal acts:

1. Assault, battery, or assault and battery with a deadly weapon, as defined in Section 645 of this title;

2. Aggravated assault and battery as defined by Section 646 of this title;

3. Robbery by force or fear, as defined in Sections 791 through 797 of this title;

4. Robbery or attempted robbery with a dangerous weapon or imitation firearm, as defined by Section 801 of this title;
5. Unlawful homicide or manslaughter, as defined in Sections 691 through 722 of this title;
6. The sale, possession for sale, transportation, manufacture, offer for sale, or offer to manufacture controlled dangerous substances, as defined in Section 2-101 et seq. of Title 63 of the Oklahoma Statutes;
7. Trafficking in illegal drugs, as provided for in the Trafficking in Illegal Drugs Act, Section 2-414 of Title 63 of the Oklahoma Statutes;
8. Arson, as defined in Sections 1401 through 1403 of this title;
9. The influence or intimidation of witnesses and jurors, as defined in Sections 388, 455 and 545 of this title;
10. Theft of any vehicle, as described in Section 1720 of this title;
11. Rape, as defined in Section 1111 of this title;
12. Extortion, as defined in Section 1481 of this title;
13. Transporting a loaded firearm in a motor vehicle, in violation of Section 1289.13 of this title;
14. Transporting a weapon in, or discharging a weapon from, a boat, in violation of Section 1289.14 of this title;
15. Possession of a concealed weapon, as defined by Section 1289.8 of this title; or
16. Shooting or discharging a firearm, as defined by Section 652 of this title.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 856.2 of Title 21, unless there is created a duplication in numbering, reads as follows:

It shall be unlawful for any person to knowingly and willfully harbour an endangered runaway child. Any person violating the provisions of this section shall, upon conviction, be guilty of a misdemeanor punishable by a fine not exceeding One Thousand Dollars (\$1,000.00), or by imprisonment in a county jail not exceeding one (1) year, or by both such fine and imprisonment. Every person convicted of a second or any subsequent violation shall, upon conviction, be guilty of a felony punishable by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by imprisonment not exceeding three (3) years, or by both such fine and imprisonment. For purposes of this section, an "endangered runaway child" means an unemancipated minor who is voluntarily absent from the home for seventy-two (72) hours or more without a compelling reason and without the consent of a custodial parent or other custodial adult or an unemancipated minor who is voluntarily absent from the home without a compelling reason and without the consent of a custodial parent or other custodial adult and the child needs medication or other special services. For purposes of this section, "compelling reason" shall be defined as provided in Section 856 of Title 21 of the Oklahoma Statutes.

SECTION 3. AMENDATORY 74 O.S. 1991, Section 150.12A, is amended to read as follows:

Section 150.12A A. It shall be the duty of any sheriff, chief of police, city marshal, constable, or any other law enforcement officer, immediately upon receipt of any report of a missing or runaway person, to send one copy of such report to the Oklahoma State Bureau of Investigation and enter such information, when applicable, to the National Crime Information Center. Within seventy-two (72) hours of location or discovery of the missing or runaway person, the sheriff, chief of police, city marshal, constable, or any other law enforcement officer shall notify the Oklahoma State Bureau of Investigation and remove the entry from the National Crime Information Center. Upon location or discovery of

the missing or runaway person, the sheriff, chief of police, city marshal, constable or any other law enforcement officer shall immediately make the appropriate entry to the National Crime Information Center in accordance with NCIC standard operating procedures.

B. The Oklahoma State Bureau of Investigation and the Oklahoma Law Enforcement Telecommunications System shall jointly establish the procedures and guidelines necessary for enacting and maintaining an electronic database for missing and runaway persons in the State of Oklahoma which is compatible with the data collection entry procedures of the National Crime Information Center. The Oklahoma State Bureau of Investigation shall establish guidelines for law enforcement officers concerning the collection and dissemination of information concerning missing or runaway persons.

C. Whenever a missing or runaway person report regarding a person born in the State of Oklahoma and under eighteen (18) years of age is received by a sheriff, chief of police, city marshal, constable or any other law enforcement officer, and there is reason to believe that the person is the victim of a family abduction, the reporting agency shall notify the Oklahoma State Bureau of Investigation, the Bureau shall immediately notify the State Commissioner of Health that the person has been reported to be missing. The Director of the Oklahoma State Bureau of Investigation and the State Commissioner of Health shall jointly establish the procedures and forms necessary for the transmittal of information between the Oklahoma State Bureau of Investigation and the State Department of Health required pursuant to the provisions of Section 150.1 et seq. of this title.

D. The Bureau shall establish a program to periodically publicize the names and pictures of missing children along with a missing children hot-line number on OETA.

SECTION 4. This act shall become effective July 1, 1996.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.