SHORT TITLE: Parental liability; providing exception to responsibility for minor's actions; effective date.

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

SENATE BILL NO. 1016 By: Herbert

AS INTRODUCED

An Act relating to parental liability; amending 10 O.S. 1991, Section 20, 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), and 23 O.S. 1991, Section 10, which relate to responsibility for acts of another, contributing to delinquency, and recovery of damages from parents of minor; providing exception to responsibility for minor's actions; modifying language; making legal guardian responsible for recovery of civil damages; and providing an effective date.

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

SECTION 1. AMENDATORY 10 O.S. 1991, Section 20, is amended to read as follows:

Section 20. Neither parent or child is answerable, as such, for the act of the other, except as provided for court-ordered restitution as provided by subparagraph c of paragraph 8 of subsection A of Section 7303-5.3 of this title and civil damages as provided by Section 10 of Title 23 of the Oklahoma Statutes.

SECTION 2. 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. Except as otherwise specifically provided by law, every person who shall knowingly or willfully cause, aid, abet, allow, or encourage a minor to be, to remain, or to become a delinquent child, upon conviction, shall, for the first offense, be guilty of a misdemeanor and 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.

B. Every person convicted of a second or any succeeding violation of this act shall be guilty of a felony and punishable by imprisonment in the ~~State Penitentiary~~ 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 member of a gang ~~member~~ for the purpose of committing any criminal act shall, upon conviction, be guilty of a felony punishable by imprisonment in the ~~State Penitentiary~~ 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~~ custody of the Department of Corrections 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~~ 4210.3 of ~~this title~~ Title 63 of the Oklahoma Statutes;

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 3. AMENDATORY 23 O.S. 1991, Section 10, is amended to read as follows:

Section 10. The state or any county, city, town, municipal corporation or school district, or any person, corporation, or organization, shall be entitled to recover damages in a court of competent jurisdiction from the parent, parents, or legal guardian of any minor under the age of eighteen (18) years, living with the parent, parents, or legal guardian at the time of the act, who shall commit any criminal or delinquent act resulting in bodily injury to any person or damage to or larceny of any property, real, personal or mixed, belonging to the state or a county, city, town, municipal corporation, school district, person, corporation, or organization. The amount of damages awarded shall not exceed Two Thousand Five Hundred Dollars ($2,500.00).

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

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