ENGROSSED HOUSE
BILL NO. 2588

By: Cox of the House

and

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An Act relating to crimes and punishments; amending 21 O.S. 1991, Section 856, as last amended by Section 158, Chapter 5, 1st Extraordinary Session, O.S.L. 1999, (21 O.S. Supp. 1999, Section 856), which relates to contributing to the delinquency of a minor; placing duty upon parent or legal guardian; providing that parent or legal guardian is in violation of law under certain circumstances; providing affirmative defenses; and providing an effective date.

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 158, Chapter 5, 1st Extraordinary Session, O.S.L. 1999 (21 O.S. Supp. 1999, Section 856), is amended to read as follows:

Section 856.

A. 1. ~~Except~~

a. 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, and

b. for purposes of this subsection, a parent or legal guardian of a minor child shall have the duty to

exercise reasonable care, supervision, protection, and control over the minor child. Failure to perform that duty, upon conviction, shall constitute a violation of this subsection. In a prosecution pursuant to this paragraph, it shall be an affirmative defense that the parent or legal guardian was the victim of the delinquent act upon which the prosecution is based, the parent or legal guardian reported the act upon which the prosecution is based to the appropriate authorities, or the parent or legal guardian took reasonable steps to control the conduct of the child at the time the parent or legal guardian is alleged to have violated this paragraph.

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 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. This act shall become effective November 1, 2000.

Passed the House of Representatives the 2nd day of March, 2000.

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Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 2000.

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President of the Senate