

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 COMMITTEE SUBSTITUTE
4 FOR

5 HOUSE BILL NO. 3001

6 By: Johnson (Dennis)

7 COMMITTEE SUBSTITUTE

8 An Act relating to gangs; amending 21 O.S. 2001,
9 Section 856, which relates to contributing to the
10 delinquency of a minor; modifying penalties; making
11 certain acts unlawful; providing penalty; amending 21
12 O.S. 2001, Section 1760; modifying penalties;
13 requiring school employees to report certain
14 activities to school superintendent; requiring
15 certain report be made to local law enforcement;
16 providing immunity for civil or criminal liability;
17 providing for codification; and providing an
18 effective date.

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

20 SECTION 1. AMENDATORY 21 O.S. 2001, Section 856, is
21 amended to read as follows:

22 Section 856. A. 1. Except as otherwise specifically provided
23 by law, every person who shall knowingly or willfully cause, aid,
24 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

1 exceed One Thousand Dollars (\$1,000.00), or by both such fine and
2 imprisonment.

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

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

22 C. Every person eighteen (18) years of age or older who shall
23 knowingly or willfully cause, aid, abet, or encourage a minor to
24 commit or participate in committing an act that would be a felony if

1 committed by an adult shall, upon conviction, be guilty of a felony
2 punishable by the maximum penalty allowed for conviction of the
3 offense or offenses which the person caused, aided, abetted, or
4 encouraged the minor to commit or participate in committing.

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

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

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

- 1 1. Assault, battery, or assault and battery with a deadly
2 weapon, as defined in Section 645 of this title;
- 3 2. Aggravated assault and battery as defined by Section 646 of
4 this title;
- 5 3. Robbery by force or fear, as defined in Sections 791 through
6 797 of this title;
- 7 4. Robbery or attempted robbery with a dangerous weapon or
8 imitation firearm, as defined by Section 801 of this title;
- 9 5. Unlawful homicide or manslaughter, as defined in Sections
10 691 through 722 of this title;
- 11 6. The sale, possession for sale, transportation, manufacture,
12 offer for sale, or offer to manufacture controlled dangerous
13 substances, as defined in Section 2-101 et seq. of Title 63 of the
14 Oklahoma Statutes;
- 15 7. Trafficking in illegal drugs, as provided for in the
16 Trafficking in Illegal Drugs Act, Section 2-414 of Title 63 of the
17 Oklahoma Statutes;
- 18 8. Arson, as defined in Sections 1401 through 1403 of this
19 title;
- 20 9. The influence or intimidation of witnesses and jurors, as
21 defined in Sections 388, 455 and 545 of this title;
- 22 10. Theft of any vehicle, as described in Section 1720 of this
23 title;
- 24 11. Rape, as defined in Section 1111 of this title;

1 12. Extortion, as defined in Section 1481 of this title;

2 13. Transporting a loaded firearm in a motor vehicle, in
3 violation of Section 1289.13 of this title;

4 14. Transporting a weapon in, or discharging a weapon from, a
5 boat, in violation of Section 1289.14 of this title;

6 15. Possession of a concealed weapon, as defined by Section
7 1289.8 of this title; or

8 16. Shooting or discharging a firearm, as defined by Section
9 652 of this title.

10 SECTION 2. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 856.3 of Title 21, unless there
12 is created a duplication in numbering, reads as follows:

13 A. Any person who is convicted of a felony which is committed
14 for the benefit of, at the direction of, or in association with any
15 criminal street gang, as defined in Section 856 of Title 21 of the
16 Oklahoma Statutes, with the specific intent to promote, further, or
17 assist in any criminal conduct by gang members, shall, upon
18 conviction of that felony, in addition and consecutive to the
19 punishment prescribed for the felony or attempted felony of which
20 the person has been convicted, be punished by an additional term of
21 five (5) years.

22 SECTION 3. AMENDATORY 21 O.S. 2001, Section 1760, is
23 amended to read as follows:

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1 Section 1760. A. Every person who maliciously injures, defaces
2 or destroys any real or personal property that is not his own owned
3 by the person, in cases other than such as are specified in Section
4 1761 et seq. of this title, is, upon conviction, guilty of:

5 1. A misdemeanor, if the damage, defacement or destruction
6 causes a loss which is valued at less than ~~Two Thousand Five Hundred~~
7 ~~Dollars (\$2,500.00)~~ One Thousand Dollars (\$1,000.00), punishable by
8 imprisonment in the county jail for a term of not more than one (1)
9 year or by a fine not exceeding Five Hundred Dollars (\$500.00), or
10 by both such fine and imprisonment; or

11 2. A felony, if the damage, defacement or destruction causes a
12 loss which is valued at ~~Two Thousand Five Hundred Dollars~~
13 ~~(\$2,500.00)~~ One Thousand Dollars (\$1,000.00) or more, punishable by
14 imprisonment in the custody of the Department of Corrections for a
15 term not exceeding two (2) years or by a fine not exceeding One
16 Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

17 B. Any person convicted of a second or subsequent violation of
18 subsection A of this section, regardless of the amount of loss
19 caused by the damage, defacement or destruction, shall be guilty of
20 a felony punishable by imprisonment in the custody of the Department
21 of Corrections for not less than two (2) years or by a fine of not
22 less than Two Thousand Dollars (\$2,000.00), or by both such fine and
23 imprisonment.

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1 C. In addition to any other punishment prescribed by law for
2 violations of subsection A of this section, ~~he~~ the person is liable
3 in treble damages for the injury done, to be recovered in a civil
4 action by the owner of ~~such~~ the property or public officer having
5 charge thereof.

6 SECTION 4. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 5-146.1 of Title 70, unless
8 there is created a duplication in numbering, reads as follows:

9 A. Any school employee, as defined by subsection A of Section
10 650.7 of Title 21 of the Oklahoma Statutes, who has reason to
11 believe that a child under the age of eighteen (18) years is
12 involved in gang activity shall notify the school superintendent of
13 the school district. Upon receiving such report, the school
14 superintendent shall report the matter promptly to the nearest local
15 law enforcement agency. The report may be made by telephone, in
16 writing, personally or by any other method prescribed by the school
17 district.

18 B. A school employee or school superintendent who, in good
19 faith and exercising due care in the making of a report pursuant to
20 subsection A of this section, shall have immunity from any
21 liability, civil or criminal, that might otherwise be incurred or
22 imposed.

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1 SECTION 5. This act shall become effective November 1, 2008.

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