

THE HOUSE OF REPRESENTATIVES  
Thursday, March 6, 2008

Committee Substitute for  
House Bill No. 3001

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 3001 - By: JOHNSON (DENNIS)  
of the House.

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

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

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

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

9 2. For purposes of prosecution under this subsection, a "runaway child" means an  
10 unemancipated minor who is voluntarily absent from the home without a compelling

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

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

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

20 D. Every person who shall knowingly or willfully cause, aid, abet, encourage,  
21 solicit, or recruit a minor to participate, join, or associate with any criminal street gang,  
22 as defined by subsection F of this section, or any gang member for the purpose of

1 committing any criminal act shall, upon conviction, be guilty of a felony punishable by  
2 imprisonment in the custody of the Department of Corrections for a term of not to exceed  
3 less than one (1) year, or a fine not to exceed Three Thousand Dollars (\$3,000.00), or both  
4 such fine and imprisonment.

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

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

- 14 1. Assault, battery, or assault and battery with a deadly weapon, as defined in  
15 Section 645 of this title;
- 16 2. Aggravated assault and battery as defined by Section 646 of this title;
- 17 3. Robbery by force or fear, as defined in Sections 791 through 797 of this title;
- 18 4. Robbery or attempted robbery with a dangerous weapon or imitation firearm, as  
19 defined by Section 801 of this title;
- 20 5. Unlawful homicide or manslaughter, as defined in Sections 691 through 722 of  
21 this title;

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

1           6. The sale, possession for sale, transportation, manufacture, offer for sale, or offer  
2 to manufacture controlled dangerous substances, as defined in Section 2-101 et seq. of  
3 Title 63 of the Oklahoma Statutes;

4           7. Trafficking in illegal drugs, as provided for in the Trafficking in Illegal Drugs  
5 Act, Section 2-414 of Title 63 of the Oklahoma Statutes;

6           8. Arson, as defined in Sections 1401 through 1403 of this title;

7           9. The influence or intimidation of witnesses and jurors, as defined in Sections 388,  
8 455 and 545 of this title;

9           10. Theft of any vehicle, as described in Section 1720 of this title;

10          11. Rape, as defined in Section 1111 of this title;

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

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

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

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

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

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

21           A. Any person who is convicted of a felony which is committed for the benefit of, at  
22 the direction of, or in association with any criminal street gang, as defined in Section 856

1 of Title 21 of the Oklahoma Statutes, with the specific intent to promote, further, or  
2 assist in any criminal conduct by gang members, shall, upon conviction of that felony, in  
3 addition and consecutive to the punishment prescribed for the felony or attempted felony  
4 of which the person has been convicted, be punished by an additional term of five (5)  
5 years.

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

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

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

16 2. A felony, if the damage, defacement or destruction causes a loss which is valued  
17 at ~~Two Thousand Five Hundred Dollars (\$2,500.00)~~ One Thousand Dollars (\$1,000.00) or  
18 more, punishable by imprisonment in the custody of the Department of Corrections for a  
19 term not exceeding two (2) years or by a fine not exceeding One Thousand Dollars  
20 (\$1,000.00), or by both such fine and imprisonment.

21 B. Any person convicted of a second or subsequent violation of subsection A of this  
22 section, regardless of the amount of loss caused by the damage, defacement or

1 destruction, shall be guilty of a felony punishable by imprisonment in the custody of the  
2 Department of Corrections for not less than two (2) years or by a fine of not less than  
3 Two Thousand Dollars (\$2,000.00), or by both such fine and imprisonment.

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

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

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

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

1           SECTION 5. This act shall become effective November 1, 2008.  
2           COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY AND PUBLIC SAFETY,  
3           dated 03-05-08 - DO PASS, As Amended.