

EHB 3001

THE STATE SENATE  
Monday, April 7, 2008

ENGROSSED

House Bill No. 3001

As Amended

ENGROSSED HOUSE BILL NO. 3001 - By: Johnson (Dennis), Dank, Enns, Reynolds and Tibbs of the House and Sykes of the Senate.

[ gangs - contributing to the delinquency of a minor -  
modifying penalties - codification - effective date ]

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

SECTION 1. AMENDATORY 21 O.S. 2001, 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

1 the parent or other custodial adult's knowledge as to the child's  
2 whereabouts. "Compelling reason" means imminent danger from incest,  
3 a life-threatening situation, or equally traumatizing circumstance.  
4 A person aiding a runaway child pursuant to paragraph (4) of  
5 subsection (a) of Section 5 of Title 76 of the Oklahoma Statutes or  
6 aiding a child based upon a reasonable belief that the child is in  
7 physical, mental or emotional danger and with notice to the  
8 Department of Human Services or a local law enforcement agency of  
9 the location of the child within twelve (12) hours of aiding the  
10 child shall not be subject to prosecution under this section.

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

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

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

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

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

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

- 1           2. Aggravated assault and battery as defined by Section 646 of  
2 this title;
- 3           3. Robbery by force or fear, as defined in Sections 791 through  
4 797 of this title;
- 5           4. Robbery or attempted robbery with a dangerous weapon or  
6 imitation firearm, as defined by Section 801 of this title;
- 7           5. Unlawful homicide or manslaughter, as defined in Sections  
8 691 through 722 of this title;
- 9           6. The sale, possession for sale, transportation, manufacture,  
10 offer for sale, or offer to manufacture controlled dangerous  
11 substances, as defined in Section 2-101 et seq. of Title 63 of the  
12 Oklahoma Statutes;
- 13           7. Trafficking in illegal drugs, as provided for in the  
14 Trafficking in Illegal Drugs Act, Section 2-414 of Title 63 of the  
15 Oklahoma Statutes;
- 16           8. Arson, as defined in Sections 1401 through 1403 of this  
17 title;
- 18           9. The influence or intimidation of witnesses and jurors, as  
19 defined in Sections 388, 455 and 545 of this title;
- 20           10. Theft of any vehicle, as described in Section 1720 of this  
21 title;
- 22           11. Rape, as defined in Section 1111 of this title;
- 23           12. Extortion, as defined in Section 1481 of this title;

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

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

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

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

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

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

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

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.

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.

1           SECTION 5. This act shall become effective November 1, 2008.  
2   COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 4-2-08 - DO  
3   PASS, As Amended.