

1 ENGROSSED HOUSE AMENDMENT  
TO  
2 ENGROSSED SENATE BILL NO. 2018

By: Sykes, Garrison and Ellis  
of the Senate

3  
4 and

Johnson of the House

5  
6  
7  
8 ( gangs - minimum sentencing - providing penalty -  
9 authorizing report - providing immunity -  
10 codification -  
11 effective date )

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14 AMENDMENT NO. 1. Strike the stricken title, enacting clause and  
entire bill and insert

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16 "( gangs - minimum sentencing - providing penalty -  
17 authorizing report - providing immunity -  
18 codification -  
19 effective date )

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23 ~~BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:~~  
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1 SECTION 1. AMENDATORY 21 O.S. 2001, Section 13.1, as  
2 last amended by Section 117, Chapter 234, O.S.L. 2009 (21 O.S. Supp.  
3 2009, Section 13.1), is amended to read as follows:

4 Section 13.1 Persons convicted of:

5 1. First degree murder as defined in Section 701.7 of this  
6 title;

7 2. Second degree murder as defined by Section 701.8 of this  
8 title;

9 3. Manslaughter in the first degree as defined by Section 711  
10 of this title;

11 4. Poisoning with intent to kill as defined by Section 651 of  
12 this title;

13 5. Shooting with intent to kill, use of a vehicle to facilitate  
14 use of a firearm, crossbow or other weapon, assault, battery, or  
15 assault and battery with a deadly weapon or by other means likely to  
16 produce death or great bodily harm, as provided for in Section 652  
17 of this title;

18 6. Assault with intent to kill as provided for in Section 653  
19 of this title;

20 7. Conjoint robbery as defined by Section 800 of this title;

21 8. Robbery with a dangerous weapon as defined in Section 801 of  
22 this title;

23 9. First degree robbery as defined in Section 797 of this  
24 title;

1 10. First degree rape as provided for in Section 1115 of this  
2 title;

3 11. First degree arson as defined in Section 1401 of this  
4 title;

5 12. First degree burglary as provided for in Section 1436 of  
6 this title;

7 13. Bombing as defined in Section 1767.1 of this title;

8 14. Any crime against a child provided for in Section 843.5 of  
9 this title;

10 15. Forcible sodomy as defined in Section 888 of this title;

11 16. Child pornography as defined in Section 1021.2, 1021.3 or  
12 1024.1 of this title;

13 17. Child prostitution as defined in Section 1030 of this  
14 title;

15 18. Lewd molestation of a child as defined in Section 1123 of  
16 this title;

17 19. Abuse of a vulnerable adult as defined in Section 10-103 of  
18 Title 43A of the Oklahoma Statutes who is a resident of a nursing  
19 facility; ~~or~~

20 20. Aggravated trafficking as provided for in subsection C of  
21 Section 2-415 of Title 63 of the Oklahoma Statutes; or

22 21. Aggravated assault and battery upon a peace officer as  
23 provided in Section 650 of this title,

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1 shall be required to serve not less than eighty-five percent (85%)  
2 of any sentence of imprisonment imposed by the judicial system prior  
3 to becoming eligible for consideration for parole. Persons  
4 convicted of these offenses shall not be eligible for earned credits  
5 or any other type of credits which have the effect of reducing the  
6 length of the sentence to less than eighty-five percent (85%) of the  
7 sentence imposed.

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

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

18 2. For purposes of prosecution under this subsection, a  
19 "runaway child" means an unemancipated minor who is voluntarily  
20 absent from the home without a compelling reason, without the  
21 consent of a custodial parent or other custodial adult and without  
22 the parent or other custodial adult's knowledge as to the child's  
23 whereabouts. "Compelling reason" means imminent danger from incest,  
24 a life-threatening situation, or equally traumatizing circumstance.

1 A person aiding a runaway child pursuant to paragraph (4) of  
2 subsection (a) of Section 5 of Title 76 of the Oklahoma Statutes or  
3 aiding a child based upon a reasonable belief that the child is in  
4 physical, mental or emotional danger and with notice to the  
5 Department of Human Services or a local law enforcement agency of  
6 the location of the child within twelve (12) hours of aiding the  
7 child shall not be subject to prosecution under this section.

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

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

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

1 punishable by imprisonment in the custody of the Department of  
2 Corrections for a term of not to exceed one (1) year more than five  
3 (5) years, or a fine not to exceed ~~Three Thousand Dollars~~  
4 ~~(\$3,000.00)~~ Five Thousand Dollars (\$5,000.00), or both such fine and  
5 imprisonment.

6 E. Every person convicted of a second or subsequent violation  
7 of subsection D of this section shall be guilty of a felony  
8 punishable by imprisonment in the ~~State Penitentiary~~ custody of the  
9 Department of Corrections for a term not ~~to exceed~~ less than five  
10 (5) years nor more than ten (10) years, or by a fine not exceeding  
11 Five Thousand Dollars (\$5,000.00), or by both such fine and  
12 imprisonment.

13 F. "Criminal street gang" means any ongoing organization,  
14 association, or group of five or more persons including, but not  
15 limited to, the Christian Knights of the Ku Klux Klan, Knights of  
16 the Ku Klux Klan, Aryan Brotherhood and any independent military  
17 organization that is neither recognized nor authorized by the  
18 Commander in Chief of the Militia for the State of Oklahoma, that  
19 specifically either promotes, sponsors, or assists in, or  
20 participates in, and requires as a condition of membership or  
21 continued membership, the commission of one or more of the following  
22 criminal acts:

23 1. Assault, battery, or assault and battery with a deadly  
24 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;
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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.~~ 15. Shooting or discharging a firearm, as defined by  
8 Section 652 of this title.

9 SECTION 3. 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 attempts or commits a gang-related offense as a  
13 condition of membership in a criminal street gang or while in  
14 association with any criminal street gang or gang member shall be  
15 guilty of a felony offense. Upon conviction, the violator shall be  
16 punished by incarceration in the custody of the Department of  
17 Corrections for a term of five (5) years, which shall be in addition  
18 to any other penalty imposed. For purposes of this section,  
19 "criminal street gang" is defined by subsection F of Section 856 of  
20 Title 21 of the Oklahoma Statutes and "gang-related offense" means  
21 those offenses enumerated in paragraphs 1 through 15 of subsection F  
22 of Section 856 of Title 21 of the Oklahoma Statutes.

23 SECTION 4. This act shall become effective November 1, 2010."  
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1 Passed the House of Representatives the 22nd day of April, 2010.

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4 Presiding Officer of the House of  
Representatives  
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6 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2010.

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9 Presiding Officer of the Senate  
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