

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 826

By: Sykes, Leftwich and
Brogdon of the Senate

3
4 and

Johnson of the House

5
6
7 (gangs - delinquency of a minor - codification -
8 effective date)

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11 AUTHORS: Add the following House Coauthors: Reynolds, Kern and
Peterson

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13 AUTHOR: Add the following Senate Coauthor: Ivester

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

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16 "An Act relating to gangs; amending 21 O.S. 2001,
17 Section 856, which relates to contributing to the
delinquency of a minor; modifying penalties;
18 deleting certain offense; making certain gang-
related acts unlawful; providing penalty; defining
19 terms; requiring school employees to report certain
gang activities; authorizing certain report be made
20 to local law enforcement; providing immunity for
civil or criminal liability; providing for
codification; and providing an effective date.

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

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

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

23 B. Every person convicted of a second or any subsequent
24 violation of this section shall be guilty of a felony punishable by

1 imprisonment in the custody of the Department of Corrections not to
2 exceed three (3) years, or by a fine not exceeding Five Thousand
3 Dollars (\$5,000.00), or by both such fine and imprisonment.

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

11 D. Every person who shall knowingly or willfully cause, aid,
12 abet, encourage, solicit, or recruit a minor to participate, join,
13 or associate with any criminal street gang, as defined by subsection
14 F of this section, or any gang member for the purpose of committing
15 any criminal act shall, upon conviction, be guilty of a felony
16 punishable by imprisonment in the custody of the Department of
17 Corrections for a term of not to exceed one (1) year more than five
18 (5) years, or a fine not to exceed ~~Three Thousand Dollars~~
19 ~~(\$3,000.00)~~ Five Thousand Dollars (\$5,000.00), or both such fine and
20 imprisonment.

21 E. Every person convicted of a second or subsequent violation
22 of subsection D of this section shall be guilty of a felony
23 punishable by imprisonment in the ~~State Penitentiary~~ custody of the
24 Department of Corrections for a term not ~~to exceed~~ less than five

1 (5) years nor more than ten (10) years, or by a fine not exceeding
2 Five Thousand Dollars (\$5,000.00), or by both such fine and
3 imprisonment.

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

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

11 2. Aggravated assault and battery as defined by Section 646 of
12 this title;

13 3. Robbery by force or fear, as defined in Sections 791 through
14 797 of this title;

15 4. Robbery or attempted robbery with a dangerous weapon or
16 imitation firearm, as defined by Section 801 of this title;

17 5. Unlawful homicide or manslaughter, as defined in Sections
18 691 through 722 of this title;

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

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

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

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

8 10. Theft of any vehicle, as described in Section 1720 of this
9 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
13 violation of Section 1289.13 of this title;

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

16 ~~15.~~ Possession of a concealed weapon, as defined by Section
17 1289.8 of this title; or

18 ~~16.~~ 15. Shooting or discharging a firearm, as defined by
19 Section 652 of this title.

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

23 Any person who attempts or commits a gang-related offense as a
24 condition of membership in a criminal street gang or while in

1 association with any criminal street gang or gang member shall be
2 guilty of a felony offense. Upon conviction, the violator shall be
3 punished by incarceration in the custody of the Department of
4 Corrections for a term of five (5) years, which shall be in addition
5 to any other penalty imposed. For purposes of this section,
6 "criminal street gang" is defined by subsection F of Section 856 of
7 Title 21 of the Oklahoma Statutes and "gang-related offense" means
8 those offenses enumerated in paragraphs 1 through 15 of subsection F
9 of Section 856 of Title 21 of the Oklahoma Statutes.

10 SECTION 3. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 5-146.1 of Title 70, unless
12 there is created a duplication in numbering, reads as follows:

13 A. Any school employee, as defined by subsection A of Section
14 650.7 of Title 21 of the Oklahoma Statutes, who has reason to
15 believe that a child under the age of eighteen (18) years is
16 involved in gang activity shall notify the superintendent of the
17 school district or a designated school employee as prescribed in a
18 policy adopted by the board of education of the school district
19 pursuant to this section. The designated school employee shall
20 report the information to the superintendent. Upon receiving a
21 report, the superintendent may report the matter promptly to the
22 nearest local law enforcement agency. The report may be made by
23 telephone, in writing, personally or by any other method prescribed
24 by the board of education of the school district.

