

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2080 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Paul Wesselhoft _____

Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2080

By: Wesselhoft

7 PROPOSED 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 minors; making certain acts unlawful;
11 providing penalties; defining terms; and providing an
12 effective date.

13
14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

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

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

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

1 offense or offenses which the person caused, aided, abetted, or
2 encouraged the minor to commit or participate in committing.

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

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

18 F. Any person who actively participates in or is a member of a
19 criminal street gang with knowledge that the criminal street gang
20 engages in or has engaged in a pattern of criminal gang activity,
21 and who knowingly and willfully participates in any predicate
22 criminal act committed for the benefit of, at the direction of, or
23 in association with any criminal street gang shall, upon conviction,
24 be guilty of a misdemeanor punishable by imprisonment in the county

1 jail for a term of not less than ninety (90) days, or by a fine not
2 to exceed One Thousand Dollars (\$1,000.00), or by both such fine and
3 imprisonment. Any participant or member of a criminal street gang
4 who is eighteen (18) years of age or older and who knows or has
5 reason to know that such criminal street gang also includes a
6 juvenile member or juvenile participant shall, upon conviction, be
7 guilty of a misdemeanor punishable by imprisonment in the county
8 jail for a term of not less than one hundred eighty (180) days, or
9 by a fine not to exceed Two Thousand Dollars (\$2,000.00), or by both
10 such fine and imprisonment.

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

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

18 2. Aggravated assault and battery as defined by Section 646 of
19 this title;

20 3. Robbery by force or fear, as defined in Sections 791 through
21 797 of this title;

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

24

1 5. Unlawful homicide or manslaughter, as defined in Sections
2 691 through 722 of this title;

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

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

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

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

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

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

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

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

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

22 ~~15.~~ Possession of a concealed weapon, as defined by Section
23 1289.8 of this title; or

24

1 ~~16.~~ 15. Shooting or discharging a firearm, as defined by
2 Section 652 of this title.

3 H. "Pattern of criminal gang activity" means a prior conviction
4 for the commission, attempted commission, solicitation or conspiracy
5 to commit two or more of the criminal acts enumerated in subsection
6 G of this section within a five-year period and the criminal acts
7 were committed on separate occasions.

8 I. "Actively participates" means that the person has a current
9 relationship with the criminal street gang that is more than in name
10 only, passive, inactive or purely technical and who devotes all or a
11 substantial part of time or efforts of the person to the criminal
12 street gang.

13 SECTION 2. This act shall become effective November 1, 2009.

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15 52-1-6631 GRS 01/29/09
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