

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB826
Page _____ Section _____ Lines _____
Of the printed Bill
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: Dennis Johnson

Reading Clerk

1 STATE OF OKLAHOMA

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

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 826

By: Sykes, Leftwich and Brogdon
of the Senate

7 and

8 Johnson of the House

9 PROPOSED COMMITTEE SUBSTITUTE

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

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

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

23 Section 856. A. 1. Except as otherwise specifically provided
24 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

1 first offense, be guilty of a misdemeanor punishable by imprisonment
2 in a county jail not to exceed one (1) year, or by a fine not to
3 exceed One Thousand Dollars (\$1,000.00), or by both such fine and
4 imprisonment.

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

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

24

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

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

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

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

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

8 2. Aggravated assault and battery as defined by Section 646 of
9 this title;

10 3. Robbery by force or fear, as defined in Sections 791 through
11 797 of this title;

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

14 5. Unlawful homicide or manslaughter, as defined in Sections
15 691 through 722 of this title;

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

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

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

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

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

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

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

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

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

11 ~~15.~~ Possession of a concealed weapon, as defined by Section
12 1289.8 of this title; or

13 ~~16.~~ 15. Shooting or discharging a firearm, as defined by
14 Section 652 of this title.

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

18 Any person who attempts or commits a gang-related offense as a
19 condition of membership in a criminal street gang or while in
20 association with any criminal street gang or gang member shall be
21 guilty of a felony offense. Upon conviction, the violator shall be
22 punished by incarceration in the custody of the Department of
23 Corrections for a term of five (5) years, which shall be in addition
24 to any other penalty imposed. For purposes of this section,

1 "criminal street gang" is defined by subsection F of Section 856 of
2 Title 21 of the Oklahoma Statutes and "gang-related offense" means
3 those offenses enumerated in paragraphs 1 through 15 of subsection F
4 of Section 856 of Title 21 of the Oklahoma Statutes.

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

8 A. Any school employee, as defined by subsection A of Section
9 650.7 of Title 21 of the Oklahoma Statutes, who has reason to
10 believe that a child under the age of eighteen (18) years is
11 involved in gang activity shall notify the superintendent of the
12 school district or a designated school employee as prescribed in a
13 policy adopted by the board of education of the school district
14 pursuant to this section. The designated school employee shall
15 report the information to the superintendent. Upon receiving a
16 report, the superintendent may report the matter promptly to the
17 nearest local law enforcement agency. The report may be made by
18 telephone, in writing, personally or by any other method prescribed
19 by the board of education of the school district.

20 B. A school employee or school superintendent who, in good
21 faith and exercising due care, makes a report pursuant to subsection
22 A of this section, shall be granted immunity from all civil or
23 criminal liability which might be incurred or imposed by making the
24 report.

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SECTION 4. This act shall become effective November 1, 2009.

52-1-7465 KB 03/27/09