

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED

5 SENATE BILL NO. 826

By: Sykes, Leftwich and Brogdon  
of the Senate

6 and

7 Johnson of the House

8  
9 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 SECTION 1. AMENDATORY 21 O.S. 2001, Section 856, is  
21 amended to read as follows:

22 Section 856. A. 1. Except as otherwise specifically provided  
23 by law, every person who shall knowingly or willfully cause, aid,  
24 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

1 in a county jail not to exceed one (1) year, or by a fine not to  
2 exceed One Thousand Dollars (\$1,000.00), or by both such fine and  
3 imprisonment.

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

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

23       C. Every person eighteen (18) years of age or older who shall  
24 knowingly or willfully cause, aid, abet, or encourage a minor to

1 commit or participate in committing an act that would be a felony if  
2 committed by an adult shall, upon conviction, be guilty of a felony  
3 punishable by the maximum penalty allowed for conviction of the  
4 offense or offenses which the person caused, aided, abetted, or  
5 encouraged the minor to commit or participate in committing.

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

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

23 F. "Criminal street gang" means any ongoing organization,  
24 association, or group of five or more persons that specifically

1 either promotes, sponsors, or assists in, or participates in, and  
2 requires as a condition of membership or continued membership, the  
3 commission of one or more of the following criminal acts:

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

6 2. Aggravated assault and battery as defined by Section 646 of  
7 this title;

8 3. Robbery by force or fear, as defined in Sections 791 through  
9 797 of this title;

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

12 5. Unlawful homicide or manslaughter, as defined in Sections  
13 691 through 722 of this title;

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

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

21 8. Arson, as defined in Sections 1401 through 1403 of this  
22 title;

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

1 10. Theft of any vehicle, as described in Section 1720 of this  
2 title;

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

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

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

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

9 ~~15.~~ Possession of a concealed weapon, as defined by Section  
10 1289.8 of this title; or

11 ~~16.~~ 15. Shooting or discharging a firearm, as defined by  
12 Section 652 of this title.

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

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

1 those offenses enumerated in paragraphs 1 through 15 of subsection F  
2 of Section 856 of Title 21 of the Oklahoma Statutes.

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

6 A. Any school employee, as defined by subsection A of Section  
7 650.7 of Title 21 of the Oklahoma Statutes, who has reason to  
8 believe that a child under the age of eighteen (18) years is  
9 involved in gang activity shall notify the superintendent of the  
10 school district or a designated school employee as prescribed in a  
11 policy adopted by the board of education of the school district  
12 pursuant to this section. The designated school employee shall  
13 report the information to the superintendent. Upon receiving a  
14 report, the superintendent may report the matter promptly to the  
15 nearest local law enforcement agency. The report may be made by  
16 telephone, in writing, personally or by any other method prescribed  
17 by the board of education of the school district.

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

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

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