

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 56th Legislature (2018)

4 HOUSE BILL 2765

 By: McEachin and Dunlap

7 AS INTRODUCED

8 An Act relating to crimes and punishments; amending
9 21 O.S. 2011, Section 856, which relates to penalties
10 for contributing to the delinquency of minors;
 modifying scope of criminal street gang definition;
 and providing an effective date.

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

14 SECTION 1. AMENDATORY 21 O.S. 2011, Section 856, is
15 amended to read as follows:

16 Section 856. A. 1. Except as otherwise specifically provided
17 by law, every person who shall knowingly or willfully cause, aid,
18 abet or encourage a minor to be, to remain, or to become a
19 delinquent child or a runaway child, upon conviction, shall, for the
20 first offense, be guilty of a misdemeanor punishable by imprisonment
21 in a county jail not to exceed one (1) year, or by a fine not to
22 exceed One Thousand Dollars (\$1,000.00), or by both such fine and
23 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 of not more than five (5) years, or a fine
10 not to exceed Five Thousand Dollars (\$5,000.00), or both such fine
11 and 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 custody of the Department of
15 Corrections for a term not less than five (5) years nor more than
16 ten (10) years, or by a fine not exceeding Five Thousand Dollars
17 (\$5,000.00), or by both such fine and imprisonment.

18 F. "Criminal street gang" means any ongoing organization,
19 association, or group of five or more persons that specifically
20 either promotes, sponsors, or assists in, or participates in, and
21 requires as a condition of membership or continued membership, the
22 commission of one or more of the following 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;
- 24

1 13. Transporting a loaded firearm in a motor vehicle, in
2 violation of Section 1289.13 of this title;
3 14. Possession of a ~~concealed~~ weapon, as defined by Section
4 1289.8 of this title; ~~or~~
5 15. Shooting or discharging a firearm, as defined by Section
6 652 of this title;
7 16. Soliciting, inducing, enticing or procuring another to
8 commit an act of prostitution, as provided for in Section 1029 of
9 this title; or
10 17. Human trafficking, as provided for in Section 748 of this
11 title.

12 SECTION 2. This act shall become effective November 1, 2018.

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14 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02/28/2018 - DO
15 PASS, As Coauthored.
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