

1 ENGROSSED SENATE
2 BILL NO. 1008

By: David of the Senate

3 and

4 Mulready of the House

5
6 An Act relating to criminal street gangs; amending 21
7 O.S. 2011, Section 856, which relates to causing or
8 encouraging minor to commit a felony or be involved
9 with a criminal street gang; modifying related
10 offenses; and providing an effective date.

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

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

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

22 2. For purposes of prosecution under this subsection, a
23 "runaway child" means an unemancipated minor who is voluntarily
24 absent from the home without a compelling reason, without the

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

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

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

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

10 E. Every person convicted of a second or subsequent violation
11 of subsection D of this section shall be guilty of a felony
12 punishable by imprisonment in the custody of the Department of
13 Corrections for a term not less than five (5) years nor more than
14 ten (10) years, or by a fine not exceeding Five Thousand Dollars
15 (\$5,000.00), or by both such fine and imprisonment.

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

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

23 2. Aggravated assault and battery as defined by Section 646 of
24 this title;

- 1 3. Robbery by force or fear, as defined in Sections 791 through
2 797 of this title;
- 3 4. Robbery or attempted robbery with a dangerous weapon or
4 imitation firearm, as defined by Section 801 of this title;
- 5 5. Unlawful homicide or manslaughter, as defined in Sections
6 691 through 722 of this title;
- 7 6. The sale, possession for sale, transportation, manufacture,
8 offer for sale, or offer to manufacture controlled dangerous
9 substances, as defined in Section 2-101 et seq. of Title 63 of the
10 Oklahoma Statutes;
- 11 7. Trafficking in illegal drugs, as provided for in the
12 Trafficking in Illegal Drugs Act, Section 2-414 of Title 63 of the
13 Oklahoma Statutes;
- 14 8. Arson, as defined in Sections 1401 through 1403 of this
15 title;
- 16 9. The influence or intimidation of witnesses and jurors, as
17 defined in Sections 388, 455 and 545 of this title;
- 18 10. Theft of any vehicle, as described in Section 1720 of this
19 title;
- 20 11. Rape, as defined in Section 1111 of this title;
- 21 12. Extortion, as defined in Section 1481 of this title;
- 22 13. Transporting a loaded firearm in a motor vehicle, in
23 violation of Section 1289.13 of this title;

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1 14. Possession of a concealed weapon, as defined by Section
2 1289.8 of this title; ~~or~~

3 15. Shooting or discharging a firearm, as defined by Section
4 652 of this title;

5 16. Soliciting, inducing or enticing another to commit an act
6 of prostitution, as defined by Section 1030 of this title; or

7 17. Human Trafficking, as defined by Section 748 of this title.

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

9 Passed the Senate the 13th day of March, 2018.

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12 Presiding Officer of the Senate

13 Passed the House of Representatives the ____ day of _____,
14 2018.

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16 _____
17 Presiding Officer of the House
18 of Representatives