An Act

ENROLLED SENATE
BILL NO. 923

By: Sykes and Ivester of the Senate

and

Johnson and Ritze of the House

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

SUBJECT: Gang activity provisions

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

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

Section 856. A. 1. Except as otherwise specifically provided 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 first offense, be guilty of a misdemeanor punishable by imprisonment in a county jail not to exceed one (1) year, or by a fine not to exceed One Thousand Dollars ($1,000.00), or by both such fine and imprisonment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Any person who attempts or commits a gang-related offense as a condition of membership in a criminal street gang or while in association with any criminal street gang or gang member shall be guilty of a felony offense. Upon conviction, the violator shall be punished by incarceration in the custody of the Department of Corrections for a term of five (5) years, which shall be in addition to any other penalty imposed. For purposes of this section, "criminal street gang" is defined by subsection F of Section 856 of Title 21 of the Oklahoma Statutes and "gang-related offense" means those offenses enumerated in paragraphs 1 through 16 of subsection F of Section 856 of Title 21 of the Oklahoma Statutes.

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

A. Any school employee, as defined by subsection A of Section 650.7 of Title 21 of the Oklahoma Statutes, who has reason to believe that a child under the age of eighteen (18) years is involved in gang activity shall notify the person designated by the school district. Upon receiving such report, the person designated by the school district may report the matter to the nearest local law enforcement agency. The report may be made by telephone, in writing, personally or by any other method prescribed by the school district.

B. A school district employee or contractor who, in good faith and exercising due care in the making of a report pursuant to subsection A of this section, shall be granted immunity from all civil or criminal liability which might be incurred or imposed by making such report.

SECTION 4. This act shall become effective November 1, 2011.

Passed the Senate the 15th day of March, 2011.

Presiding Officer of the Senate

Passed the House of Representatives the 20th day of April, 2011.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Governor this 27th

day of April, 20 11,

at 12:05 o'clock P M.

By: Jessica R. Byers

Approved by the Governor of the State of Oklahoma the 3rd day of

May, 20 11, at 2:19 o'clock P M.

Mary Fallin

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this

3rd day of May, 20 11,

at 3:30 o'clock P M.

By: Michelle R Day