

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL 711

6 By: Weaver and David

7 COMMITTEE SUBSTITUTE

8 An Act relating to criminal street gangs; amending 21
9 O.S. 2011, Section 856, which relates to causing or
10 encouraging a minor to commit a felony or be involved
11 with a criminal street gang; modifying related
12 offenses; amending 57 O.S. 2011, Section 582, as last
13 amended by Section 3, Chapter 184, O.S.L. 2016 (57
14 O.S. Supp. 2018, Section 582), which relates to
15 applicability of the Sex Offenders Registration Act;
16 modifying inclusions; and providing an effective
17 date.

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

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

21 Section 856. A. 1. Except as otherwise specifically provided
22 by law, every person who shall knowingly or willfully cause, aid,
23 abet or encourage a minor to be, to remain, or to become a
24 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

1 exceed One Thousand Dollars (\$1,000.00), or by both such fine and
2 imprisonment.

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

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

22 C. Every person eighteen (18) years of age or older who shall
23 knowingly or willfully cause, aid, abet, or encourage a minor to
24 commit or participate in committing an act that would be a felony if

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

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

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

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

- 1 1. Assault, battery, or assault and battery with a deadly
2 weapon, as defined in Section 645 of this title;
- 3 2. Aggravated assault and battery as defined by Section 646 of
4 this title;
- 5 3. Robbery by force or fear, as defined in Sections 791 through
6 797 of this title;
- 7 4. Robbery or attempted robbery with a dangerous weapon or
8 imitation firearm, as defined by Section 801 of this title;
- 9 5. Unlawful homicide or manslaughter, as defined in Sections
10 691 through 722 of this title;
- 11 6. The sale, possession for sale, transportation, manufacture,
12 offer for sale, or offer to manufacture controlled dangerous
13 substances, as defined in Section 2-101 et seq. of Title 63 of the
14 Oklahoma Statutes;
- 15 7. Trafficking in illegal drugs, as provided for in the
16 Trafficking in Illegal Drugs Act, Section 2-414 of Title 63 of the
17 Oklahoma Statutes;
- 18 8. Arson, as defined in Sections 1401 through 1403 of this
19 title;
- 20 9. The influence or intimidation of witnesses and jurors, as
21 defined in Sections 388, 455 and 545 of this title;
- 22 10. Theft of any vehicle, as described in Section 1720 of this
23 title;
- 24 11. Rape, as defined in Section 1111 of this title;

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

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

4 14. Possession of a concealed weapon, as defined by Section
5 1289.8 of this title; ~~or~~

6 15. Shooting or discharging a firearm, as defined by Section
7 652 of this title;

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

10 17. Human trafficking, as defined by Section 748 of this title;

11 or

12 18. Possession of a firearm after former conviction of a
13 felony, as defined by Section 1283 of this title.

14 SECTION 2. AMENDATORY 57 O.S. 2011, Section 582, as last
15 amended by Section 3, Chapter 184, O.S.L. 2016 (57 O.S. Supp. 2018,
16 Section 582), is amended to read as follows:

17 Section 582. A. The provisions of the Sex Offenders
18 Registration Act shall apply to any person residing, working or
19 attending school within the State of Oklahoma who, after November 1,
20 1989, has been convicted, whether upon a verdict or plea of guilty
21 or upon a plea of nolo contendere, or received a suspended sentence
22 or any probationary term, or is currently serving a sentence or any
23 form of probation or parole for a crime or an attempt to commit a
24 crime provided for in Section 843.5 of Title 21 of the Oklahoma

1 Statutes if the offense involved sexual abuse or sexual exploitation
2 as those terms are defined in Section 1-1-105 of Title 10A of the
3 Oklahoma Statutes, Section 681, if the offense involved sexual
4 assault, 741, if the offense involved sexual abuse or sexual
5 exploitation, Section 748, if the offense involved human trafficking
6 for commercial sex, Section 843.1, if the offense involved sexual
7 abuse or sexual exploitation, Section 852.1, if the offense involved
8 sexual abuse of a child, 856, if the offense involved child
9 prostitution or human trafficking for commercial sex, 865 et seq.,
10 885, 886, 888, 891, if the offense involved sexual abuse or sexual
11 exploitation, 1021, 1021.2, 1021.3, 1024.2, 1029, if the offense
12 involved child prostitution, 1040.8, if the offense involved child
13 pornography, 1040.12a, 1040.13, 1040.13a, 1087, 1088, 1111.1, 1114
14 or 1123 of Title 21 of the Oklahoma Statutes.

15 B. The provisions of the Sex Offenders Registration Act shall
16 apply to any person who after November 1, 1989, resides, works or
17 attends school within the State of Oklahoma and who has been
18 convicted or received a suspended sentence at any time in any court
19 of another state, the District of Columbia, Puerto Rico, Guam,
20 American Samoa, the Northern Mariana Islands and the United States
21 Virgin Islands, a federal court, an Indian tribal court, a military
22 court, or a court of a foreign country for a crime, attempted crime
23 or a conspiracy to commit a crime which, if committed or attempted
24 in this state, would be a crime, an attempt to commit a crime or a

1 conspiracy to commit a crime provided for in any of said laws listed
2 in subsection A of this section.

3 C. The provisions of the Sex Offenders Registration Act shall
4 apply to any person who resides, works or attends school within the
5 State of Oklahoma and who has received a deferred judgment at any
6 time in any court of another state, the District of Columbia, Puerto
7 Rico, Guam, American Samoa, the Northern Mariana Islands and the
8 United States Virgin Islands, a federal court, an Indian tribal
9 court, a military court, or a court of a foreign country for a
10 crime, attempted crime or a conspiracy to commit a crime which, if
11 committed or attempted or conspired to be committed in this state,
12 would be a crime, an attempt to commit a crime or a conspiracy to
13 commit a crime provided for in Section 843.5 of Title 21 of the
14 Oklahoma Statutes if the offense involved sexual abuse or sexual
15 exploitation as those terms are defined in Section 1-1-105 of Title
16 10A of the Oklahoma Statutes, Section 681, if the offense involved
17 sexual assault, 741, if the offense involved sexual abuse or sexual
18 exploitation, Section 748, if the offense involved human trafficking
19 for commercial sex, Section 843.1, if the offense involved sexual
20 abuse or sexual exploitation, Section 852.1, if the offense involved
21 sexual abuse of a child, 856, if the offense involved child
22 prostitution or human trafficking for commercial sex, 865 et seq.,
23 885, 886, 888, 891, if the offense involved sexual abuse or sexual
24 exploitation, 1021, 1021.2, 1021.3, 1024.2, 1029, if the offense

1 involved child prostitution, 1040.8, if the offense involved child
2 pornography, 1040.12a, 1040.13, 1040.13a, 1087, 1088, 1111.1, 1114
3 or 1123 of Title 21 of the Oklahoma Statutes. The provisions of the
4 Sex Offenders Registration Act shall not apply to any such person
5 while the person is incarcerated in a maximum or medium correctional
6 institution of the Department of Corrections.

7 D. On the effective date of this act, any person registered as
8 a sex offender pursuant to Section 741 of Title 21 of the Oklahoma
9 Statutes shall be summarily removed from the Sex Offender Registry
10 by the Department of Corrections and all law enforcement agencies of
11 any political subdivision of this state, unless the offense involved
12 sexual abuse or sexual exploitation.

13 E. The provisions of the Sex Offenders Registration Act shall
14 not apply to any such person who has received a criminal history
15 records expungement for a conviction in another state for a crime or
16 attempted crime which, if committed or attempted in this state,
17 would be a crime or an attempt to commit a crime provided for in any
18 said laws listed in subsection A of this section.

19 SECTION 3. This act shall become effective November 1, 2019.

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