

1                                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2    STATE OF OKLAHOMA

3                                   1st Session of the 57th Legislature (2019)

4   ENGROSSED SENATE

5   BILL NO. 711

                                  By: Weaver and David of the  
  Senate

6   and

7   Humphrey of the House

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

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

SECTION 1.           AMENDATORY           21 O.S. 2011, 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

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 more than five (5) years, or a fine  
13 not to exceed Five Thousand Dollars (\$5,000.00), or both such fine  
14 and imprisonment.

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

21 F. "Criminal street gang" means any ongoing organization,  
22 association, or group of five or more persons that specifically  
23 either promotes, sponsors, or assists in, or participates in, and  
24

1 requires as a condition of membership or continued membership, the  
2 commission of one or more of the following criminal acts:

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

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

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

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

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

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

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

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

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

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- 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. Possession of a concealed weapon, as defined by Section  
8 1289.8 of this title; ~~or~~
- 9        15. Shooting or discharging a firearm, as defined by Section  
10 652 of this title;
- 11        16. Soliciting, inducing or enticing another to commit an act  
12 of prostitution, as defined by Section 1030 of this title;
- 13        17. Human trafficking, as defined by Section 748 of this title;  
14 or
- 15        18. Possession of a firearm after former conviction of a  
16 felony, as defined by Section 1283 of this title.

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

20        Section 582. A. The provisions of the Sex Offenders  
21 Registration Act shall apply to any person residing, working or  
22 attending school within the State of Oklahoma who, after November 1,  
23 1989, has been convicted, whether upon a verdict or plea of guilty  
24 or upon a plea of nolo contendere, or received a suspended sentence

1 or any probationary term, or is currently serving a sentence or any  
2 form of probation or parole for a crime or an attempt to commit a  
3 crime provided for in Section 843.5 of Title 21 of the Oklahoma  
4 Statutes if the offense involved sexual abuse or sexual exploitation  
5 as those terms are defined in Section 1-1-105 of Title 10A of the  
6 Oklahoma Statutes, Section 681, if the offense involved sexual  
7 assault, 741, if the offense involved sexual abuse or sexual  
8 exploitation, Section 748, if the offense involved human trafficking  
9 for commercial sex, Section 843.1, if the offense involved sexual  
10 abuse or sexual exploitation, Section 852.1, if the offense involved  
11 sexual abuse of a child, 856, if the offense involved child  
12 prostitution or human trafficking for commercial sex, 865 et seq.,  
13 885, 886, 888, 891, if the offense involved sexual abuse or sexual  
14 exploitation, 1021, 1021.2, 1021.3, 1024.2, 1029, if the offense  
15 involved child prostitution, 1040.8, if the offense involved child  
16 pornography, 1040.12a, 1040.13, 1040.13a, 1087, 1088, 1111.1, 1114  
17 or 1123 of Title 21 of the Oklahoma Statutes.

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

1 court, or a court of a foreign country for a crime, attempted crime  
2 or a conspiracy to commit a crime which, if committed or attempted  
3 in this state, would be a crime, an attempt to commit a crime or a  
4 conspiracy to commit a crime provided for in any of said laws listed  
5 in subsection A of this section.

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

1 prostitution or human trafficking for commercial sex, 865 et seq.,  
2 885, 886, 888, 891, if the offense involved sexual abuse or sexual  
3 exploitation, 1021, 1021.2, 1021.3, 1024.2, 1029, if the offense  
4 involved child prostitution, 1040.8, if the offense involved child  
5 pornography, 1040.12a, 1040.13, 1040.13a, 1087, 1088, 1111.1, 1114  
6 or 1123 of Title 21 of the Oklahoma Statutes. The provisions of the  
7 Sex Offenders Registration Act shall not apply to any such person  
8 while the person is incarcerated in a maximum or medium correctional  
9 institution of the Department of Corrections.

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

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

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

23 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY, dated 04/11/2019 -  
24 DO PASS.