

1 **SENATE FLOOR VERSION**

2 February 27, 2019

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 711

6 By: Weaver and David

7 [criminal street gangs - a minor - offenses - Sex
8 Offenders Registration Act - effective date]
9

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

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

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

21 2. For purposes of prosecution under this subsection, a
22 "runaway child" means an unemancipated minor who is voluntarily
23 absent from the home without a compelling reason, without the
24 consent of a custodial parent or other custodial adult and without

1 the parent or other custodial adult's knowledge as to the child's
2 whereabouts. "Compelling reason" means imminent danger from incest,
3 a life-threatening situation, or equally traumatizing circumstance.
4 A person aiding a runaway child pursuant to paragraph (4) of
5 subsection (a) of Section 5 of Title 76 of the Oklahoma Statutes or
6 aiding a child based upon a reasonable belief that the child is in
7 physical, mental or emotional danger and with notice to the
8 Department of Human Services or a local law enforcement agency of
9 the location of the child within twelve (12) hours of aiding the
10 child shall not be subject to prosecution under this section.

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

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

23 D. Every person who shall knowingly or willfully cause, aid,
24 abet, encourage, solicit, or recruit a minor to participate, join,

1 or associate with any criminal street gang, as defined by subsection
2 F of this section, or any gang member for the purpose of committing
3 any criminal act shall, upon conviction, be guilty of a felony
4 punishable by imprisonment in the custody of the Department of
5 Corrections for a term of not more than five (5) years, or a fine
6 not to exceed Five Thousand Dollars (\$5,000.00), or both such fine
7 and imprisonment.

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

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

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

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

23 3. Robbery by force or fear, as defined in Sections 791 through
24 797 of this title;

- 1 4. Robbery or attempted robbery with a dangerous weapon or
2 imitation firearm, as defined by Section 801 of this title;
- 3 5. Unlawful homicide or manslaughter, as defined in Sections
4 691 through 722 of this title;
- 5 6. The sale, possession for sale, transportation, manufacture,
6 offer for sale, or offer to manufacture controlled dangerous
7 substances, as defined in Section 2-101 et seq. of Title 63 of the
8 Oklahoma Statutes;
- 9 7. Trafficking in illegal drugs, as provided for in the
10 Trafficking in Illegal Drugs Act, Section 2-414 of Title 63 of the
11 Oklahoma Statutes;
- 12 8. Arson, as defined in Sections 1401 through 1403 of this
13 title;
- 14 9. The influence or intimidation of witnesses and jurors, as
15 defined in Sections 388, 455 and 545 of this title;
- 16 10. Theft of any vehicle, as described in Section 1720 of this
17 title;
- 18 11. Rape, as defined in Section 1111 of this title;
- 19 12. Extortion, as defined in Section 1481 of this title;
- 20 13. Transporting a loaded firearm in a motor vehicle, in
21 violation of Section 1289.13 of this title;
- 22 14. Possession of a concealed weapon, as defined by Section
23 1289.8 of this title; ~~or~~
- 24

1 15. Shooting or discharging a firearm, as defined by Section
2 652 of this title;

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

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

6 or

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

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

12 Section 582. A. The provisions of the Sex Offenders
13 Registration Act shall apply to any person residing, working or
14 attending school within the State of Oklahoma who, after November 1,
15 1989, has been convicted, whether upon a verdict or plea of guilty
16 or upon a plea of nolo contendere, or received a suspended sentence
17 or any probationary term, or is currently serving a sentence or any
18 form of probation or parole for a crime or an attempt to commit a
19 crime provided for in Section 843.5 of Title 21 of the Oklahoma
20 Statutes if the offense involved sexual abuse or sexual exploitation
21 as those terms are defined in Section 1-1-105 of Title 10A of the
22 Oklahoma Statutes, Section 681, if the offense involved sexual
23 assault, 741, if the offense involved sexual abuse or sexual
24 exploitation, Section 748, if the offense involved human trafficking

1 for commercial sex, Section 843.1, if the offense involved sexual
2 abuse or sexual exploitation, Section 852.1, if the offense involved
3 sexual abuse of a child, 856, if the offense involved child
4 prostitution or human trafficking for commercial sex, 865 et seq.,
5 885, 886, 888, 891, if the offense involved sexual abuse or sexual
6 exploitation, 1021, 1021.2, 1021.3, 1024.2, 1029, if the offense
7 involved child prostitution, 1040.8, if the offense involved child
8 pornography, 1040.12a, 1040.13, 1040.13a, 1087, 1088, 1111.1, 1114
9 or 1123 of Title 21 of the Oklahoma Statutes.

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

22 C. The provisions of the Sex Offenders Registration Act shall
23 apply to any person who resides, works or attends school within the
24 State of Oklahoma and who has received a deferred judgment at any

1 time in any court of another state, the District of Columbia, Puerto
2 Rico, Guam, American Samoa, the Northern Mariana Islands and the
3 United States Virgin Islands, a federal court, an Indian tribal
4 court, a military court, or a court of a foreign country for a
5 crime, attempted crime or a conspiracy to commit a crime which, if
6 committed or attempted or conspired to be committed in this state,
7 would be a crime, an attempt to commit a crime or a conspiracy to
8 commit a crime provided for in Section 843.5 of Title 21 of the
9 Oklahoma Statutes if the offense involved sexual abuse or sexual
10 exploitation as those terms are defined in Section 1-1-105 of Title
11 10A of the Oklahoma Statutes, Section 681, if the offense involved
12 sexual assault, 741, if the offense involved sexual abuse or sexual
13 exploitation, Section 748, if the offense involved human trafficking
14 for commercial sex, Section 843.1, if the offense involved sexual
15 abuse or sexual exploitation, Section 852.1, if the offense involved
16 sexual abuse of a child, 856, if the offense involved child
17 prostitution or human trafficking for commercial sex, 865 et seq.,
18 885, 886, 888, 891, if the offense involved sexual abuse or sexual
19 exploitation, 1021, 1021.2, 1021.3, 1024.2, 1029, if the offense
20 involved child prostitution, 1040.8, if the offense involved child
21 pornography, 1040.12a, 1040.13, 1040.13a, 1087, 1088, 1111.1, 1114
22 or 1123 of Title 21 of the Oklahoma Statutes. The provisions of the
23 Sex Offenders Registration Act shall not apply to any such person
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1 while the person is incarcerated in a maximum or medium correctional
2 institution of the Department of Corrections.

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

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

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

16 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
17 February 27, 2019 - DO PASS AS AMENDED

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