

As Amended by Senate Committee

Session of 2011

SENATE BILL No. 135

By Senators Petersen and Schodorf

2-8

1 AN ACT concerning racketeering; enacting the Kansas racketeer
2 influenced and corrupt organization act; amending K.S.A. 2010
3 Supp. 60-4104 and section 34 of chapter 136 of the 2010 Session
4 Laws of Kansas and repealing the existing sections; also repealing
5 K.S.A. 2010 Supp. 21-3302.
6

7 *Be it enacted by the Legislature of the State of Kansas:*

8 New Section 1. Sections 1 through 5, and amendments thereto,
9 shall be known and may be cited as the Kansas racketeer influenced
10 and corrupt organization act (Kansas RICO act).

11 New Sec. 2. As used in the Kansas racketeer influenced and
12 corrupt organization act:

13 (a) “Racketeering activity” means to commit, attempt to commit,
14 conspire to commit or to solicit, coerce or intimidate another person to
15 commit:

16 (1) Any violation of: K.S.A. 8-1568, and amendments thereto,
17 fleeing or attempting to elude a police officer; K.S.A. 9-508 et seq., and
18 amendments thereto, Kansas money transmitter act; article 12a of
19 chapter 17 of the Kansas Statutes Annotated, and amendments thereto,
20 Kansas uniform securities act; article 36a of chapter 21 of the Kansas
21 Statutes Annotated, and amendments thereto, crimes involving
22 controlled substances; section 36 of chapter 136 of the 2010 Session
23 Laws of Kansas, and amendments thereto, capital murder; section 37 of
24 chapter 136 of the 2010 Session Laws of Kansas, and amendments
25 thereto, murder in the first degree; section 38 of chapter 136 of the
26 2010 Session Laws of Kansas, and amendments thereto, murder in the
27 second degree; ~~section 39 of chapter 136 of the 2010 Session Laws of~~
28 ~~Kansas, and amendments thereto, voluntary manslaughter; section 40~~
29 ~~of chapter 136 of the 2010 Session Laws of Kansas, and amendments~~
30 ~~thereto, involuntary manslaughter; section 41 of chapter 136 of the~~
31 ~~2010 Session Laws of Kansas, and amendments thereto, vehicular~~
32 ~~homicide; section 42 of chapter 136 of the 2010 Session Laws of~~
33 Kansas, and amendments thereto, assisting suicide; section 43 of

1 chapter 136 of the 2010 Session Laws of Kansas, and amendments
2 thereto, kidnapping or aggravated kidnapping; section 47 of chapter
3 136 of the 2010 Session Laws of Kansas, and amendments thereto;
4 section 48 of chapter 136 of the 2010 Session Laws of Kansas, and
5 amendments thereto; section 49 of chapter 136 of the 2010 Session
6 Laws of Kansas, and amendments thereto, domestic battery; section 50
7 of chapter 136 of the 2010 Session Laws of Kansas, and amendments
8 thereto, criminal threat or aggravated criminal threat; section 52 of
9 chapter 136 of the 2010 Session Laws of Kansas, and amendments
10 thereto, mistreatment of a dependent adult; section 55 of chapter 136 of
11 the 2010 Session Laws of Kansas, and amendments thereto, robbery or
12 aggravated robbery; section 56 of chapter 136 of the 2010 Session
13 Laws of Kansas, and amendments thereto, terrorism; section 57 of
14 chapter 136 of the 2010 Session Laws of Kansas, and amendments
15 thereto, illegal use of weapons of mass destruction; section 58 of
16 chapter 136 of the 2010 Session Laws of Kansas, and amendments
17 thereto; section 61 of chapter 136 of the 2010 Session Laws of Kansas,
18 and amendments thereto, trafficking or aggravated trafficking; section
19 64 of chapter 136 of the 2010 Session Laws of Kansas, and
20 amendments thereto, blackmail; section 74 of chapter 136 of the 2010
21 Session Laws of Kansas, and amendments thereto, sexual exploitation
22 of a child; sections 87 through 125 of chapter 136 of the 2010 Session
23 Laws of Kansas, and amendments thereto, crimes against property;
24 section 128 of chapter 136 of the 2010 Session Laws of Kansas, and
25 amendments thereto, perjury; section 129 of chapter 136 of the 2010
26 Session Laws of Kansas, and amendments thereto, interference with
27 law enforcement; section 130 of chapter 136 of the 2010 Session Laws
28 of Kansas, and amendments thereto, interference with the judicial
29 process; section 134 of chapter 136 of the 2010 Session Laws of
30 Kansas, and amendments thereto, intimidation of a witness or victim or
31 aggravated intimidation of a witness or victim; section 137 of chapter
32 136 of the 2010 Session Laws of Kansas, and amendments thereto,
33 aiding escape; section 138 of chapter 136 of the 2010 Session Laws of
34 Kansas, and amendments thereto, obstructing apprehension or
35 prosecution; section 143 of chapter 136 of the 2010 Session Laws of
36 Kansas, and amendments thereto; sections 150 through 161 of chapter
37 136 of the 2010 Session Laws of Kansas, and amendments thereto,
38 Kansas medicaid fraud control act; section 165 of chapter 136 of the
39 2010 Session Laws of Kansas, and amendments thereto, bribery;

1 section 166 of chapter 136 of the 2010 Session Laws of Kansas, and
2 amendments thereto, official misconduct; section 167 of chapter 136 of
3 the 2010 Session Laws of Kansas, and amendments thereto,
4 compensation for past official acts; section 168 of chapter 136 of the
5 2010 Session Laws of Kansas, and amendments thereto, presenting a
6 false claim or permitting a false claim; section 169 of chapter 136 of
7 the 2010 Session Laws of Kansas, and amendments thereto, misuse of
8 public funds; section 186 of chapter 136 of the 2010 Session Laws of
9 Kansas, and amendments thereto, criminal use of weapons; section 187
10 of chapter 136 of the 2010 Session Laws of Kansas, and amendments
11 thereto, criminal carrying of a weapon; section 188 of chapter 136 of
12 the 2010 Session Laws of Kansas, and amendments thereto, criminal
13 distribution of firearms to a felon; section 189 of chapter 136 of the
14 2010 Session Laws of Kansas, and amendments thereto, criminal
15 possession of a firearm by a convicted felon; section 190 of chapter 136
16 of the 2010 Session Laws of Kansas, and amendments thereto,
17 aggravated weapons violation by a convicted felon; section 191 of
18 chapter 136 of the 2010 Session Laws of Kansas, and amendments
19 thereto, defacing identification marks of a firearm; section 193 of
20 chapter 136 of the 2010 Session Laws of Kansas, and amendments
21 thereto, criminal discharge of a firearm; section 195 of chapter 136 of
22 the 2010 Session Laws of Kansas, and amendments thereto, unlawful
23 endangerment; section 197 of chapter 136 of the 2010 Session Laws of
24 Kansas, and amendments thereto; sections 198 through 201 of chapter
25 136 of the 2010 Session Laws of Kansas, and amendments thereto;
26 section 212 of chapter 136 of the 2010 Session Laws of Kansas, and
27 amendments thereto; section 215 of chapter 136 of the 2010 Session
28 Laws of Kansas, and amendments thereto, gambling; section 216 of
29 chapter 136 of the 2010 Session Laws of Kansas, and amendments
30 thereto, illegal bingo operation; section 217 of chapter 136 of the 2010
31 Session Laws of Kansas, and amendments thereto, commercial
32 gambling; section 218 of chapter 136 of the 2010 Session Laws of
33 Kansas, and amendments thereto, dealing in gambling devices; section
34 219 of chapter 136 of the 2010 Session Laws of Kansas, and
35 amendments thereto; section 220 of chapter 136 of the 2010 Session
36 Laws of Kansas, and amendments thereto, installing communication
37 facilities for gamblers; subsections (a) or (b) of section 225 of chapter
38 136 of the 2010 Session Laws of Kansas, and amendments thereto,
39 unlawful conduct of dog fighting or unlawful possession of dog

1 fighting paraphernalia; subsections (a) or (b) of section 228 of chapter
2 136 of the 2010 Session Laws of Kansas, and amendments thereto,
3 unlawful conduct of cockfighting or unlawful possession of
4 cockfighting paraphernalia; section 229 of chapter 136 of the 2010
5 Session Laws of Kansas, and amendments thereto, prostitution; section
6 230 of chapter 136 of the 2010 Session Laws of Kansas, and
7 amendments thereto, promoting prostitution; section 232 of chapter 136
8 of the 2010 Session Laws of Kansas, and amendments thereto,
9 extortion; section 233 of chapter 136 of the 2010 Session Laws of
10 Kansas, and amendments thereto, debt adjusting; section 235 of chapter
11 136 of the 2010 Session Laws of Kansas, and amendments thereto,
12 equity skimming; section 237 of chapter 136 of the 2010 Session Laws
13 of Kansas, and amendments thereto, commercial bribery; section 238 of
14 chapter 136 of the 2010 Session Laws of Kansas, and amendments
15 thereto, sports bribery; section 239 of chapter 136 of the 2010 Session
16 Laws of Kansas, and amendments thereto, tampering with a sports
17 contest; K.S.A. 39-720, and amendments thereto, social welfare service
18 fraud; K.S.A. 40-2,118, and amendments thereto, fraudulent insurance
19 acts; K.S.A. 41-101 et seq., and amendments thereto, Kansas liquor
20 control act; K.S.A. 44-5,125, and amendments thereto, workers'
21 compensation act; K.S.A. 44-719 et seq., and amendments thereto,
22 employment security law; article 6 of chapter 50 of the Kansas Statutes
23 Annotated, and amendments thereto, consumer protection; K.S.A. 65-
24 1657, and amendments thereto, nonresident pharmacy registration;
25 K.S.A. 65-3441, and amendments thereto, hazardous waste; K.S.A. 65-
26 4167, and amendments thereto, trafficking in counterfeit drugs; article
27 88 of chapter 74 of the Kansas Statutes Annotated, and amendments
28 thereto, Kansas parimutuel racing act; or K.S.A. 79-3321, and
29 amendments thereto, Kansas cigarette and tobacco products act; or

30 (2) any conduct defined as “racketeering activity” under 18
31 U.S.C. § 1961(1).

32 (b) “Unlawful debt” means any money or other thing of value
33 constituting principal or interest of a debt that is legally unenforceable
34 in this state in whole or in part because the debt was incurred or
35 contracted:

36 (1) In violation of any of the following provisions of law: article
37 88 of chapter 74 of the Kansas Statutes Annotated, and amendments
38 thereto, Kansas parimutuel racing act; section 215 of chapter 136 of the
39 2010 Session Laws of Kansas, and amendments thereto, gambling;

1 section 216 of chapter 136 of the 2010 Session Laws of Kansas, and
2 amendments thereto, illegal bingo operation; section 217 of chapter 136
3 of the 2010 Session Laws of Kansas, and amendments thereto,
4 commercial gambling; section 218 of chapter 136 of the 2010 Session
5 Laws of Kansas, and amendments thereto, dealing in gambling devices;
6 section 219 of chapter 136 of the 2010 Session Laws of Kansas, and
7 amendments thereto; or section 220 of chapter 136 of the 2010 Session
8 Laws of Kansas, and amendments thereto, installing communication
9 facilities for gamblers; or

10 (2) in gambling activity in violation of federal law or in the
11 business of lending money at a rate usurious under state or federal law.

12 (c) “Enterprise” means any individual, sole proprietorship,
13 partnership, corporation, business trust, union chartered under the laws
14 of this state, or other legal entity, or any unchartered union, association,
15 or group of individuals associated in fact although not a legal entity;
16 and it includes illicit as well as licit enterprises and governmental, as
17 well as other, entities. A criminal street gang, as defined in section 198
18 of chapter 136 of the 2010 Session Laws of Kansas, and amendments
19 thereto, constitutes an enterprise.

20 (d) “Pattern of racketeering activity” means engaging in at least
21 two incidents of racketeering activity that have the same or similar
22 intents, results, accomplices, victims or methods of commission or that
23 otherwise are interrelated by distinguishing characteristics and are not
24 isolated incidents, provided at least one of such incidents occurred after
25 the effective date of this act and that the last of such incidents occurred
26 within 5 years, excluding any period of imprisonment, after a prior
27 incident of racketeering activity.

28 (e) “Documentary material” means any book, paper, document,
29 writing, drawing, graph, chart, photograph, phonorecord, magnetic
30 tape, computer printout, other data compilation from which information
31 can be obtained or from which information can be translated into usable
32 form, or other tangible item.

33 (f) “Beneficial interest” means:

34 (1) The interest of a person as a beneficiary under any trust
35 arrangement pursuant to which a trustee holds legal or record title to
36 real property for the benefit of such person; or

37 (2) the interest of a person under any other form of express
38 fiduciary arrangement pursuant to which any other person holds legal
39 or record title to real property for the benefit of such person.

1 The term “beneficial interest” does not include the interest of a
2 stock holder in a corporation or the interest of a partner in either a
3 general partnership or a limited partnership. A beneficial interest shall
4 be deemed to be located where the real property owned by the trustee is
5 located.

6 (g) “Real property” means any real property or any interest in
7 such real property, including, but not limited to, any lease of or
8 mortgage upon such real property.

9 (h) “Trustee” means:

10 (1) Any person acting as trustee pursuant to a trust in which the
11 trustee holds legal or record title to real property;

12 (2) any person who holds legal or record title to real property in
13 which any other person has a beneficial interest; or

14 (3) any successor trustee or trustees to any or all of the foregoing
15 persons.

16 The term “trustee” does not include any person appointed or acting
17 as a personal representative as defined in K.S.A. 59-102, and
18 amendments thereto, or appointed or acting as a trustee of any
19 testamentary trust or as a trustee of any indenture of trust under which
20 any bonds have been or are to be issued.

21 New Sec. 3. (a) It is unlawful for any person:

22 (1) Who has with criminal intent received any proceeds derived,
23 directly or indirectly, from a pattern of racketeering activity or through
24 the collection of an unlawful debt to use or invest, whether directly or
25 indirectly, any part of such proceeds, or the proceeds derived from the
26 investment or use thereof, in the acquisition of any title to, or any right,
27 interest, or equity in, real property or in the establishment or operation
28 of any enterprise;

29 (2) through a pattern of racketeering activity or through the
30 collection of an unlawful debt, to acquire or maintain, directly or
31 indirectly, any interest in or control of any enterprise or real property;
32 and

33 (3) employed by, or associated with, any enterprise to conduct or
34 participate, directly or indirectly, in such enterprise through a pattern of
35 racketeering activity or the collection of an unlawful debt.

36 (b) Violation of this section or conspiracy to commit a violation of
37 this section is a severity level 2, person felony.

38 (c) The provisions of subsection (c) of section 34 of chapter 136 of
39 the 2010 Session Laws of Kansas, and amendments thereto, shall not

1 apply to conspiracy to commit a violation of this section.

2 (d) (1) Notwithstanding the provisions of section 251 of chapter
3 136 of the 2010 Session Laws of Kansas, and amendments thereto, any
4 person convicted of engaging in conduct in violation of this section,
5 through which the person derived pecuniary value, or by which the
6 person caused personal injury or property damage or other loss, may be
7 sentenced to pay a fine that does not exceed three times the gross value
8 gained or three times the gross loss caused, whichever is the greater,
9 plus court costs and the costs of investigation and prosecution,
10 reasonably incurred.

11 (2) The court shall hold a hearing to determine the amount of the
12 fine authorized by this subsection.

13 (3) For the purposes of this subsection, “pecuniary value” means:

14 (A) Anything of value in the form of money, a negotiable
15 instrument, or a commercial interest or anything else the primary
16 significance of which is economic advantage; and

17 (B) any other property or service that has a value in excess of
18 \$100.

19 (e) For persons arrested and charged under this section, bail shall
20 be at least \$50,000 cash or surety, unless the court determines on the
21 record that the defendant is not likely to re-offend, an appropriate
22 intensive pretrial supervision program is available and the defendant
23 agrees to comply with the mandate of such pretrial supervision.

24 New Sec. 4. (a) Any district court may, after making due provision
25 for the rights of innocent persons, enjoin violations of the provisions of
26 section 3, and amendments thereto, by issuing appropriate orders and
27 judgments, including, but not limited to:

28 (1) Ordering any defendant to divest such defendant of any interest
29 in any enterprise, including real property.

30 (2) Imposing reasonable restrictions upon the future activities or
31 investments of any defendant, including, but not limited to, prohibiting
32 any defendant from engaging in the same type of endeavor as the
33 enterprise in which the defendant was engaged in violation of the
34 provisions of section 3, and amendments thereto.

35 (3) Ordering the dissolution or reorganization of any enterprise.

36 (4) Ordering the suspension or revocation of a license, permit, or
37 prior approval granted to any enterprise by any agency of the state.

38 (5) Ordering the forfeiture of the charter of a corporation
39 organized under the laws of the state, or the revocation of a certificate

1 authorizing a foreign corporation to conduct business within the state,
2 upon finding that the board of directors or a managerial agent acting on
3 behalf of the corporation, in conducting the affairs of the corporation,
4 has authorized or engaged in conduct in violation of section 3, and
5 amendments thereto, and that, for the prevention of future criminal
6 activity, the public interest requires the charter of the corporation
7 forfeited and the corporation dissolved or the certificate revoked.

8 (b) All property, real or personal, including money, used in the
9 course of, intended for use in the course of, derived from, or realized
10 through conduct in violation of a provision of the Kansas racketeer
11 influenced and corrupt organization act is subject to civil forfeiture
12 pursuant to the Kansas standard asset seizure and forfeiture act, K.S.A.
13 60-4101 et seq., and amendments thereto.

14 New Sec. 5. (a) For the purposes of this section, “attorney” means
15 the attorney general, assistant attorney general, county attorney or
16 district attorney, or in the absence of the county or district attorney, a
17 designated assistant county or district attorney. If an assistant county or
18 district attorney is designated by the county or district attorney for the
19 purposes of this section, such designation shall be filed with the chief
20 judge of such judicial district.

21 (b) If an attorney is informed or has knowledge that a person or
22 other enterprise has engaged in, or is engaging in, activity in violation
23 of the Kansas racketeer influenced and corrupt organization act, such
24 attorney shall be authorized to administer oaths or affirmations,
25 subpoena witnesses or material, and collect evidence relating to such
26 activity.

27 (c) An attorney may apply ex parte to the district court of the
28 district in which a subpoenaed person or entity resides, is found or
29 transacts business, for an order directing that the subpoenaed person or
30 entity not disclose the existence of the subpoena to any other person or
31 entity except the subpoenaed person’s attorney for a period of 90 days,
32 which time may be extended by the court for good cause shown by the
33 attorney. The order shall be served with the subpoena, and the subpoena
34 shall include a reference to the order and a notice to the recipient of the
35 subpoena that disclosure of the existence of the subpoena to any other
36 person or entity in violation of the order may subject the subpoenaed
37 person or entity to punishment for contempt of court. Such an order
38 may be granted by the court only upon a showing:

39 (1) Of sufficient factual grounds to reasonably indicate a violation of

- 1 the Kansas racketeer influenced and corrupt organization act;
- 2 (2) that the documents or testimony sought appear reasonably
3 calculated to lead to the discovery of admissible evidence; and
- 4 (3) of facts which reasonably indicate that disclosure of the
5 subpoena would hamper or impede the investigation or would result in
6 a flight from prosecution.
- 7 (d) If information or evidence that the attorney seeks to obtain by
8 the subpoena is located outside the state, the person or enterprise
9 subpoenaed may make such information or evidence available to the
10 attorney or such attorney's representative for examination at the place
11 where such information or evidence is located. The attorney may
12 designate representatives, including officials of the jurisdiction in
13 which the information or evidence is located, to inspect the information
14 or evidence on such attorney's behalf and may respond to similar
15 requests from officials of other jurisdictions.
- 16 (e) Upon failure of a person or enterprise, without lawful excuse, to
17 obey a subpoena issued under this section or a subpoena issued in the
18 course of a civil proceeding instituted pursuant to section 4, and
19 amendments thereto, and after reasonable notice to such person or
20 enterprise, the attorney may apply to the district court in which such
21 civil proceeding is pending or, if no civil proceeding is pending, to the
22 district court of the judicial district in which such person or enterprise
23 resides, is found or transacts business for an order compelling
24 compliance. Except in a prosecution for perjury, an individual who
25 complies with a court order to provide testimony or material after
26 asserting a privilege against self-incrimination to which such individual
27 is entitled by law shall not have the testimony or material so provided,
28 or evidence derived therefrom, received against such individual in any
29 criminal investigation or proceeding.
- 30 (f) A person who fails to obey a court order entered pursuant to
31 this section may be adjudged in contempt of court and punished by fine
32 and imprisonment.
- 33 Sec. 6. K.S.A. 2010 Supp. 60-4104 is hereby amended to read as
34 follows: 60-4104. Conduct and offenses giving rise to forfeiture under
35 this act, whether or not there is a prosecution or conviction related to
36 the offense, are:
- 37 (a) All offenses which statutorily and specifically authorize
38 forfeiture;
- 39 (b) violations of K.S.A. 2010 Supp. 21-36a01 through 21-36a17,

- 1 and amendments thereto;
- 2 (c) theft which is classified as a felony violation pursuant to
3 ~~K.S.A. 21-3701~~ *section 87 of chapter 136 of the 2010 Session Laws of*
4 *Kansas*, and amendments thereto, in which the property taken was
5 livestock;
- 6 (d) ~~unlawful~~ *criminal* discharge of a firearm, ~~K.S.A. 21-4219~~ *as*
7 *defined in subsections (a)(1) and (a)(2) of section 193 of chapter 136*
8 *of the 2010 Session Laws of Kansas*, and amendments thereto;
- 9 (e) violations of K.S.A. 2010 Supp. 21-36a16, and amendments
10 thereto;
- 11 (f) gambling, ~~K.S.A. 21-4303~~ *section 215 of chapter 136 of the*
12 *2010 Session Laws of Kansas*, and amendments thereto, and
13 commercial gambling, ~~K.S.A. 21-4304~~ *as defined in subsection (a)(1)*
14 *of section 217 of chapter 136 of the 2010 Session Laws of Kansas*, and
15 amendments thereto;
- 16 (g) counterfeiting, ~~K.S.A. 21-3763~~ *section 111 of chapter 136 of*
17 *the 2010 Session Laws of Kansas*, and amendments thereto;
- 18 (h) violations of ~~K.S.A. 21-4019~~ *section 178 of chapter 136 of the*
19 *2010 Session Laws of Kansas*, and amendments thereto;
- 20 (i) medicaid fraud, ~~K.S.A. 21-3844 et seq.~~ *sections 150 through*
21 *161 of chapter 136 of the 2010 Session Laws of Kansas*, and
22 amendments thereto;
- 23 (j) an act or omission occurring outside this state, which would be
24 a violation in the place of occurrence and would be described in this
25 section if the act occurred in this state, whether or not it is prosecuted in
26 any state;
- 27 (k) an act or omission committed in furtherance of any act or
28 omission described in this section including any inchoate or preparatory
29 offense, whether or not there is a prosecution or conviction related to
30 the act or omission;
- 31 (l) any solicitation or conspiracy to commit any act or omission
32 described in this section, whether or not there is a prosecution or
33 conviction related to the act or omission;
- 34 (m) ~~furtherance of terrorism or illegal use of weapons of mass~~
35 ~~destruction~~, ~~K.S.A. 21-3451~~ *violations of section 58 of chapter 136 of*
36 *the 2010 Session Laws of Kansas*, and amendments thereto;
- 37 (n) unlawful conduct of dog fighting and unlawful possession of
38 dog fighting paraphernalia, ~~K.S.A. 21-4315~~ *as defined in subsections*
39 *(a) and (b) of section 225 of chapter 136 of the 2010 Session Laws of*

- 1 *Kansas*, and amendments thereto;
- 2 (o) unlawful conduct of cockfighting and unlawful possession of
3 cockfighting paraphernalia, ~~K.S.A. 21-4319~~ *as defined in subsections*
4 *(a) and (b) of section 228 of chapter 136 of the 2010 Session Laws of*
5 *Kansas*, and amendments thereto;
- 6 (p) prostitution, ~~K.S.A. 21-3512~~ *section 229 of chapter 136 of the*
7 *2010 Session Laws of Kansas*, and amendments thereto, promoting
8 prostitution, ~~K.S.A. 21-3513~~ *section 230 of chapter 136 of the 2010*
9 *Session Laws of Kansas*, and amendments thereto, and patronizing a
10 prostitute, ~~K.S.A. 21-3515~~ *section 231 of chapter 136 of the 2010*
11 *Session Laws of Kansas*, and amendments thereto; ~~and~~
- 12 (q) human trafficking, ~~K.S.A. 21-3446~~, and amendments thereto,
13 and aggravated human trafficking, ~~K.S.A. 21-3447~~ *section 61 of*
14 *chapter 136 of the 2010 Session Laws of Kansas*, and amendments
15 thereto;
- 16 (r) *extortion, section 232 of chapter 136 of the 2010 Session Laws*
17 *of Kansas, and amendments thereto;*
- 18 (s) *violations of the Kansas racketeer influenced and corrupt*
19 *organization act, sections 1 through 5, and amendments thereto.*
- 20 Sec. 7. Section 34 of chapter 136 of the 2010 Session Laws of
21 Kansas is hereby amended to read as follows: Sec. 34. (a) A conspiracy
22 is an agreement with another person to commit a crime or to assist in
23 committing a crime. No person may be convicted of a conspiracy
24 unless an overt act in furtherance of such conspiracy is alleged and
25 proved to have been committed by such person or by a co-conspirator.
- 26 (b) It shall be a defense to a charge of conspiracy that the accused
27 voluntarily and in good faith withdrew from the conspiracy, and
28 communicated the fact of such withdrawal to one or more of the
29 accused person's co-conspirators, before any overt act in furtherance of
30 the conspiracy was committed by the accused or by a co-conspirator.
- 31 (c) (1) Conspiracy to commit an off-grid felony shall be ranked at
32 nondrug severity level 2. Conspiracy to commit any other nondrug
33 felony shall be ranked on the nondrug scale at two severity levels
34 below the appropriate level for the underlying or completed crime. The
35 lowest severity level for conspiracy to commit a nondrug felony shall
36 be a severity level 10.
- 37 (2) The provisions of this subsection shall not apply to a violation
38 of conspiracy to commit the crime of:
- 39 (A) *Aggravated trafficking, as defined in subsection (b) of section*

1 61 of chapter 136 of the 2010 Session Laws of Kansas, and
2 amendments thereto, if the offender is 18 years of age or older and the
3 victim is less than 14 years of age;

4 (B) terrorism ~~pursuant to~~ as defined in section 56 of chapter 136 of
5 the 2010 Session Laws of Kansas, and amendments thereto, ~~or of~~;

6 (C) illegal use of weapons of mass destruction ~~pursuant to~~ as
7 defined in section 57 of chapter 136 of the 2010 Session Laws of
8 Kansas, and amendments thereto;

9 (D) rape, as defined in subsection (a)(3) of section 67 of chapter
10 136 of the 2010 Session Laws of Kansas, and amendments thereto, if
11 the offender is 18 years of age or older;

12 (E) aggravated indecent liberties with a child, as defined in
13 subsection (b)(3) of section 70 of chapter 136 of the 2010 Session Laws
14 of Kansas, and amendments thereto, if the offender is 18 years of age
15 or older;

16 (F) aggravated criminal sodomy, as defined in subsection (b)(1)
17 or (b)(2) of section 68 of chapter 136 of the 2010 Session Laws of
18 Kansas, and amendments thereto, if the offender is 18 years of age or
19 older;

20 (G) promoting prostitution, as defined in section 230 of chapter
21 136 of the 2010 Session Laws of Kansas, and amendments thereto, if
22 the offender is 18 years of age or older and the prostitute is less than
23 14 years of age;

24 (H) sexual exploitation of a child, as defined in subsection (a)(1)
25 or (a)(4) of section 74 of chapter 136 of the 2010 Session Laws of
26 Kansas, and amendments thereto, if the offender is 18 years of age or
27 older and the child is less than 14 years of age; or

28 (I) violation of section 3, and amendments thereto.

29 (d) Conspiracy to commit a felony which prescribes a sentence on
30 the drug grid shall reduce the prison term prescribed in the drug grid
31 block for an underlying or completed crime by six months.

32 (e) A conspiracy to commit a misdemeanor is a class C
33 misdemeanor.

34 Sec. 8. K.S.A. 2010 Supp. 21-3302 and 60-4104 and section 34 of
35 chapter 136 of the 2010 Session Laws of Kansas are hereby repealed.

36 Sec. 9. This act shall take effect and be in force from and after its
37 publication in the statute book.