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**SENATOR MIKE PETERSEN**

## Kansas House Committee on Corrections and Juvenile Justice

Thursday, March 14, 2013

### SB 16 Kansas RICO Act

Chairman Rubin, Members of the Committee:

SB 16 will create the Kansas Racketeering Influenced and Corrupt Organization Act. This Act is intended to reach those, who instead of looking for work or seeking more education, try to "make a living" out of crime, selling drugs, perpetrating fraud, committing robbery, or stealing identities. This Act should give law enforcement the tools to pursue "career" criminals who commit a large portion of these crimes.

The Act is patterned after Florida's RICO Act which has been successful in reducing gang-related violence. One of the reasons Florida's Act has been successful is the inclusion of conspire to commit or to solicit, coerce or intimidate another person, to commit the crimes defined in racketeering activity. This allows law enforcement to further direct their investigations to the people who may be financing and organizing the criminal activity but not actually committing the crime themselves. This, combined with the forfeiture of property, money derived, used, or intended to be used in the commission of the defined crimes, has allowed the prosecution of the real leaders of the criminal enterprises.

Florida's successful Act was first enacted 30 years ago using numbers from their criminal history files. Adjusting for Kansas population, it would have a BSI of approximately 3.2. The low bed space impact and the reduction in gang activity since using the Act to pursue the people financing the gangs was an important consideration when originally drafted. The State RICO concept was refined this summer by the Attorney General's Gang Task Force. The result is the bill we have before us today. The definition of covered persons provides the limiting factor which allows the crimes that are needed to be included in the pattern of racketeering activity definition. Attached is a list of misdemeanors provided by a conferee that can be used in determining the pattern of activity by a covered person. I believe passage of this Act would be a powerful tool when addressing gang activity, along with the recidivist criminals in our communities.

Thank you for this opportunity to appear before you and I would be happy to stand for questions.

Senator Mike Petersen

MISDEMEANOR CRIMES defined as "racketeering activity" in 2013 SB 16:

K.S.A. 21-5412, Assault crimes (some —class C/B)

K.S.A. 21-5413, Battery crimes (some—class C/B)

The above crimes are common in gangs and in human trafficking. Also sometimes occurring in drug activity. These crimes are committed for intimidation and control.

K.S.A. 21-5414, Domestic battery (some— class B/A)

Domestic battery can occur frequently in gang and human trafficking activities. It is not uncommon in illegal drug environments.

K.S.A. 21-5601, Endangering a child (some— class A)

This crime strikes at the heart of human trafficking involving children. It is also occurs in gangs and drug crimes.

K.S.A. 21-5603, Contributing to a child's misconduct or deprivation (lowest level - class A)

This crime strikes at the heart of human trafficking involving children. It is also occurs in gangs and drug crimes.

Article 57 of Chapter 21 of the Kansas Statutes Annotated, crimes involving controlled substances

21-5705(b), Distribution or possession with intent to distribute, schedule V drugs (class A)

21-5706(b), Unlawful possession of certain controlled substances (class A)

21-5708(a), Unlawfully obtaining a prescription-only drug (class A)

21-5709, Unlawful possession of certain drug precursors and drug paraphernalia (3 class A's)

21-5712, Unlawful abuse of toxic vapors (class B)

21-5713, Possession of a simulated controlled substance (class A)

21-5714, Unlawful representation that noncontrolled substance is controlled substance (class A)

The above crimes are common in gangs and drug activity. Also sometimes occurring in human trafficking cases. These crimes are committed for creating dependency and control.

K.S.A. 21-5801, Theft (lowest level - class A)

K.S.A. 21-5803, Criminal deprivation of property (lowest level - class A)

The above two crimes are common among gangs and illegal drug operations. Often used to finance gang operations.

K.S.A. 21-5813, Criminal damage to property (lowest level - class B)

This crime is very common in gangs, specifically with "tagging" or graffiti.

K.S.A. 21-5821, Giving a worthless check (lowest level - class A)

The above crime is often used to finance gang operations.

K.S.A. 21-5825, Counterfeiting (lowest level only - class A)

The above crime can be used to finance gang operations.

K.S.A. 21-5828, Criminal use of a financial card (lowest level only— class A)

The above crime is often used to finance gang operations.

K.S.A. 21-5839, Unlawful acts concerning computers (lowest level only— class A)

This crime can be involved in any illegal operation.

K.S.A. 21-5904, Interference with law enforcement (some - class A)

K.S.A. 21-5905, Interference with the judicial process (some - class A)

K.S.A. 21-5909, Intimidation of witness (some —class B)

K.S.A. 21 75913, Obstructing apprehension or prosecution (some— class C)

The above four crimes are very common among the criminal element involved in gangs, drugs, or human trafficking.

K.S.A. 21-6002, Official misconduct (some - class A)

We have seen this on a few occasions with criminals who work in these positions.

- K.S.A. 21-6301, Criminal use of weapons (some class B/A)
- K.S.A. 21-6302, Criminal carrying of a weapon (most - class A)
- K.S.A. 21-6303, Criminal distribution of firearms to a felon (class A)
- K.S.A. 21-6308, Criminal discharge of a firearm (some - class C)
- Firearms crimes are very frequent in gangs, illegal drug operations, and occur but with some less frequency in human trafficking
- K.S.A. 21-6312, Crimes related to explosives (one— class A)
- While not frequently, we encounter these too often in gang and drug operations. Most frequently they are used as booby traps for rival criminals or for law enforcement.
- K.S.A. 21-6401, Promoting obscenity; promoting obscenity to minors (some - class A)
- Strikes at the heart of human trafficking
- K.S.A. 21-6404, Gambling (class B)
- K.S.A. 21-6405, Illegal bingo operation (class A)
- K.S.A. 21-6406, Commercial gambling (some - class B)
- K.S.A. 21-6408, Unlawful possession of a gambling device (class B)
- K.S.A. 21-6414(b), Unlawful possession of dog fighting paraphernalia (class A)
- K.S.A. 21-6417(b), Unlawful possession of cockfighting paraphernalia (class A)
- Gangs have used these as fund raising operations.
- K.S.A. 21-6419, Prostitution (class B)
- K.S.A. 21-6420, Promoting prostitution (some class A)
- The above two crimes are components to human trafficking.
- K.S.A. 21-6502, Debt adjusting (class 13)
- K.S.A. 21-6504, Equity skimming (class A)
- K.S.A. 21-6507, Sports bribery (some - class A)
- K.S.A. 39-720, social welfare service fraud (lowest level only - class A)
- K.S.A. 40-2,118, Fraudulent insurance acts (lowest level only - class C)
- K.S.A. 41-101 *et seq.*, Kansas liquor control act (citations, not crimes)
- K.S.A. 44-5,125, Workers' compensation act (many - class A)
- The above 7 crimes can be used as funding sources for illegal operations.
- K.S.A. 65-3441, Hazardous waste (some— class A)
- Can relate directly to drug manufacturing
- K.S.A. 65-4167, Trafficking in counterfeit drugs (lowest level - class A)
- Occurs on occasion in illegal drug activities.
- Article 88 of Chapter 74 of the Kansas Statutes Annotated, Kansas parimutuel racing act (74-8810)
- K.S.A. 79-3321, Kansas cigarette and tobacco products act (~~infractions, sub (m) and (n)~~), see 21-5102)
- The above two groups of crimes can be used as funding sources for illegal operations.

INFRACTIONS STRUCK  
IN SENATE AMENDMENT