

SENATE BILL No. 16

By Committee on Judiciary

1-15

1 AN ACT concerning racketeering; enacting the Kansas racketeer
2 influenced and corrupt organization act; relating to criminal street
3 gangs; forfeiture; amending K.S.A. 2012 Supp. 21-5302, 21-6313 and
4 60-4104 and repealing the existing sections.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

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

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

12 (a) "Beneficial interest" means:

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

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

19 The term "beneficial interest" does not include the interest of a stock
20 holder in a corporation or the interest of a partner in either a general
21 partnership or a limited partnership. A beneficial interest shall be deemed
22 to be located where the real property owned by the trustee is located.

23 (b) "Covered person" means any person who:

24 (1) Is a criminal street gang member or criminal street gang associate,
25 as defined in K.S.A. 2012 Supp. 21-6313, and amendments thereto;

26 (2) has engaged in or is engaging in any conduct prohibited by K.S.A.
27 2012 Supp. 21-5426, and amendments thereto, human trafficking or
28 aggravated human trafficking;

29 (3) has engaged in or is engaging in any conduct prohibited by K.S.A.
30 2012 Supp. 21-5703, and amendments thereto, unlawful manufacturing of
31 controlled substances, or K.S.A. 2012 Supp. 21-5705, and amendments
32 thereto, unlawful cultivation or distribution of controlled substances.

33 (c) "Documentary material" means any book, paper, document,
34 writing, drawing, graph, chart, photograph, phonorecord, magnetic tape,
35 computer printout, other data compilation from which information can be
36 obtained or from which information can be translated into usable form, or

1 other tangible item.

2 (d) "Enterprise" means any individual, sole proprietorship,
3 partnership, corporation, business trust, union chartered under the laws of
4 this state, or other legal entity, or any unchartered union, association, or
5 group of individuals associated in fact although not a legal entity; and it
6 includes illicit as well as licit enterprises and governmental, as well as
7 other, entities. A criminal street gang, as defined in K.S.A. 2012 Supp. 21-
8 6313, and amendments thereto, constitutes an enterprise.

9 (e) "Pattern of racketeering activity" means engaging in at least two
10 incidents of racketeering activity that have the same or similar intents,
11 results, accomplices, victims or methods of commission or that otherwise
12 are interrelated by distinguishing characteristics and are not isolated
13 incidents, provided at least one of such incidents occurred after the
14 effective date of this act and that the last of such incidents occurred within
15 5 years, excluding any period of imprisonment, after a prior incident of
16 racketeering activity.

17 (f) "Racketeering activity" means to commit, attempt to commit,
18 conspire to commit or to solicit, coerce or intimidate another person to
19 commit:

20 (1) Any *{felony or misdemeanor}* violation of: the felony provisions
21 of K.S.A. 8-1568, and amendments thereto, fleeing or attempting to elude
22 a police officer; K.S.A. 9-508 et seq., and amendments thereto, Kansas
23 money transmitter act; article 12a of chapter 17 of the Kansas Statutes
24 Annotated, and amendments thereto, Kansas uniform securities act; K.S.A.
25 2012 Supp. 21-5401, and amendments thereto, capital murder; K.S.A.
26 2012 Supp. 21-5402, and amendments thereto, murder in the first degree;
27 K.S.A. 2012 Supp. 21-5403, and amendments thereto, murder in the
28 second degree; K.S.A. 2012 Supp. 21-5408, and amendments thereto,
29 kidnapping or aggravated kidnapping; K.S.A. 2012 Supp. 21-5412, and
30 amendments thereto; K.S.A. 2012 Supp. 21-5413, and amendments
31 thereto; K.S.A. 2012 Supp. 21-5414, and amendments thereto, domestic
32 battery; K.S.A. 2012 Supp. 21-5415, and amendments thereto, criminal
33 threat or aggravated criminal threat; K.S.A. 2012 Supp. 21-5420, and
34 amendments thereto, robbery or aggravated robbery; K.S.A. 2012 Supp.
35 21-5421, and amendments thereto, terrorism; K.S.A. 2012 Supp. 21-5422,
36 and amendments thereto, illegal use of weapons of mass destruction;
37 K.S.A. 2012 Supp. 21-5423, and amendments thereto; K.S.A. 2012 Supp.
38 21-5426, and amendments thereto, human trafficking or aggravated human
39 trafficking; K.S.A. 2012 Supp. 21-5428, and amendments thereto,
40 blackmail; K.S.A. 2012 Supp. 21-5510, and amendments thereto, sexual
41 exploitation of a child; K.S.A. 2012 Supp. 21-5601, and amendments
42 thereto, endangering a child or aggravated endangering a child; K.S.A.
43 2012 Supp. 21-5602, and amendments thereto, abuse of a child; K.S.A.

1 2012 Supp. 21-5603, and amendments thereto, contributing to a child's
2 misconduct or deprivation; subsection (b) of K.S.A. 2012 Supp. 21-5607,
3 and amendments thereto, furnishing alcoholic beverages to a minor for
4 illicit purposes; article 57 of chapter 21 of the Kansas Statutes Annotated,
5 and amendments thereto, crimes involving controlled substances; K.S.A.
6 2012 Supp. 21-5801, and amendments thereto, theft; K.S.A. 2012 Supp.
7 21-5803, and amendments thereto, criminal deprivation of property;
8 K.S.A. 2012 Supp. 21-5805, and amendments thereto; K.S.A. 2012 Supp.
9 21-5807, and amendments thereto, burglary or aggravated burglary;
10 K.S.A. 2012 Supp. 21-5812, and amendments thereto, arson or aggravated
11 arson; K.S.A. 2012 Supp. 21-5813, and amendments thereto, criminal
12 damage to property; K.S.A. 2012 Supp. 21-5814, and amendments thereto,
13 criminal use of an explosive; K.S.A. 2012 Supp. 21-5818, and
14 amendments thereto, tampering with a pipeline; K.S.A. 2012 Supp. 21-
15 5821, and amendments thereto, giving a worthless check; K.S.A. 2012
16 Supp. 21-5823, and amendments thereto, forgery; K.S.A. 2012 Supp. 21-
17 5824, and amendments thereto, making false information; K.S.A. 2012
18 Supp. 21-5825, and amendments thereto, counterfeiting; K.S.A. 2012
19 Supp. 21-5826, and amendments thereto, destroying written instrument;
20 K.S.A. 2012 Supp. 21-5828, and amendments thereto, criminal use of a
21 financial card; K.S.A. 2012 Supp. 21-5838, and amendments thereto,
22 conducting a pyramid promotional scheme; K.S.A. 2012 Supp. 21-5839,
23 and amendments thereto; K.S.A. 2012 Supp. 21-5903, and amendments
24 thereto, perjury; K.S.A. 2012 Supp. 21-5904, and amendments thereto,
25 interference with law enforcement; K.S.A. 2012 Supp. 21-5905, and
26 amendments thereto, interference with the judicial process; K.S.A. 2012
27 Supp. 21-5909, and amendments thereto, intimidation of a witness or
28 victim or aggravated intimidation of a witness or victim; K.S.A. 2012
29 Supp. 21-5912, and amendments thereto, aiding escape; K.S.A. 2012
30 Supp. 21-5913, and amendments thereto, obstructing apprehension or
31 prosecution; K.S.A. 2012 Supp. 21-5918, and amendments thereto; K.S.A.
32 2012 Supp. 21-6001, and amendments thereto, bribery; K.S.A. 2012 Supp.
33 21-6002, and amendments thereto, official misconduct; K.S.A. 2012 Supp.
34 21-6301, and amendments thereto, criminal use of weapons; K.S.A. 2012
35 Supp. 21-6302, and amendments thereto, criminal carrying of a weapon;
36 K.S.A. 2012 Supp. 21-6303, and amendments thereto, criminal
37 distribution of firearms to a felon; K.S.A. 2012 Supp. 21-6304, and
38 amendments thereto, criminal possession of a firearm by a convicted felon;
39 K.S.A. 2012 Supp. 21-6305, and amendments thereto, aggravated weapons
40 violation by a convicted felon; K.S.A. 2012 Supp. 21-6306, and
41 amendments thereto, defacing identification marks of a firearm; K.S.A.
42 2012 Supp. 21-6308, and amendments thereto, criminal discharge of a
43 firearm; K.S.A. 2012 Supp. 21-6310, and amendments thereto, unlawful

1 endangerment; K.S.A. 2012 Supp. 21-6312, and amendments thereto;
2 K.S.A. 2012 Supp. 21-6313 through 21-6316, and amendments thereto;
3 K.S.A. 2012 Supp. 21-6401, and amendments thereto; K.S.A. 2012 Supp.
4 21-6404, and amendments thereto, gambling; K.S.A. 2012 Supp. 21-6405,
5 and amendments thereto, illegal bingo operation; K.S.A. 2012 Supp. 21-
6 6406, and amendments thereto, commercial gambling; K.S.A. 2012 Supp.
7 21-6407, and amendments thereto, dealing in gambling devices; K.S.A.
8 2012 Supp. 21-6408, and amendments thereto; K.S.A. 2012 Supp. 21-
9 6409, and amendments thereto, installing communication facilities for
10 gamblers; subsections (a) or (b) of K.S.A. 2012 Supp. 21-6414, and
11 amendments thereto, unlawful conduct of dog fighting or unlawful
12 possession of dog fighting paraphernalia; subsections (a) or (b) of K.S.A.
13 2012 Supp. 21-6417, and amendments thereto, unlawful conduct of
14 cockfighting or unlawful possession of cockfighting paraphernalia; K.S.A.
15 2012 Supp. 21-6419, and amendments thereto, prostitution; K.S.A. 2012
16 Supp. 21-6420, and amendments thereto, promoting prostitution; K.S.A.
17 2012 Supp. 21-6501, and amendments thereto, extortion; K.S.A. 2012
18 Supp. 21-6502, and amendments thereto, debt adjusting; K.S.A. 2012
19 Supp. 21-6504, and amendments thereto, equity skimming; K.S.A. 2012
20 Supp. 21-6506, and amendments thereto, commercial bribery; K.S.A. 2012
21 Supp. 21-6507, and amendments thereto, sports bribery; K.S.A. 2012
22 Supp. 21-6508, and amendments thereto, tampering with a sports contest;
23 K.S.A. 39-720, and amendments thereto, social welfare service fraud;
24 K.S.A. 40-2,118, and amendments thereto, fraudulent insurance acts;
25 K.S.A. 41-101 et seq., and amendments thereto, Kansas liquor control act;
26 K.S.A. 44-5,125, and amendments thereto, workers' compensation act;
27 K.S.A. 65-1657, and amendments thereto, nonresident pharmacy
28 registration; K.S.A. 65-3441, and amendments thereto, hazardous waste;
29 K.S.A. 65-4167, and amendments thereto, trafficking in counterfeit drugs;
30 article 88 of chapter 74 of the Kansas Statutes Annotated, and amendments
31 thereto, Kansas parimutuel racing act; or K.S.A. 79-3321, and
32 amendments thereto, Kansas cigarette and tobacco products act; or
33 (2) any conduct defined as "racketeering activity" under 18 U.S.C. §
34 1961(1).

35 (g) "Real property" means any real property or any interest in such
36 real property, including, but not limited to, any lease of or mortgage upon
37 such real property.

38 (h) "Trustee" means:

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

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

43 (3) any successor trustee or trustees to any or all of the foregoing

1 persons.

2 The term "trustee" does not include any person appointed or acting as a
3 personal representative as defined in K.S.A. 59-102, and amendments
4 thereto, or appointed or acting as a trustee of any testamentary trust or as a
5 trustee of any indenture of trust under which any bonds have been or are to
6 be issued.

7 (i) "Unlawful debt" means any money or other thing of value
8 constituting principal or interest of a debt that is legally unenforceable in
9 this state in whole or in part because the debt was incurred or contracted:

10 (1) In violation of any of the following provisions of law: article 88
11 of chapter 74 of the Kansas Statutes Annotated, and amendments thereto,
12 Kansas parimutuel racing act; K.S.A. 2012 Supp. 21-6404, and
13 amendments thereto, gambling; K.S.A. 2012 Supp. 21-6405, and
14 amendments thereto, illegal bingo operation; K.S.A. 2012 Supp. 21-6406,
15 and amendments thereto, commercial gambling; K.S.A. 2012 Supp. 21-
16 6407, and amendments thereto, dealing in gambling devices; K.S.A. 2012
17 Supp. 21-6408, and amendments thereto; or K.S.A. 2012 Supp. 21-6409,
18 and amendments thereto, installing communication facilities for gamblers;
19 or

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

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

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

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

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 (d) of K.S.A. 2012 Supp. 21-5302,
39 and amendments thereto, shall not apply to conspiracy to commit a
40 violation of this section.

41 (d) (1) Notwithstanding the provisions of K.S.A. 2012 Supp. 21-
42 6611, and amendments thereto, any person convicted of engaging in
43 conduct in violation of this section, through which the person derived

1 pecuniary value, or by which the person caused personal injury or property
2 damage or other loss, may be sentenced to pay a fine that does not exceed
3 three times the gross value gained or three times the gross loss caused,
4 whichever is the greater, plus court costs and the costs of investigation and
5 prosecution, reasonably incurred.

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

8 (3) For the purposes of this subsection, "pecuniary value" means:

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

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

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

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

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

24 (2) Imposing reasonable restrictions upon the future activities or
25 investments of any defendant, including, but not limited to, prohibiting any
26 defendant from engaging in the same type of endeavor as the enterprise in
27 which the defendant was engaged in violation of the provisions of section
28 3, and amendments thereto.

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

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

32 (5) Ordering the forfeiture of the charter of a corporation organized
33 under the laws of the state, or the revocation of a certificate authorizing a
34 foreign corporation to conduct business within the state, upon finding that
35 the board of directors or a managerial agent acting on behalf of the
36 corporation, in conducting the affairs of the corporation, has authorized or
37 engaged in conduct in violation of section 3, and amendments thereto, and
38 that, for the prevention of future criminal activity, the public interest
39 requires the charter of the corporation forfeited and the corporation
40 dissolved or the certificate revoked.

41 (b) All property, real or personal, including money, used in the course
42 of, intended for use in the course of, derived from, or realized through
43 conduct in violation of a provision of the Kansas racketeer influenced and

1 corrupt organization act is subject to civil forfeiture pursuant to the Kansas
2 standard asset seizure and forfeiture act, K.S.A. 60-4101 et seq., and
3 amendments thereto.

4 New Sec. 5. (a) For the purposes of this section, "attorney" means the
5 attorney general, assistant attorney general, county attorney or district
6 attorney, or in the absence of the county or district attorney, a designated
7 assistant county or district attorney. If an assistant county or district
8 attorney is designated by the county or district attorney for the purposes of
9 this section, such designation shall be filed with the chief judge of such
10 judicial district.

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

16 (c) An attorney may apply ex parte to the district court of the district
17 in which a subpoenaed person or entity resides, is found or transacts
18 business, for an order directing that the subpoenaed person or entity not
19 disclose the existence of the subpoena to any other person or entity except
20 the subpoenaed person's attorney for a period of 90 days, which time may
21 be extended by the court for good cause shown by the attorney. The order
22 shall be served with the subpoena, and the subpoena shall include a
23 reference to the order and a notice to the recipient of the subpoena that
24 disclosure of the existence of the subpoena to any other person or entity in
25 violation of the order may subject the subpoenaed person or entity to
26 punishment for contempt of court. Such an order may be granted by the
27 court only upon a showing:

28 (1) Of sufficient factual grounds to reasonably indicate a violation of
29 the Kansas racketeer influenced and corrupt organization act;

30 (2) that the documents or testimony sought appear reasonably
31 calculated to lead to the discovery of admissible evidence; and

32 (3) of facts which reasonably indicate that disclosure of the subpoena
33 would hamper or impede the investigation or would result in a flight from
34 prosecution.

35 (d) If information or evidence that the attorney seeks to obtain by the
36 subpoena is located outside the state, the person or enterprise subpoenaed
37 may make such information or evidence available to the attorney or such
38 attorney's representative for examination at the place where such
39 information or evidence is located. The attorney may designate
40 representatives, including officials of the jurisdiction in which the
41 information or evidence is located, to inspect the information or evidence
42 on such attorney's behalf and may respond to similar requests from
43 officials of other jurisdictions.

1 (e) Upon failure of a person or enterprise, without lawful excuse, to
2 obey a subpoena issued under this section or a subpoena issued in the
3 course of a civil proceeding instituted pursuant to section 4, and
4 amendments thereto, and after reasonable notice to such person or
5 enterprise, the attorney may apply to the district court in which such civil
6 proceeding is pending or, if no civil proceeding is pending, to the district
7 court of the judicial district in which such person or enterprise resides, is
8 found or transacts business for an order compelling compliance. Except in
9 a prosecution for perjury, an individual who complies with a court order to
10 provide testimony or material after asserting a privilege against self-
11 incrimination to which such individual is entitled by law shall not have the
12 testimony or material so provided, or evidence derived therefrom, received
13 against such individual in any criminal investigation or proceeding.

14 (f) A person who fails to obey a court order entered pursuant to this
15 section may be adjudged in contempt of court and punished by fine and
16 imprisonment.

17 Sec. 6. K.S.A. 2012 Supp. 21-5302 is hereby amended to read as
18 follows: 21-5302. (a) A conspiracy is an agreement with another person to
19 commit a crime or to assist in committing a crime. No person may be
20 convicted of a conspiracy unless an overt act in furtherance of such
21 conspiracy is alleged and proved to have been committed by such person
22 or by a co-conspirator.

23 (b) It is immaterial to the criminal liability of a person charged with
24 conspiracy that any other person with whom the defendant conspired
25 lacked the actual intent to commit the underlying crime provided that the
26 defendant believed the other person did have the actual intent to commit
27 the underlying crime.

28 (c) It shall be a defense to a charge of conspiracy that the accused
29 voluntarily and in good faith withdrew from the conspiracy, and
30 communicated the fact of such withdrawal to one or more of the accused
31 person's co-conspirators, before any overt act in furtherance of the
32 conspiracy was committed by the accused or by a co-conspirator.

33 (d) (1) Conspiracy to commit an off-grid felony shall be ranked at
34 nondrug severity level 2. Conspiracy to commit any other nondrug felony
35 shall be ranked on the nondrug scale at two severity levels below the
36 appropriate level for the underlying or completed crime. The lowest
37 severity level for conspiracy to commit a nondrug felony shall be a
38 severity level 10.

39 (2) The provisions of this subsection shall not apply to a violation of
40 conspiracy to commit the crime of:

41 (A) Aggravated human trafficking, as defined in subsection (b) of
42 K.S.A. 2012 Supp. 21-5426, and amendments thereto, if the offender is 18
43 years of age or older and the victim is less than 14 years of age;

1 (B) terrorism, as defined in K.S.A. 2012 Supp. 21-5421, and
2 amendments thereto;

3 (C) illegal use of weapons of mass destruction, as defined in K.S.A.
4 2012 Supp. 21-5422, and amendments thereto;

5 (D) rape, as defined in subsection (a)(3) of K.S.A. 2012 Supp. 21-
6 5503, and amendments thereto, if the offender is 18 years of age or older;

7 (E) aggravated indecent liberties with a child, as defined in
8 subsection (b)(3) of K.S.A. 2012 Supp. 21-5506, and amendments thereto,
9 if the offender is 18 years of age or older;

10 (F) aggravated criminal sodomy, as defined in subsection (b)(1) or (b)
11 (2) of K.S.A. 2012 Supp. 21-5504, and amendments thereto, if the
12 offender is 18 years of age or older;

13 (G) promoting prostitution, as defined in K.S.A. 2012 Supp. 21-6420,
14 and amendments thereto, if the offender is 18 years of age or older and the
15 prostitute is less than 14 years of age; ~~or~~

16 (H) sexual exploitation of a child, as defined in subsection (a)(1) or
17 (a)(4) of K.S.A. 2012 Supp. 21-5510, and amendments thereto, if the
18 offender is 18 years of age or older and the child is less than 14 years of
19 age; *or*

20 *(I) violations of the Kansas racketeer influenced and corrupt*
21 *organization act, as described in section 3, and amendments thereto.*

22 (e) Conspiracy to commit a felony which prescribes a sentence on the
23 drug grid shall reduce the prison term prescribed in the drug grid block for
24 an underlying or completed crime by six months.

25 (f) A conspiracy to commit a misdemeanor is a class C misdemeanor.

26 Sec. 7. K.S.A. 2012 Supp. 21-6313 is hereby amended to read as
27 follows: 21-6313. As used in K.S.A. 2012 Supp. 21-6313 through 21-
28 6316, and amendments thereto:

29 (a) "Criminal street gang" means any organization, association or
30 group, whether formal or informal:

31 (1) Consisting of three or more persons;

32 (2) having as one of its primary activities the commission of one or
33 more person felonies, person misdemeanors, felony violations of K.S.A.
34 2012 Supp. 21-5701 through 21-5717, and amendments thereto, any
35 felony violation of any provision of the uniform controlled substances act
36 prior to July 1, 2009, or the comparable juvenile offenses, which if
37 committed by an adult would constitute the commission of such felonies or
38 misdemeanors;

39 (3) which has a common name or common identifying sign or
40 symbol; and

41 (4) whose members, individually or collectively, engage in or have
42 engaged in the commission, attempted commission, conspiracy to commit
43 or solicitation of two or more person felonies, person misdemeanors,

1 felony violations of K.S.A. 2012 Supp. 21-5701 through 21-5717, and
2 amendments thereto, any felony violation of any provision of the uniform
3 controlled substances act prior to July 1, 2009, or the comparable juvenile
4 offenses, which if committed by an adult would constitute the commission
5 of such felonies or misdemeanors or any substantially similar offense from
6 another jurisdiction;

7 (b) "criminal street gang member" is a person who:

8 (1) Admits to criminal street gang membership; or

9 (2) meets three or more of the following criteria:

10 (A) Is identified as a criminal street gang member by a parent or
11 guardian;

12 (B) is identified as a criminal street gang member by a state, county
13 or city law enforcement officer or correctional officer or documented
14 reliable informant;

15 (C) is identified as a criminal street gang member by an informant of
16 previously untested reliability and such identification is corroborated by
17 independent information;

18 (D) ~~resides in or~~ frequents a particular criminal street gang's area
19 ~~and~~;

20 (E) adopts such gang's style of dress, color, use of hand signs or
21 tattoos, ~~and~~;

22 (F) associates with known criminal street gang members;

23 ~~(E)~~ (G) has been arrested more than once in the company of
24 identified criminal street gang members for offenses which are consistent
25 with usual criminal street gang activity;

26 ~~(F)~~ (H) is identified as a criminal street gang member by physical
27 evidence including, but not limited to, photographs or other
28 documentation;

29 ~~(G)~~ (I) has been stopped in the company of known criminal street
30 gang members two or more times; or

31 ~~(H)~~ (J) has participated in or undergone activities self-identified or
32 identified by a reliable informant as a criminal street gang initiation ritual;

33 (c) "criminal street gang activity" means the commission or attempted
34 commission of, or solicitation or conspiracy to commit, one or more
35 person felonies, person misdemeanors, felony violations of K.S.A. 2012
36 Supp. 21-5701 through 21-5717, and amendments thereto, any felony
37 violation of any provision of the uniform controlled substances act prior to
38 July 1, 2009, or the comparable juvenile offenses, which if committed by
39 an adult would constitute the commission of such felonies or
40 misdemeanors on separate occasions;

41 (d) "criminal street gang associate" means a person who:

42 (1) Admits to criminal street gang association; or

43 (2) meets two or more defining criteria for criminal street gang

1 membership described in subsection (b)(2); and

2 (e) for purposes of law enforcement identification and tracking only
3 "gang-related incident" means an incident that, upon investigation, meets
4 any of the following conditions:

5 (1) The participants are identified as criminal street gang members or
6 criminal street gang associates, acting, individually or collectively, to
7 further any criminal purpose of the gang;

8 (2) a state, county or city law enforcement officer or correctional
9 officer or reliable informant identifies an incident as criminal street gang
10 activity; or

11 (3) an informant of previously untested reliability identifies an
12 incident as criminal street gang activity and it is corroborated by
13 independent information.

14 Sec. 8. K.S.A. 2012 Supp. 60-4104 is hereby amended to read as
15 follows: 60-4104. Conduct and offenses giving rise to forfeiture under this
16 act, whether or not there is a prosecution or conviction related to the
17 offense, are:

18 (a) All offenses which statutorily and specifically authorize forfeiture;

19 (b) violations involving controlled substances, as described in K.S.A.
20 2012 Supp. 21-5701 through 21-5717, and amendments thereto;

21 (c) theft, as defined in K.S.A. 2012 Supp. 21-5801, and amendments
22 thereto;

23 (d) criminal discharge of a firearm, as defined in subsections (a)(1)
24 and (a)(2) of K.S.A. 2012 Supp. 21-6308, and amendments thereto;

25 (e) gambling, as defined in K.S.A. 2012 Supp. 21-6404, and
26 amendments thereto, and commercial gambling, as defined in subsection
27 (a)(1) of K.S.A. 2012 Supp. 21-6406, and amendments thereto;

28 (f) counterfeiting, as defined in K.S.A. 2012 Supp. 21-5825, and
29 amendments thereto;

30 (g) unlawful possession *or use* of a scanning device or reencoder, as
31 described in K.S.A. 2012 Supp. 21-6108, and amendments thereto;

32 (h) medicaid fraud, as described in K.S.A. 2012 Supp. 21-5925
33 through 21-5934, and amendments thereto;

34 (i) an act or omission occurring outside this state, which would be a
35 violation in the place of occurrence and would be described in this section
36 if the act occurred in this state, whether or not it is prosecuted in any state;

37 (j) an act or omission committed in furtherance of any act or omission
38 described in this section including any inchoate or preparatory offense,
39 whether or not there is a prosecution or conviction related to the act or
40 omission;

41 (k) any solicitation or conspiracy to commit any act or omission
42 described in this section, whether or not there is a prosecution or
43 conviction related to the act or omission;

1 (l) furtherance of terrorism or illegal use of weapons of mass
2 destruction, as described in K.S.A. 2012 Supp. 21-5423, and amendments
3 thereto;

4 (m) unlawful conduct of dog fighting and unlawful possession of dog
5 fighting paraphernalia, as defined in subsections (a) and (b) of K.S.A.
6 2012 Supp. 21-6414, and amendments thereto;

7 (n) unlawful conduct of cockfighting and unlawful possession of
8 cockfighting paraphernalia, as defined in subsections (a) and (b) of K.S.A.
9 2012 Supp. 21-6417, and amendments thereto;

10 (o) prostitution, as defined in K.S.A. 2012 Supp. 21-6419, and
11 amendments thereto, promoting prostitution, as defined in K.S.A. 2012
12 Supp. 21-6420, and amendments thereto, and patronizing a prostitute, as
13 defined in K.S.A. 2012 Supp. 21-6421, and amendments thereto;

14 (p) human trafficking and aggravated human trafficking, as defined in
15 K.S.A. 2012 Supp. 21-5426, and amendments thereto;

16 (q) violations of the banking code, as described in K.S.A. 9-2012, and
17 amendments thereto;

18 (r) mistreatment of a dependent adult, as defined in K.S.A. 2012
19 Supp. 21-5417, and amendments thereto;

20 (s) giving a worthless check, as defined in K.S.A. 2012 Supp. 21-
21 5821, and amendments thereto;

22 (t) forgery, as defined in K.S.A. 2012 Supp. 21-5823, and
23 amendments thereto;

24 (u) making false information, as defined in K.S.A. 2012 Supp. 21-
25 5824, and amendments thereto;

26 (v) criminal use of a financial card, as defined in K.S.A. 2012 Supp.
27 21-5828, and amendments thereto;

28 (w) unlawful acts concerning computers, as described in K.S.A. 2012
29 Supp. 21-5839, and amendments thereto;

30 (x) identity theft and identity fraud, as defined in subsections (a) and
31 (b) of K.S.A. 2012 Supp. 21-6107, and amendments thereto;

32 (y) electronic solicitation, as defined in K.S.A. 2012 Supp. 21-5509,
33 and amendments thereto; ~~and~~

34 (z) felony violations of fleeing or attempting to elude a police officer,
35 as described in K.S.A. 8-1568, and amendments thereto; *and*

36 *(aa) violations of the Kansas racketeer influenced and corrupt*
37 *organization act, as described in section 3, and amendments thereto.*

38 Sec. 9. K.S.A. 2012 Supp. 21-5302, 21-6313 and 60-4104 are hereby
39 repealed.

40 Sec. 10. This act shall take effect and be in force from and after its
41 publication in the statute book.