

Substitute for SENATE BILL No. 300

By Committee on Judiciary

1-31

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to the Kansas racketeer influenced and corrupt organization act; adding
3 a person who has engaged in identity theft or identity fraud to the
4 definition of covered person; identity theft and identity fraud to the
5 definition of racketeering activity; amending K.S.A. 2021 Supp. 21-
6 6328 and repealing the existing section.

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

9 Section 1. K.S.A. 2021 Supp. 21-6328 is hereby amended to read as
10 follows: 21-6328. As used in the Kansas racketeer influenced and corrupt
11 organization act:

12 (a) (1) "Beneficial interest" means *the interest of a person*:

13 (A) ~~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 (B) ~~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 (2) The term "beneficial interest" does not include the interest of a
20 stock 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. 2021 Supp. 21-6313, and amendments thereto;

26 (2) has engaged in or is engaging in any conduct prohibited by K.S.A.
27 2021 Supp. 21-5426, and amendments thereto, human trafficking or
28 aggravated human trafficking, or K.S.A. 2021 Supp. 21-6422, and
29 amendments thereto, commercial sexual exploitation of a child; ~~or~~

30 (3) has engaged in or is engaging in any conduct prohibited by K.S.A.
31 2021 Supp. 21-5703, and amendments thereto, unlawful manufacturing of
32 controlled substances, or K.S.A. 2021 Supp. 21-5705, and amendments
33 thereto, unlawful cultivation or distribution of controlled substances; *or*

34 (4) *has engaged in or is engaging in any conduct prohibited by*
35 *K.S.A. 2021 Supp. 21-6107, and amendments thereto, identity theft or*
36 *identity fraud.*

1 (c) "Documentary material" means any book, paper, document,
2 writing, drawing, graph, chart, photograph, phonorecord, magnetic tape,
3 computer printout, other data compilation from which information can be
4 obtained or from which information can be translated into usable form, or
5 other tangible item.

6 (d) "Enterprise" means any individual, sole proprietorship,
7 partnership, corporation, business trust, union chartered under the laws of
8 this state, or other legal entity, or any unchartered union, association, or
9 group of individuals associated in fact although not a legal entity; and it
10 includes illicit as well as licit enterprises and governmental, as well as
11 other, entities. A criminal street gang, as defined in K.S.A. 2021 Supp. 21-
12 6313, and amendments thereto, constitutes an enterprise.

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

21 (f) "Racketeering activity" means to commit, attempt to commit,
22 conspire to commit or to solicit, coerce or intimidate another person to
23 commit *any*:

24 (1) ~~Any~~ Felony or misdemeanor violation of: The felony provisions
25 of K.S.A. 8-1568, and amendments thereto, fleeing or attempting to elude
26 a police officer; K.S.A. 9-508 et seq., and amendments thereto, Kansas
27 money transmitter act; article 12a of chapter 17 of the Kansas Statutes
28 Annotated, and amendments thereto, Kansas uniform securities act; K.S.A.
29 2021 Supp. 21-5401, and amendments thereto, capital murder; K.S.A.
30 2021 Supp. 21-5402, and amendments thereto, murder in the first degree;
31 K.S.A. 2021 Supp. 21-5403, and amendments thereto, murder in the
32 second degree; K.S.A. 2021 Supp. 21-5408, and amendments thereto,
33 kidnapping or aggravated kidnapping; K.S.A. 2021 Supp. 21-5412, and
34 amendments thereto; K.S.A. 2021 Supp. 21-5413, and amendments
35 thereto; K.S.A. 2021 Supp. 21-5414, and amendments thereto, domestic
36 battery; K.S.A. 2021 Supp. 21-5415, and amendments thereto, criminal
37 threat or aggravated criminal threat; K.S.A. 2021 Supp. 21-5420, and
38 amendments thereto, robbery or aggravated robbery; K.S.A. 2021 Supp.
39 21-5421, and amendments thereto, terrorism; K.S.A. 2021 Supp. 21-5422,
40 and amendments thereto, illegal use of weapons of mass destruction;
41 K.S.A. 2021 Supp. 21-5423, and amendments thereto; K.S.A. 2021 Supp.
42 21-5426, and amendments thereto, human trafficking or aggravated human
43 trafficking; K.S.A. 2021 Supp. 21-5428, and amendments thereto,

1 blackmail; K.S.A. 2021 Supp. 21-5510, and amendments thereto, sexual
2 exploitation of a child; K.S.A. 2021 Supp. 21-5601, and amendments
3 thereto, endangering a child or aggravated endangering a child; K.S.A.
4 2021 Supp. 21-5602, and amendments thereto, abuse of a child; K.S.A.
5 2021 Supp. 21-5603, and amendments thereto, contributing to a child's
6 misconduct or deprivation; K.S.A. 2021 Supp. 21-5607(b), and
7 amendments thereto, furnishing alcoholic beverages to a minor for illicit
8 purposes; article 57 of chapter 21 of the Kansas Statutes Annotated, and
9 amendments thereto, crimes involving controlled substances; K.S.A. 2021
10 Supp. 21-5801, and amendments thereto, theft; K.S.A. 2021 Supp. 21-
11 5803, and amendments thereto, criminal deprivation of property; K.S.A.
12 2021 Supp. 21-5805, and amendments thereto; K.S.A. 2021 Supp. 21-
13 5807, and amendments thereto, burglary or aggravated burglary; K.S.A.
14 2021 Supp. 21-5812, and amendments thereto, arson or aggravated arson;
15 K.S.A. 2021 Supp. 21-5813, and amendments thereto, criminal damage to
16 property; K.S.A. 2021 Supp. 21-5814, and amendments thereto, criminal
17 use of an explosive; K.S.A. 2021 Supp. 21-5821, and amendments thereto,
18 giving a worthless check; K.S.A. 2021 Supp. 21-5823, and amendments
19 thereto, forgery; K.S.A. 2021 Supp. 21-5824, and amendments thereto,
20 making false information; K.S.A. 2021 Supp. 21-5825, and amendments
21 thereto, counterfeiting; K.S.A. 2021 Supp. 21-5826, and amendments
22 thereto, destroying written instrument; K.S.A. 2021 Supp. 21-5828, and
23 amendments thereto, criminal use of a financial card; K.S.A. 2021 Supp.
24 21-5838, and amendments thereto, conducting a pyramid promotional
25 scheme; K.S.A. 2021 Supp. 21-5839, and amendments thereto; K.S.A.
26 2021 Supp. 21-5903, and amendments thereto, perjury; K.S.A. 2021 Supp.
27 21-5904, and amendments thereto, interference with law enforcement;
28 K.S.A. 2021 Supp. 21-5905, and amendments thereto, interference with
29 the judicial process; K.S.A. 2021 Supp. 21-5909, and amendments thereto,
30 intimidation of a witness or victim or aggravated intimidation of a witness
31 or victim; K.S.A. 2021 Supp. 21-5912, and amendments thereto, aiding
32 escape; K.S.A. 2021 Supp. 21-5913, and amendments thereto, obstructing
33 apprehension or prosecution; K.S.A. 2021 Supp. 21-5918, and
34 amendments thereto; K.S.A. 2021 Supp. 21-6001, and amendments
35 thereto, bribery; K.S.A. 2021 Supp. 21-6002, and amendments thereto,
36 official misconduct; *K.S.A. 2021 Supp. 21-6107, and amendments thereto,*
37 *identity theft or identity fraud*; K.S.A. 2021 Supp. 21-6301, and
38 amendments thereto, criminal use of weapons; K.S.A. 2021 Supp. 21-
39 6302, and amendments thereto, criminal carrying of a weapon; K.S.A.
40 2021 Supp. 21-6303, and amendments thereto, criminal distribution of
41 firearms to a felon; K.S.A. 2021 Supp. 21-6304, and amendments thereto,
42 criminal possession of a ~~firearm~~ *weapon* by a convicted felon; K.S.A.
43 2021 Supp. 21-6305, and amendments thereto, aggravated weapons

1 violation by a convicted felon; K.S.A. 2021 Supp. 21-6306, and
2 amendments thereto, defacing identification marks of a firearm; K.S.A.
3 2021 Supp. 21-6308, and amendments thereto, criminal discharge of a
4 firearm; K.S.A. 2021 Supp. 21-6310, and amendments thereto, unlawful
5 endangerment; K.S.A. 2021 Supp. 21-6312, and amendments thereto;
6 K.S.A. 2021 Supp. 21-6314, and amendments thereto, recruiting criminal
7 street gang membership; K.S.A. 2021 Supp. 21-6315, and amendments
8 thereto, criminal street gang intimidation; K.S.A. 2021 Supp. 21-6401, and
9 amendments thereto, promoting obscenity or promoting obscenity to
10 minors; K.S.A. 2021 Supp. 21-6404, and amendments thereto, gambling;
11 K.S.A. 2021 Supp. 21-6405, and amendments thereto, illegal bingo
12 operation; K.S.A. 2021 Supp. 21-6406, and amendments thereto,
13 commercial gambling; K.S.A. 2021 Supp. 21-6407, and amendments
14 thereto, dealing in gambling devices; K.S.A. 2021 Supp. 21-6408, and
15 amendments thereto; K.S.A. 2021 Supp. 21-6409, and amendments
16 thereto, installing communication facilities for gamblers; K.S.A. 2021
17 Supp. 21-6414(a) or (b), and amendments thereto, unlawful conduct of dog
18 fighting or unlawful possession of dog fighting paraphernalia; K.S.A. 2021
19 Supp. 21-6417(a) or (b), and amendments thereto, unlawful conduct of
20 cockfighting or unlawful possession of cockfighting paraphernalia; K.S.A.
21 2021 Supp. 21-6419, and amendments thereto, selling sexual relations;
22 K.S.A. 2021 Supp. 21-6420, and amendments thereto, promoting the sale
23 of sexual relations; K.S.A. 2021 Supp. 21-6422, and amendments thereto,
24 commercial sexual exploitation of a child; K.S.A. 2021 Supp. 21-6501,
25 and amendments thereto, extortion; K.S.A. 2021 Supp. 21-6502, and
26 amendments thereto, debt adjusting; K.S.A. 2021 Supp. 21-6504, and
27 amendments thereto, equity skimming; K.S.A. 2021 Supp. 21-6506, and
28 amendments thereto, commercial bribery; K.S.A. 2021 Supp. 21-6507, and
29 amendments thereto, sports bribery; K.S.A. 2021 Supp. 21-6508, and
30 amendments thereto, tampering with a sports contest; K.S.A. 39-720, and
31 amendments thereto, social welfare service fraud; K.S.A. 40-2,118, and
32 amendments thereto, fraudulent insurance acts; K.S.A. 41-101 et seq., and
33 amendments thereto, Kansas liquor control act; K.S.A. 44-5,125, and
34 amendments thereto, workers' compensation act; K.S.A. 65-1657, and
35 amendments thereto, nonresident pharmacy registration; K.S.A. 65-3441,
36 and amendments thereto, hazardous waste; K.S.A. 65-4167, and
37 amendments thereto, trafficking in counterfeit drugs; article 88 of chapter
38 74 of the Kansas Statutes Annotated, and amendments thereto, Kansas
39 parimutuel racing act; or K.S.A. 79-3321, and amendments thereto,
40 Kansas cigarette and tobacco products act; or

41 (2) ~~any~~ conduct defined as "racketeering activity" under 18 U.S.C. §
42 1961(1).

43 (g) "Real property" means any real property or any interest in such

1 real property, including, but not limited to, any lease of or mortgage upon
2 such real property.

3 (h) (1) "Trustee" means *any*:

4 (A) ~~Any~~ Person acting as trustee pursuant to a trust in which the
5 trustee holds legal or record title to real property;

6 (B) ~~any~~ person who holds legal or record title to real property in
7 which any other person has a beneficial interest; or

8 (C) ~~any~~ successor trustee or trustees to any or all of the foregoing
9 persons.

10 (2) The term "trustee" does not include any person appointed or
11 acting as a personal representative as defined in K.S.A. 59-102, and
12 amendments thereto, or appointed or acting as a trustee of any
13 testamentary trust or as a trustee of any indenture of trust under which any
14 bonds have been or are to be issued.

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

19 (1) ~~It~~ Violation of any of the following provisions of law: Article 88
20 of chapter 74 of the Kansas Statutes Annotated, and amendments thereto,
21 Kansas parimutuel racing act; K.S.A. 2021 Supp. 21-6404, and
22 amendments thereto, gambling; K.S.A. 2021 Supp. 21-6405, and
23 amendments thereto, illegal bingo operation; K.S.A. 2021 Supp. 21-6406,
24 and amendments thereto, commercial gambling; K.S.A. 2021 Supp. 21-
25 6407, and amendments thereto, dealing in gambling devices; K.S.A. 2021
26 Supp. 21-6408, and amendments thereto, unlawful possession of a
27 gambling device; or K.S.A. 2021 Supp. 21-6409, and amendments thereto,
28 installing communication facilities for gamblers; or

29 (2) ~~it~~ gambling activity in violation of federal law or in the business
30 of lending money at a rate usurious under state or federal law.

31 Sec. 2. K.S.A. 2021 Supp. 21-6328 is hereby repealed.

32 Sec. 3. This act shall take effect and be in force from and after its
33 publication in the statute book.