

SENATE BILL No. 300

By Committee on Federal and State Affairs

3-18

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. 2020 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. 2020 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 ~~(1)(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 ~~(2)(B) the interest of a person~~ under any other form of express
17 fiduciary arrangement pursuant to which any other person holds legal or
18 record title 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. 2020 Supp. 21-6313, and amendments thereto;

26 (2) has engaged in or is engaging in any conduct prohibited by K.S.A.
27 2020 Supp. 21-5426, and amendments thereto, human trafficking or
28 aggravated human trafficking, or K.S.A. 2020 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 2020 Supp. 21-5703, and amendments thereto, unlawful manufacturing of
32 controlled substances, or K.S.A. 2020 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. 2020 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. 2020 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 *5 five* years, excluding any period of imprisonment, after a prior incident
20 of 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 2020 Supp. 21-5401, and amendments thereto, capital murder; K.S.A.
30 2020 Supp. 21-5402, and amendments thereto, murder in the first degree;
31 K.S.A. 2020 Supp. 21-5403, and amendments thereto, murder in the
32 second degree; K.S.A. 2020 Supp. 21-5408, and amendments thereto,
33 kidnapping or aggravated kidnapping; K.S.A. 2020 Supp. 21-5412, and
34 amendments thereto; K.S.A. 2020 Supp. 21-5413, and amendments
35 thereto; K.S.A. 2020 Supp. 21-5414, and amendments thereto, domestic
36 battery; K.S.A. 2020 Supp. 21-5415, and amendments thereto, criminal
37 threat or aggravated criminal threat; K.S.A. 2020 Supp. 21-5420, and
38 amendments thereto, robbery or aggravated robbery; K.S.A. 2020 Supp.
39 21-5421, and amendments thereto, terrorism; K.S.A. 2020 Supp. 21-5422,
40 and amendments thereto, illegal use of weapons of mass destruction;
41 K.S.A. 2020 Supp. 21-5423, and amendments thereto; K.S.A. 2020 Supp.
42 21-5426, and amendments thereto, human trafficking or aggravated human
43 trafficking; K.S.A. 2020 Supp. 21-5428, and amendments thereto,

1 blackmail; K.S.A. 2020 Supp. 21-5510, and amendments thereto, sexual
2 exploitation of a child; K.S.A. 2020 Supp. 21-5601, and amendments
3 thereto, endangering a child or aggravated endangering a child; K.S.A.
4 2020 Supp. 21-5602, and amendments thereto, abuse of a child; K.S.A.
5 2020 Supp. 21-5603, and amendments thereto, contributing to a child's
6 misconduct or deprivation; K.S.A. 2020 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. 2020
10 Supp. 21-5801, and amendments thereto, theft; K.S.A. 2020 Supp. 21-
11 5803, and amendments thereto, criminal deprivation of property; K.S.A.
12 2020 Supp. 21-5805, and amendments thereto; K.S.A. 2020 Supp. 21-
13 5807, and amendments thereto, burglary or aggravated burglary; K.S.A.
14 2020 Supp. 21-5812, and amendments thereto, arson or aggravated arson;
15 K.S.A. 2020 Supp. 21-5813, and amendments thereto, criminal damage to
16 property; K.S.A. 2020 Supp. 21-5814, and amendments thereto, criminal
17 use of an explosive; K.S.A. 2020 Supp. 21-5818, and amendments thereto,
18 tampering with a pipeline; K.S.A. 2020 Supp. 21-5821, and amendments
19 thereto, giving a worthless check; K.S.A. 2020 Supp. 21-5823, and
20 amendments thereto, forgery; K.S.A. 2020 Supp. 21-5824, and
21 amendments thereto, making false information; K.S.A. 2020 Supp. 21-
22 5825, and amendments thereto, counterfeiting; K.S.A. 2020 Supp. 21-
23 5826, and amendments thereto, destroying written instrument; K.S.A.
24 2020 Supp. 21-5828, and amendments thereto, criminal use of a financial
25 card; K.S.A. 2020 Supp. 21-5838, and amendments thereto, conducting a
26 pyramid promotional scheme; K.S.A. 2020 Supp. 21-5839, and
27 amendments thereto; K.S.A. 2020 Supp. 21-5903, and amendments
28 thereto, perjury; K.S.A. 2020 Supp. 21-5904, and amendments thereto,
29 interference with law enforcement; K.S.A. 2020 Supp. 21-5905, and
30 amendments thereto, interference with the judicial process; K.S.A. 2020
31 Supp. 21-5909, and amendments thereto, intimidation of a witness or
32 victim or aggravated intimidation of a witness or victim; K.S.A. 2020
33 Supp. 21-5912, and amendments thereto, aiding escape; K.S.A. 2020
34 Supp. 21-5913, and amendments thereto, obstructing apprehension or
35 prosecution; K.S.A. 2020 Supp. 21-5918, and amendments thereto; K.S.A.
36 2020 Supp. 21-6001, and amendments thereto, bribery; K.S.A. 2020 Supp.
37 21-6002, and amendments thereto, official misconduct; *K.S.A. 2020 Supp.*
38 *21-6107, and amendments thereto, identity theft or identity fraud*; K.S.A.
39 2020 Supp. 21-6301, and amendments thereto, criminal use of weapons;
40 K.S.A. 2020 Supp. 21-6302, and amendments thereto, criminal carrying of
41 a weapon; K.S.A. 2020 Supp. 21-6303, and amendments thereto, criminal
42 distribution of firearms to a felon; K.S.A. 2020 Supp. 21-6304, and
43 amendments thereto, criminal possession of a firearm by a convicted felon;

1 K.S.A. 2020 Supp. 21-6305, and amendments thereto, aggravated weapons
2 violation by a convicted felon; K.S.A. 2020 Supp. 21-6306, and
3 amendments thereto, defacing identification marks of a firearm; K.S.A.
4 2020 Supp. 21-6308, and amendments thereto, criminal discharge of a
5 firearm; K.S.A. 2020 Supp. 21-6310, and amendments thereto, unlawful
6 endangerment; K.S.A. 2020 Supp. 21-6312, and amendments thereto;
7 K.S.A. 2020 Supp. 21-6314, and *amendments thereto, recruiting criminal*
8 *street gang membership*; K.S.A. 2020 Supp. 21-6315, and amendments
9 thereto, *criminal street gang intimidation*; K.S.A. 2020 Supp. 21-6401,
10 and amendments thereto, promoting obscenity or promoting obscenity to
11 minors; K.S.A. 2020 Supp. 21-6404, and amendments thereto, gambling;
12 K.S.A. 2020 Supp. 21-6405, and amendments thereto, illegal bingo
13 operation; K.S.A. 2020 Supp. 21-6406, and amendments thereto,
14 commercial gambling; K.S.A. 2020 Supp. 21-6407, and amendments
15 thereto, dealing in gambling devices; K.S.A. 2020 Supp. 21-6408, and
16 amendments thereto; K.S.A. 2020 Supp. 21-6409, and amendments
17 thereto, installing communication facilities for gamblers; K.S.A. 2020
18 Supp. 21-6414(a) or (b), and amendments thereto, unlawful conduct of dog
19 fighting or unlawful possession of dog fighting paraphernalia; K.S.A. 2020
20 Supp. 21-6417(a) or (b), and amendments thereto, unlawful conduct of
21 cockfighting or unlawful possession of cockfighting paraphernalia; K.S.A.
22 2020 Supp. 21-6419, and amendments thereto, selling sexual relations;
23 K.S.A. 2020 Supp. 21-6420, and amendments thereto, promoting the sale
24 of sexual relations; K.S.A. 2020 Supp. 21-6422, and amendments thereto,
25 commercial sexual exploitation of a child; K.S.A. 2020 Supp. 21-6501,
26 and amendments thereto, extortion; K.S.A. 2020 Supp. 21-6502, and
27 amendments thereto, debt adjusting; K.S.A. 2020 Supp. 21-6504, and
28 amendments thereto, equity skimming; K.S.A. 2020 Supp. 21-6506, and
29 amendments thereto, commercial bribery; K.S.A. 2020 Supp. 21-6507, and
30 amendments thereto, sports bribery; K.S.A. 2020 Supp. 21-6508, and
31 amendments thereto, tampering with a sports contest; K.S.A. 39-720, and
32 amendments thereto, social welfare service fraud; K.S.A. 40-2,118, and
33 amendments thereto, fraudulent insurance acts; K.S.A. 41-101 et seq., and
34 amendments thereto, Kansas liquor control act; K.S.A. 44-5,125, and
35 amendments thereto, workers' compensation act; K.S.A. 65-1657, and
36 amendments thereto, nonresident pharmacy registration; K.S.A. 65-3441,
37 and amendments thereto, hazardous waste; K.S.A. 65-4167, and
38 amendments thereto, trafficking in counterfeit drugs; article 88 of chapter
39 74 of the Kansas Statutes Annotated, and amendments thereto, Kansas
40 parimutuel racing act; or K.S.A. 79-3321, and amendments thereto,
41 Kansas cigarette and tobacco products act; or
42 (2) ~~any~~ conduct defined as "racketeering activity" under 18 U.S.C. §
43 1961(1).

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

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

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

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

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

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

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

20 (1) ~~in~~ Violation of any of the following provisions of law: Article 88
21 of chapter 74 of the Kansas Statutes Annotated, and amendments thereto,
22 Kansas parimutuel racing act; K.S.A. 2020 Supp. 21-6404, and
23 amendments thereto, gambling; K.S.A. 2020 Supp. 21-6405, and
24 amendments thereto, illegal bingo operation; K.S.A. 2020 Supp. 21-6406,
25 and amendments thereto, commercial gambling; K.S.A. 2020 Supp. 21-
26 6407, and amendments thereto, dealing in gambling devices; K.S.A. 2020
27 Supp. 21-6408, and amendments thereto, unlawful possession of a
28 gambling device; or K.S.A. 2020 Supp. 21-6409, and amendments thereto,
29 installing communication facilities for gamblers; or

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

32 Sec. 2. K.S.A. 2020 Supp. 21-6328 is hereby repealed.

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