

Substitute for SENATE BILL No. 300

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

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

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

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

(A) ~~The interest of a person~~—As a beneficiary under any trust arrangement pursuant to which a trustee holds legal or record title to real property for the benefit of such person; or

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

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

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

(1) Is a criminal street gang member or criminal street gang associate, as defined in K.S.A. 2021 Supp. 21-6313, and amendments thereto;

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

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

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

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

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

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

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

(1) ~~Any~~—Felony or misdemeanor violation of: The felony provisions of K.S.A. 8-1568, and amendments thereto, fleeing or attempting to elude a police officer; K.S.A. 9-508 et seq., and amendments thereto, Kansas money transmitter act; article 12a of chapter 17 of the Kansas Statutes Annotated, and amendments thereto, Kansas uniform securities act; K.S.A. 2021 Supp. 21-5401, and amendments thereto, capital murder; K.S.A. 2021 Supp. 21-5402, and amendments thereto, murder in the first degree; K.S.A. 2021 Supp. 21-5403, and amendments thereto, murder in the second degree; K.S.A. 2021 Supp. 21-5408, and amendments thereto, kidnapping or aggravated kidnapping; K.S.A. 2021 Supp. 21-5412, and amendments thereto; K.S.A. 2021 Supp. 21-5413, and amendments thereto; K.S.A. 2021 Supp. 21-5414, and amendments thereto, domestic battery; K.S.A. 2021 Supp. 21-5415, and amendments thereto, criminal threat or aggravated criminal threat; K.S.A. 2021 Supp. 21-5420, and amendments thereto, robbery or aggravated robbery; K.S.A. 2021 Supp. 21-5421, and amendments thereto, terrorism; K.S.A. 2021 Supp. 21-5422, and amendments thereto, illegal use of weapons of mass destruction; K.S.A. 2021 Supp. 21-5423, and amendments thereto; K.S.A. 2021 Supp. 21-5426, and amendments thereto, human trafficking or aggravated human trafficking; K.S.A. 2021 Supp. 21-5428, and amendments thereto, blackmail; K.S.A. 2021 Supp. 21-5510, and amendments thereto, sexual exploitation of a child; K.S.A. 2021 Supp. 21-5601, and amendments thereto, endangering a child or aggravated endangering a child; K.S.A. 2021 Supp. 21-5602, and amendments thereto, abuse of a child; K.S.A. 2021 Supp. 21-5603, and amendments thereto, contributing to a child's misconduct or deprivation; K.S.A. 2021 Supp. 21-5607(b), and amendments thereto, furnishing alcoholic beverages to a minor for illicit purposes; article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, crimes involving controlled substances; K.S.A. 2021 Supp. 21-5801, and amendments thereto, theft; K.S.A. 2021 Supp. 21-5803, and amendments thereto, criminal deprivation of property; K.S.A. 2021 Supp. 21-5805, and amendments thereto; K.S.A. 2021 Supp. 21-5807, and amendments thereto, burglary or aggravated burglary; K.S.A. 2021 Supp. 21-5812, and amendments thereto, arson or aggravated arson; K.S.A. 2021 Supp. 21-5813, and amendments thereto, criminal damage to property; K.S.A. 2021 Supp. 21-5814, and amendments thereto, criminal use of an explosive; K.S.A. 2021 Supp. 21-5821, and amendments thereto, giving a worthless check; K.S.A. 2021 Supp. 21-5823, and amendments thereto, forgery; K.S.A. 2021 Supp. 21-5824, and amendments thereto, making false information; K.S.A. 2021 Supp. 21-5825, and amendments thereto, counterfeiting; K.S.A. 2021 Supp. 21-5826, and amendments thereto, destroying written instrument; K.S.A. 2021 Supp. 21-5828, and amendments thereto, criminal use of a financial card; K.S.A. 2021 Supp. 21-5838, and amendments thereto, conducting a pyramid promotional scheme; K.S.A. 2021 Supp. 21-5839, and amendments thereto; K.S.A. 2021 Supp. 21-5903, and amendments thereto, perjury; K.S.A. 2021 Supp. 21-5904, and amendments thereto, interference with law enforcement; K.S.A. 2021 Supp. 21-5905, and amendments thereto, interference with the judicial process; K.S.A. 2021 Supp. 21-5909, and amendments thereto, intimidation of a witness or victim or aggravated intimidation of a witness or victim; K.S.A. 2021 Supp. 21-5912, and amendments thereto, aiding escape; K.S.A. 2021 Supp. 21-5913, and amendments thereto, obstructing apprehension or prosecution; K.S.A. 2021 Supp. 21-5918, and amendments thereto; K.S.A. 2021 Supp. 21-6001, and amendments thereto, bribery; K.S.A. 2021 Supp. 21-6002, and amendments thereto, official misconduct; *K.S.A. 2021 Supp. 21-6107*,

*and amendments thereto, identity theft or identity fraud; K.S.A. 2021 Supp. 21-6301, and amendments thereto, criminal use of weapons; K.S.A. 2021 Supp. 21-6302, and amendments thereto, criminal carrying of a weapon; K.S.A. 2021 Supp. 21-6303, and amendments thereto, criminal distribution of firearms to a felon; K.S.A. 2021 Supp. 21-6304, and amendments thereto, criminal possession of a ~~firearm~~ *weapon* by a convicted felon; K.S.A. 2021 Supp. 21-6305, and amendments thereto, aggravated weapons violation by a convicted felon; K.S.A. 2021 Supp. 21-6306, and amendments thereto, defacing identification marks of a firearm; K.S.A. 2021 Supp. 21-6308, and amendments thereto, criminal discharge of a firearm; K.S.A. 2021 Supp. 21-6310, and amendments thereto, unlawful endangerment; K.S.A. 2021 Supp. 21-6312, and amendments thereto; K.S.A. 2021 Supp. 21-6314, and amendments thereto, recruiting criminal street gang membership; K.S.A. 2021 Supp. 21-6315, and amendments thereto, criminal street gang intimidation; K.S.A. 2021 Supp. 21-6401, and amendments thereto, promoting obscenity or promoting obscenity to minors; K.S.A. 2021 Supp. 21-6404, and amendments thereto, gambling; K.S.A. 2021 Supp. 21-6405, and amendments thereto, illegal bingo operation; K.S.A. 2021 Supp. 21-6406, and amendments thereto, commercial gambling; K.S.A. 2021 Supp. 21-6407, and amendments thereto, dealing in gambling devices; K.S.A. 2021 Supp. 21-6408, and amendments thereto; K.S.A. 2021 Supp. 21-6409, and amendments thereto, installing communication facilities for gamblers; K.S.A. 2021 Supp. 21-6414(a) or (b), and amendments thereto, unlawful conduct of dog fighting or unlawful possession of dog fighting paraphernalia; K.S.A. 2021 Supp. 21-6417(a) or (b), and amendments thereto, unlawful conduct of cockfighting or unlawful possession of cockfighting paraphernalia; K.S.A. 2021 Supp. 21-6419, and amendments thereto, selling sexual relations; K.S.A. 2021 Supp. 21-6420, and amendments thereto, promoting the sale of sexual relations; K.S.A. 2021 Supp. 21-6422, and amendments thereto, commercial sexual exploitation of a child; K.S.A. 2021 Supp. 21-6501, and amendments thereto, extortion; K.S.A. 2021 Supp. 21-6502, and amendments thereto, debt adjusting; K.S.A. 2021 Supp. 21-6504, and amendments thereto, equity skimming; K.S.A. 2021 Supp. 21-6506, and amendments thereto, commercial bribery; K.S.A. 2021 Supp. 21-6507, and amendments thereto, sports bribery; K.S.A. 2021 Supp. 21-6508, and amendments thereto, tampering with a sports contest; K.S.A. 39-720, and amendments thereto, social welfare service fraud; K.S.A. 40-2,118, and amendments thereto, fraudulent insurance acts; K.S.A. 41-101 et seq., and amendments thereto, Kansas liquor control act; K.S.A. 44-5,125, and amendments thereto, workers' compensation act; K.S.A. 65-1657, and amendments thereto, nonresident pharmacy registration; K.S.A. 65-3441, and amendments thereto, hazardous waste; K.S.A. 65-4167, and amendments thereto, trafficking in counterfeit drugs; article 88 of chapter 74 of the Kansas Statutes Annotated, and amendments thereto, Kansas parimutuel racing act; or K.S.A. 79-3321, and amendments thereto, Kansas cigarette and tobacco products act; or*

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

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

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

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

(B) ~~any~~ person who holds legal or record title to real property in

which any other person has a beneficial interest; or

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

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

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

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

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

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

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

I hereby certify that the above BILL originated in the SENATE, and passed that body

President of the Senate.

Secretary of the Senate.

Passed the HOUSE _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.