

HOUSE BILL No. 2463

By Committee on Corrections and Juvenile Justice

1-21

1 AN ACT concerning terrorism and illegal use of weapons of mass
2 destruction; relating to civil liability for acts of terrorism; furtherance
3 of terrorism; asset seizure and forfeiture; amending K.S.A. 2013 Supp.
4 21-5423 and 60-4104 and repealing the existing sections; also repealing
5 K.S.A. 2013 Supp. 60-4104b.

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

8 New Section 1. (a) ~~A person injured as a result of a criminal offense~~
9 ~~under K.S.A. 2013 Supp. 21-5421 or 21-5423, and amendments thereto,~~
10 ~~where such offense resulted in a conviction, may bring an action in an~~
11 ~~appropriate state court against the person who violated K.S.A. 2013 Supp.~~
12 ~~21-5421 or 21-5423, and amendments thereto~~ **A person injured as a**
13 **result of the conduct of another that would constitute conduct**
14 **prohibited by K.S.A. 2013 Supp. 21-5421 or 21-5423, and amendments**
15 **thereto, may bring an action in an appropriate state court against the**
16 **person or persons who engaged in such conduct.**

17 (b) In any action brought under this section, a prevailing plaintiff
18 shall recover up to three times the actual damages such person sustained or
19 \$10,000, whichever is greater, and the cost of the suit, including
20 reasonable attorney's fees.

21 (c) Notwithstanding any other provision of law, any action
22 commenced under this section shall be filed within five years after the
23 later of:

24 (1) The date of discovery of the violation of K.S.A. 2013 Supp. 21-
25 5421 or 21-5423, and amendments thereto; or

26 (2) the conclusion of a related criminal case.

27 (d) At the victim's request, the attorney general may pursue cases on
28 behalf of any Kansas victim under this section. All damages obtained shall
29 go to the victim, and the attorney general may seek reasonable attorney's
30 fees and costs.

31 (e) Any action brought under this section shall be subject to the
32 provisions of K.S.A. 74-7312, and amendments thereto.

33 Sec. 2. K.S.A. 2013 Supp. 21-5423 is hereby amended to read as
34 follows: 21-5423. (a) It is unlawful for any person to receive or acquire

1 property, or engage in transactions involving property, with the intent to
2 commit or further the commission of any violation of K.S.A. 2013 Supp.
3 21-5421 or 21-5422, and amendments thereto. The provisions of this
4 subsection do not apply to any transaction between an individual and that
5 individual's counsel necessary to preserve that individual's right to
6 representation, as guaranteed by section 10 of the bill of rights of the
7 constitution of the state of Kansas and by the sixth amendment to the
8 United States constitution. This exception does not create any presumption
9 against or prohibition of the right of the state to seek and obtain forfeiture
10 of any proceeds derived from a violation of K.S.A. 2013 Supp. 21-5421 or
11 21-5422, and amendments thereto.

12 (b) It is unlawful for any person to intentionally invest, conceal,
13 distribute, transport or maintain an interest in or otherwise make available
14 any property which that person knows is intended to be used to commit or
15 further the commission of any violation of K.S.A. 2013 Supp. 21-5421 or
16 21-5422, and amendments thereto.

17 (c) It is unlawful for any person to intentionally direct, plan, organize,
18 initiate, finance, manage, supervise or facilitate the transportation or
19 distribution of property which that person knows is intended to be used to
20 commit or further the commission of *any violation of* K.S.A. 2013 Supp.
21 21-5421 or 21-5422, and amendments thereto.

22 (d) It is unlawful for any person to conduct a financial transaction
23 involving property with the intent to commit or further the commission of
24 any violation of K.S.A. 2013 Supp. 21-5421 or 21-5422, and amendments
25 thereto, when the transaction is designed in whole or in part to conceal or
26 disguise the nature, location, source, ownership or control of the property
27 which that person knows is intended to be used to commit or further the
28 commission of any violation of K.S.A. 2013 Supp. 21-5421 or 21-5422,
29 and amendments thereto, or to avoid a transaction reporting requirement
30 under state or federal law.

31 (e) *It is unlawful to raise, solicit, collect or provide material support*
32 *or resources with the intent that such will be used, in whole or in part, to*
33 *plan, prepare, carry out or aid in:*

34 (1) *Any violation of K.S.A. 2013 Supp. 21-5421 or 21-5422, and*
35 *amendments thereto;*

36 (2) *the hindering of the prosecution of any violation of K.S.A. 2013*
37 *Supp 21-5421 or 21-5422, and amendments thereto; or*

38 (3) *the concealment of, or the escape from, any violation of K.S.A.*
39 *2013 Supp. 21-5421 or 21-5422, and amendments thereto.*

40 (f) Violation of this section is a severity level 1, person felony.

41 (g) As used in this section:

42 (1) "Property" means anything of value, and includes any interest in
43 property, including any benefit, privilege, claim or right with respect to

1 anything of value, whether real or personal, tangible or intangible; ~~and~~

2 (2) "transaction" includes a purchase, sale, trade, loan, pledge,
3 investment, gift, transfer, transmission, delivery, deposit, withdrawal,
4 payment, transfer between accounts, exchange of currency, extension of
5 credit, purchase, or sale of any monetary instrument, use of a safe deposit
6 box, or any other acquisition or disposition of property whatever means
7 effected; *and*

8 (3) "*hindering of the prosecution of terrorism*" shall include, but is
9 not limited to, the following:

10 (A) *Harboring or concealing a person who is known or believed by*
11 *the offender to have committed any violation of K.S.A. 2013 Supp. 21-*
12 *5421 or 21-5422, and amendments thereto;*

13 (B) *warning a person who is known or believed by the offender to*
14 *have committed any violations of K.S.A. 2013 Supp. 21-5421 or 21-5422,*
15 *and amendments thereto, of impending discovery or apprehension, **except***
16 ***that the provisions of this subparagraph do not apply to any transaction***
17 ***between an individual and that individual's counsel necessary to***
18 ***preserve that individual's right to representation, as guaranteed by***
19 ***section 10 of the bill of rights of the constitution of the state of Kansas***
20 ***and by the sixth amendment to the United States constitution; and***

21 (C) *suppressing any physical evidence which might aid in the*
22 *discovery or apprehension of a person who is known or believed by the*
23 *offender to have committed any violation of K.S.A. 2013 Supp. 21-5421 or*
24 *21-5422, and amendments thereto.*

25 Sec. 3. K.S.A. 2013 Supp. 60-4104 is hereby amended to read as
26 follows: 60-4104. Conduct and offenses giving rise to forfeiture under this
27 act, whether or not there is a prosecution or conviction related to the
28 offense, are:

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

30 (b) violations involving controlled substances, as described in K.S.A.
31 2013 Supp. 21-5701 through 21-5717, and amendments thereto;

32 (c) theft, as defined in K.S.A. 2013 Supp. 21-5801, and amendments
33 thereto;

34 (d) criminal discharge of a firearm, as defined in subsections (a)(1)
35 and (a)(2) of K.S.A. 2013 Supp. 21-6308, and amendments thereto;

36 (e) gambling, as defined in K.S.A. 2013 Supp. 21-6404, and
37 amendments thereto, and commercial gambling, as defined in subsection
38 (a)(1) of K.S.A. 2013 Supp. 21-6406, and amendments thereto;

39 (f) counterfeiting, as defined in K.S.A. 2013 Supp. 21-5825, and
40 amendments thereto;

41 (g) unlawful possession or use of a scanning device or reencoder, as
42 described in K.S.A. 2013 Supp. 21-6108, and amendments thereto;

43 (h) medicaid fraud, as described in K.S.A. 2013 Supp. 21-5925

1 through 21-5934, and amendments thereto;

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

5 (j) an act or omission committed in furtherance of any act or omission
6 described in this section including any inchoate or preparatory offense,
7 whether or not there is a prosecution or conviction related to the act or
8 omission;

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

12 (l) *terrorism, as defined in K.S.A. 2013 Supp. 21-5421, and*
13 *amendments thereto, illegal use of weapons of mass destruction, as*
14 *defined in K.S.A. 2013 Supp. 21-5422, and amendments thereto, and*
15 *furtherance of terrorism or illegal use of weapons of mass destruction, as*
16 *described in K.S.A. 2013 Supp. 21-5423, and amendments thereto;*

17 (m) unlawful conduct of dog fighting and unlawful possession of dog
18 fighting paraphernalia, as defined in subsections (a) and (b) of K.S.A.
19 2013 Supp. 21-6414, and amendments thereto;

20 (n) unlawful conduct of cockfighting and unlawful possession of
21 cockfighting paraphernalia, as defined in subsections (a) and (b) of K.S.A.
22 2013 Supp. 21-6417, and amendments thereto;

23 (o) selling sexual relations, as defined in K.S.A. 2013 Supp. 21-6419,
24 and amendments thereto, promoting the sale of sexual relations, as defined
25 in K.S.A. 2013 Supp. 21-6420, and amendments thereto, and buying
26 sexual relations, as defined in K.S.A. 2013 Supp. 21-6421, and
27 amendments thereto;

28 (p) human trafficking and aggravated human trafficking, as defined in
29 K.S.A. 2013 Supp. 21-5426, and amendments thereto;

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

32 (r) mistreatment of a dependent adult, as defined in K.S.A. 2013
33 Supp. 21-5417, and amendments thereto;

34 (s) giving a worthless check, as defined in K.S.A. 2013 Supp. 21-
35 5821, and amendments thereto;

36 (t) forgery, as defined in K.S.A. 2013 Supp. 21-5823, and
37 amendments thereto;

38 (u) making false information, as defined in K.S.A. 2013 Supp. 21-
39 5824, and amendments thereto;

40 (v) criminal use of a financial card, as defined in K.S.A. 2013 Supp.
41 21-5828, and amendments thereto;

42 (w) unlawful acts concerning computers, as described in K.S.A. 2013
43 Supp. 21-5839, and amendments thereto;

1 (x) identity theft and identity fraud, as defined in subsections (a) and
2 (b) of K.S.A. 2013 Supp. 21-6107, and amendments thereto;

3 (y) electronic solicitation, as defined in K.S.A. 2013 Supp. 21-5509,
4 and amendments thereto;

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

7 (aa) commercial sexual exploitation of a child, as defined in K.S.A.
8 2013 Supp. 21-6422, and amendments thereto; ~~and~~

9 (bb) violations of the Kansas racketeer influenced and corrupt
10 organization act, as described in K.S.A. 2013 Supp. 21-6329, and
11 amendments thereto;

12 *(cc) indecent solicitation of a child and aggravated indecent*
13 *solicitation of a child, as defined in K.S.A. 2013 Supp. 21-5508, and*
14 *amendments thereto; and*

15 *(dd) sexual exploitation of a child, as defined in K.S.A. 2013 Supp.*
16 *21-5510, and amendments thereto.*

17 Sec. 4. K.S.A. 2013 Supp. 21-5423, 60-4104 and 60-4104b are
18 hereby repealed.

19 Sec. 5. This act shall take effect and be in force from and after its
20 publication in the statute book.