

Senate Substitute for HOUSE BILL No. 2144

AN ACT concerning crimes, punishment and criminal procedure; creating the crimes of encouraging suicide and organized retail crime and providing criminal penalties for violation thereof; relating to the Kansas racketeer influenced and corrupt organization act; including organized retail crime in the definition of racketeering activity; relating to the attorney general; authorizing the attorney general to prosecute specified crimes that are part of an alleged course of criminal conduct that occurred in two or more counties; amending K.S.A. 21-6328 and K.S.A. 2023 Supp. 75-702 and repealing the existing sections.

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

New Section 1. (a) Encouraging suicide is knowingly encouraging another person to commit or attempt to commit suicide when the person knows that such other person has communicated a desire to commit suicide and such encouragement:

(1) Is made proximate in time to the other person committing or attempting to commit suicide; and

(2) substantially influences the other person's decision or methods used to commit or attempt to commit suicide.

(b) Encouraging suicide is a:

(1) Severity level 5, person felony if the other person attempts to commit suicide; and

(2) severity level 4, person felony if the other person commits suicide.

(c) As used in this section:

(1) "Attempt to commit suicide" means any physical action done by a person with the intent to commit suicide; and

(2) "encouraging a person to commit or attempt to commit suicide" means oral, written or visual communication that is persuasive or intended to be persuasive and that gives advice to commit suicide, attempt to commit suicide or develop a plan to commit suicide.

(d) This section shall be a part of and supplemental to the Kansas criminal code.

Sec. 2. (a) Organized retail crime is any of the following acts done with intent to permanently deprive the owner of the possession, use or benefit of the owner's property or services:

(1) Acting in concert with one or more other persons to:

(A) Receive, purchase, sell or possess merchandise with an aggregate retail market value of \$5,000 or more within a 12-month period, knowing or believing such merchandise to have been stolen; or

(B) take merchandise with an aggregate retail market value of \$5,000 or more from one or more retailers within a 12-month period, as part of an organized plan to commit theft; or

(2) recruiting, coordinating, organizing, supervising, directing, managing or financing one or more other persons to undertake any of the acts described in paragraph (1).

(b) Organized retail crime:

(1) Involving merchandise with an aggregate retail market value of at least \$5,000 but less than \$25,000 is a severity level 6, nonperson felony;

(2) involving merchandise with an aggregate retail market value of at least \$25,000 but less than \$100,000 is a severity level 5, nonperson felony; and

(3) involving merchandise with an aggregate retail market value of \$100,000 or more is a severity level 4, nonperson felony.

(c) In addition to the venue provided for under any other provision of law, a prosecution for organized retail crime may be brought in any county where at least \$1 in aggregate retail market value of merchandise is taken, received, sold or purchased.

(d) As used in this section:

(1) "Aggregate retail market value" means the total combined value of merchandise taken, at the price at which the merchandise would ordinarily be sold by the retailer through legitimate sale or distribution;

(2) "merchandise" means chattels of any type or description regardless of the value offered for sale in or about a store;

(3) "retailer" means a person or business selling, leasing or facilitating the sale or lease of merchandise to the public or a business; and

(4) "store" means a place where merchandise is:

(A) Sold or offered to the public for sale at retail; or

(B) leased or offered to the public for lease.

(e) This section shall be a part of and supplemental to the Kansas criminal code.

Sec. 3. K.S.A. 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) 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) 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. 21-6313, and amendments thereto;

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

(3) has engaged in or is engaging in any conduct prohibited by K.S.A. 21-5703, and amendments thereto, unlawful manufacturing of controlled substances, or K.S.A. 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. 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. 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) 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. 21-5401, and amendments thereto, capital murder; K.S.A. 21-5402, and amendments thereto, murder in the first degree; K.S.A. 21-5403, and amendments thereto, murder in the second degree; K.S.A. 21-5408, and amendments thereto, kidnapping or aggravated kidnapping; K.S.A. 21-5412, and amendments thereto; K.S.A. 21-5413, and amendments thereto; K.S.A. 21-5414, and amendments thereto, domestic battery; K.S.A. 21-5415, and amendments thereto, criminal threat or aggravated criminal threat; K.S.A. 21-5420, and amendments thereto, robbery or aggravated robbery; K.S.A. 21-5421, and amendments thereto, terrorism; K.S.A. 21-5422, and amendments thereto, illegal use of weapons of mass destruction; K.S.A. 21-5423, and amendments thereto; K.S.A. 21-5426, and amendments thereto, human trafficking or aggravated human trafficking; K.S.A. 21-5428, and amendments thereto, blackmail; K.S.A. 21-5510, and amendments thereto, sexual exploitation of a child; K.S. 21-5601, and amendments thereto, endangering a child or aggravated endangering a child; K.S.A. 21-5602, and amendments thereto, abuse of a child; K.S.A. 21-5603, and amendments thereto, contributing to a child's misconduct or deprivation; K.S.A. 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. 21-5801, and amendments thereto, theft; K.S.A. 21-5803, and amendments thereto, criminal deprivation of property; K.S.A. 21-5805, and amendments thereto; K.S.A. 21-5807, and amendments thereto, burglary or aggravated burglary; K.S.A. 21-5812, and amendments thereto, arson or aggravated arson; K.S.A. 21-5813, and amendments thereto, criminal damage to property; K.S.A. 21-5814, and amendments thereto, criminal use of an explosive; K.S.A. 21-5821, and amendments thereto, giving a worthless check; K.S.A. 21-5823, and amendments thereto, forgery; K.S.A. 21-5824, and amendments thereto, making false information; K.S.A. 21-5825, and amendments thereto, counterfeiting; K.S.A. 21-5826, and amendments thereto, destroying written instrument; K.S.A. 21-5828, and amendments thereto, criminal use of a financial card; K.S.A. 21-5838, and amendments thereto, conducting a pyramid promotional scheme; K.S.A. 21-5839, and amendments thereto; *section 2, and amendments thereto, organized retail crime*; K.S.A. 21-5903, and amendments thereto, perjury; K.S.A. 21-5904, and amendments thereto, interference with law enforcement; K.S.A. 21-5905, and amendments thereto, interference with the judicial process; K.S.A. 21-5909, and amendments thereto, intimidation of a witness or victim or aggravated intimidation of a witness or victim; K.S.A. 21-5912, and amendments thereto, aiding escape; K.S.A. 21-5913, and amendments thereto, obstructing apprehension or prosecution; K.S.A. 21-5918, and amendments thereto; K.S.A. 21-6001, and amendments thereto, bribery; K.S.A. 21-6002, and amendments thereto, official misconduct; K.S.A. 21-6107, and amendments thereto, identity theft or identity fraud; K.S.A. 21-6301, and amendments thereto, criminal use of weapons; K.S.A. 21-6302, and amendments thereto, criminal carrying of a weapon; K.S.A. 21-6303, and amendments thereto, criminal distribution of firearms to a felon; K.S.A. 21-6304, and amendments thereto, criminal possession of a weapon by a convicted felon; K.S.A. 21-6305, and amendments thereto, aggravated weapons violation by a convicted felon; K.S.A. 21-6306, and amendments thereto, defacing identification marks of a firearm; K.S.A. 21-6308, and amendments thereto, criminal discharge of a firearm; K.S.A. 21-6310, and amendments thereto, unlawful endangerment; K.S.A. 21-6312, and amendments thereto; K.S.A. 21-6314, and amendments thereto, recruiting criminal street gang membership; K.S.A. 21-6315, and amendments thereto, criminal street gang intimidation; K.S.A. 21-6401, and amendments thereto, promoting obscenity or promoting obscenity to minors; K.S.A. 21-6404, and amendments thereto, gambling; K.S.A. 21-6405, and amendments thereto, illegal bingo operation; K.S.A. 21-

6406, and amendments thereto, commercial gambling; K.S.A. 21-6407, and amendments thereto, dealing in gambling devices; K.S.A. 21-6408, and amendments thereto; K.S.A. 21-6409, and amendments thereto, installing communication facilities for gamblers; K.S.A. 21-6414(a) or (b), and amendments thereto, unlawful conduct of dog fighting or unlawful possession of dog fighting paraphernalia; K.S.A. 21-6417(a) or (b), and amendments thereto, unlawful conduct of cockfighting or unlawful possession of cockfighting paraphernalia; K.S.A. 21-6419, and amendments thereto, selling sexual relations; K.S.A. 21-6420, and amendments thereto, promoting the sale of sexual relations; K.S.A. 21-6422, and amendments thereto, commercial sexual exploitation of a child; K.S.A. 21-6501, and amendments thereto, extortion; K.S.A. 21-6502, and amendments thereto, debt adjusting; K.S.A. 21-6504, and amendments thereto, equity skimming; K.S.A. 21-6506, and amendments thereto, commercial bribery; K.S.A. 21-6507, and amendments thereto, sports bribery; K.S.A. 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) 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) Person acting as trustee pursuant to a trust in which the trustee holds legal or record title to real property;

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

(C) 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) 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. 21-6404, and amendments thereto, gambling; K.S.A. 21-6405, and amendments thereto, illegal bingo operation; K.S.A. 21-6406, and amendments thereto, commercial gambling; K.S.A. 21-6407, and amendments thereto, dealing in gambling devices; K.S.A. 21-6408, and amendments thereto, unlawful possession of a gambling device; or K.S.A. 21-6409, and amendments thereto, installing communication facilities for gamblers; or

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

Sec. 4. K.S.A. 2023 Supp. 75-702 is hereby amended to read as follows: 75-702. (a) The attorney general shall appear for the state, and prosecute and defend any and all actions and proceedings, civil or criminal, in the Kansas supreme court, the Kansas court of appeals and

in all federal courts, in which the state shall be interested or a party, and shall, when so appearing, control the state's prosecution or defense.

(b) The attorney general shall also, when required by the governor or either branch of the legislature, appear for the state and prosecute or defend, in any other court or before any officer, in any cause or matter, civil or criminal, in which this state may be a party or interested or when the constitutionality of any law of this state is at issue and when so directed shall seek final resolution of such issue in the supreme court of the state of Kansas.

(c) (1) The attorney general shall have authority to prosecute any matter related to a violation of K.S.A. 12-189 or 75-5133, and amendments thereto, related to unlawful acts when the offender is an officer or employee of a city or county.

(2) Notwithstanding any provision of law to the contrary, the attorney general shall have concurrent authority with any county or district attorney to prosecute ~~theft as defined in K.S.A. 21-5801, and amendments thereto, a violation of the Kansas racketeer influenced and corrupt organizations act, K.S.A. 21-6327 et seq., and amendments thereto, or an~~ *the following crimes when they are part of an alleged course of criminal conduct that occurred in two or more counties:*

(A) Organized retail crime as defined in section 2, and amendments thereto, and any other crime that is part of such alleged course of criminal conduct;

(B) theft as defined in K.S.A. 21-5801, and amendments thereto;

(C) violations of the Kansas racketeer influenced and corrupt organizations act, K.S.A. 21-6327 et seq., and amendments thereto; and

(D) any attempt, conspiracy or criminal solicitation as defined in K.S.A. 21-5301, 21-5302 or 21-5303, and amendments thereto, of ~~such crimes that is part of an alleged course of criminal conduct that occurred in two or more counties~~ the crimes described in subsection (c) (2)(A), (c)(2)(B) or (c)(2)(C).

Sec. 5. K.S.A. 21-6328 and K.S.A. 2023 Supp. 75-702 are hereby repealed.

Sec. 6. 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 HOUSE, and was adopted by that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.