

SENATE BILL No. 404

By Committee on Judiciary

2-14

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to the Kansas racketeer influenced and corrupt organization act;
3 amending K.S.A. 2013 Supp. 21-6329 and repealing the existing
4 section.
5

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

7 Section 1. K.S.A. 2013 Supp. 21-6329 is hereby amended to read as
8 follows: 21-6329. (a) *Except as provided in subsection (b)*, it is unlawful
9 for any covered person:

10 (1) Who has ~~with criminal intent~~ received any proceeds derived,
11 directly or indirectly, from a pattern of racketeering activity or through the
12 collection of an unlawful debt to use or invest, whether directly or
13 indirectly, any part of such proceeds, or the proceeds derived from the
14 investment or use thereof, in the acquisition of any title to, or any right,
15 interest, or equity in, real property or in the establishment or operation of
16 any enterprise;

17 (2) through a pattern of racketeering activity or through the collection
18 of an unlawful debt, to acquire or maintain, directly or indirectly, any
19 interest in or control of any enterprise or real property; or

20 (3) employed by, or associated with, any enterprise to conduct or
21 participate, directly or indirectly, in such enterprise through a pattern of
22 racketeering activity or the collection of an unlawful debt.

23 *(b) It is not unlawful for a covered person to violate subsection (a)*
24 *through the collection of an unlawful debt if such person was not a*
25 *participant in a violation described in subsection (i) of K.S.A. 2013 Supp.*
26 *21-6328, and amendments thereto, which created such unlawful debt.*

27 *(c) The culpable mental state required for a violation of subsection*
28 *(a) is the culpable mental state required for the underlying offense of*
29 *racketeering activity or unlawful debt, as defined in K.S.A. 2013 Supp. 21-*
30 *6328, and amendments thereto, and no additional culpable mental state is*
31 *required for a violation of subsection (a).*

32 ~~(b)~~ (d) Violation of this section or conspiracy to commit a violation of
33 this section is a severity level 2, person felony.

34 ~~(e)~~ (e) The provisions of subsection (d) of K.S.A. 2013 Supp. 21-
35 5302, and amendments thereto, shall not apply to conspiracy to commit a
36 violation of this section.

1 ~~(d)~~ (f) (1) Notwithstanding the provisions of K.S.A. 2013 Supp. 21-
2 6611, and amendments thereto, any person convicted of engaging in
3 conduct in violation of this section, through which the person derived
4 pecuniary value, or by which the person caused personal injury or property
5 damage or other loss, may be sentenced to pay a fine that does not exceed
6 three times the gross value gained or three times the gross loss caused,
7 whichever is the greater, plus court costs and the costs of investigation and
8 prosecution, reasonably incurred.

9 (2) The court shall hold a hearing to determine the amount of the fine
10 authorized by this subsection.

11 (3) For the purposes of this subsection, "pecuniary value" means:

12 (A) Anything of value in the form of money, a negotiable instrument,
13 or a commercial interest or anything else the primary significance of which
14 is economic advantage; and

15 (B) any other property or service that has a value in excess of \$100.

16 ~~(e)~~ (g) For persons arrested and charged under this section, bail shall
17 be at least \$50,000 cash or surety, unless the court determines on the
18 record that the defendant is not likely to re-offend, an appropriate intensive
19 pretrial supervision program is available and the defendant agrees to
20 comply with the mandate of such pretrial supervision. Notwithstanding
21 any other provision of law, any person arrested and charged under this
22 section shall not be released upon the person's own recognizance pursuant
23 to K.S.A. 22-2802, and amendments thereto.

24 Sec. 2. K.S.A. 2013 Supp. 21-6329 is hereby repealed.

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