

As Amended by House Committee

Session of 2013

HOUSE BILL No. 2081

By Committee on Corrections and Juvenile Justice

1-24

1 AN ACT concerning civil procedure; relating to the forfeiture of
2 instrumentalities of a crime; amending K.S.A. 2012 Supp. 60-4104 and
3 60-4105 and repealing the existing sections.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2012 Supp. 60-4104 is hereby amended to read as
7 follows: 60-4104. Conduct and offenses giving rise to forfeiture under this
8 act, whether or not there is a prosecution or conviction related to the
9 offense, are:

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

11 (b) violations involving controlled substances, as described in K.S.A.
12 2012 Supp. 21-5701 through 21-5717, and amendments thereto;

13 (c) theft, as defined in K.S.A. 2012 Supp. 21-5801, and amendments
14 thereto;

15 (d) criminal discharge of a firearm, as defined in subsections (a)(1)
16 and (a)(2) of K.S.A. 2012 Supp. 21-6308, and amendments thereto;

17 (e) gambling, as defined in K.S.A. 2012 Supp. 21-6404, and
18 amendments thereto, and commercial gambling, as defined in subsection
19 (a)(1) of K.S.A. 2012 Supp. 21-6406, and amendments thereto;

20 (f) counterfeiting, as defined in K.S.A. 2012 Supp. 21-5825, and
21 amendments thereto;

22 (g) unlawful possession *or use* of a scanning device or reencoder, as
23 described in K.S.A. 2012 Supp. 21-6108, and amendments thereto;

24 (h) medicaid fraud, as described in K.S.A. 2012 Supp. 21-5925
25 through 21-5934, and amendments thereto;

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

29 (j) an act or omission committed in furtherance of any act or omission
30 described in this section including any inchoate or preparatory offense,
31 whether or not there is a prosecution or conviction related to the act or
32 omission;

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

36 (l) furtherance of terrorism or illegal use of weapons of mass

1 destruction, as described in K.S.A. 2012 Supp. 21-5423, and amendments
2 thereto;

3 (m) unlawful conduct of dog fighting and unlawful possession of dog
4 fighting paraphernalia, as defined in subsections (a) and (b) of K.S.A.
5 2012 Supp. 21-6414, and amendments thereto;

6 (n) unlawful conduct of cockfighting and unlawful possession of
7 cockfighting paraphernalia, as defined in subsections (a) and (b) of K.S.A.
8 2012 Supp. 21-6417, and amendments thereto;

9 (o) prostitution, as defined in K.S.A. 2012 Supp. 21-6419, and
10 amendments thereto, promoting prostitution, as defined in K.S.A. 2012
11 Supp. 21-6420, and amendments thereto, and patronizing a prostitute, as
12 defined in K.S.A. 2012 Supp. 21-6421, and amendments thereto;

13 (p) human trafficking and aggravated human trafficking, as defined in
14 K.S.A. 2012 Supp. 21-5426, and amendments thereto;

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

17 (r) mistreatment of a dependent adult, as defined in K.S.A. 2012
18 Supp. 21-5417, and amendments thereto;

19 (s) giving a worthless check, as defined in K.S.A. 2012 Supp. 21-
20 5821, and amendments thereto;

21 (t) forgery, as defined in K.S.A. 2012 Supp. 21-5823, and
22 amendments thereto;

23 (u) making false information, as defined in K.S.A. 2012 Supp. 21-
24 5824, and amendments thereto;

25 (v) criminal use of a financial card, as defined in K.S.A. 2012 Supp.
26 21-5828, and amendments thereto;

27 (w) unlawful acts concerning computers, as described in K.S.A. 2012
28 Supp. 21-5839, and amendments thereto;

29 (x) identity theft and identity fraud, as defined in subsections (a) and
30 (b) of K.S.A. 2012 Supp. 21-6107, and amendments thereto;

31 (y) electronic solicitation, as defined in K.S.A. 2012 Supp. 21-5509,
32 and amendments thereto; ~~and~~

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

35 (aa) *indecent solicitation of a child and aggravated solicitation of a*
36 *child, as defined in K.S.A. 2012 Supp. 21-5508, and amendments thereto;*
37 *and*

38 (bb) *sexual exploitation of a child, as defined in K.S.A. 2012 Supp.*
39 *21-5510, and amendments thereto.*

40 Sec. 2. K.S.A. 2012 Supp. 60-4105 is hereby amended to read as
41 follows: 60-4105. The following property is subject to forfeiture:

42 (a) Property described in a statute authorizing forfeiture;

43 (b) except as otherwise provided by law, all property, of every kind,

1 including, but not limited to, cash and negotiable instruments and the
2 whole of any lot or tract of land and any appurtenances or improvements
3 to real property that is either:

4 (1) Furnished or intended to be furnished by any person in an
5 exchange that constitutes conduct giving rise to forfeiture; or

6 (2) used or intended to be used in any manner to facilitate conduct
7 giving rise to forfeiture, including, but not limited to, any *electronic*
8 *device*, computer, computer system, computer network or any software or
9 data owned by the defendant which is used during the commission of a
10 violation of ~~K.S.A. 2012 Supp. 21-6108~~ *an offense listed in K.S.A. 60-*
11 *4104*, and amendments thereto;

12 (c) all proceeds of any conduct giving rise to forfeiture;

13 (d) all property of every kind, including, but not limited to, cash and
14 negotiable instruments derived from or realized through any proceeds
15 which were obtained directly or indirectly from the commission of an
16 offense listed in K.S.A. 60-4104, and amendments thereto;

17 (e) all weapons possessed, used, or available for use in any manner to
18 facilitate conduct giving rise to forfeiture;

19 (f) ownership or interest in real property that is a homestead, to the
20 extent the homestead was acquired with proceeds from conduct giving rise
21 to forfeiture;

22 (g) contraband, which shall be seized and summarily forfeited to the
23 state without regard to the procedures set forth in this act;

24 (h) all controlled substances, raw materials, controlled substance
25 analogs, counterfeit substances, or imitation controlled substances that
26 have been manufactured, distributed, dispensed, possessed, or acquired in
27 violation of the laws of this state; and

28 (i) any items bearing a counterfeit mark.

29 Sec. 3. K.S.A. 2012 Supp. 60-4104 and 60-4105 are hereby repealed.

30 Sec. 4. This act shall take effect and be in force from and after its
31 publication in the statute book.