

As Amended by House Committee

Session of 2014

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
35 property, or engage in transactions involving property, with the intent to
36 commit or further the commission of any violation of K.S.A. 2013 Supp.

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

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

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

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

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

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

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

36 (3) *the concealment of, or the escape from, any violation of K.S.A.*
37 *2013 Supp. 21-5421 or 21-5422, and amendments thereto.*

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

39 (f)(g) As used in this section:

40 (1) "Property" means anything of value, and includes any interest in
41 property, including any benefit, privilege, claim or right with respect to
42 anything of value, whether real or personal, tangible or intangible; ~~and~~

43 (2) "transaction" includes a purchase, sale, trade, loan, pledge,

1 investment, gift, transfer, transmission, delivery, deposit, withdrawal,
2 payment, transfer between accounts, exchange of currency, extension of
3 credit, purchase, or sale of any monetary instrument, use of a safe deposit
4 box, or any other acquisition or disposition of property whatever means
5 effected; and

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

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

11 (B) *warning a person who is known or believed by the offender to*
12 *have committed any violations of K.S.A. 2013 Supp. 21-5421 or 21-5422,*
13 *and amendments thereto, of impending discovery or apprehension; and*

14 (C) *suppressing any physical evidence which might aid in the*
15 *discovery or apprehension of a person who is known or believed by the*
16 *offender to have committed any violation of K.S.A. 2013 Supp. 21-5421 or*
17 *21-5422, and amendments thereto.*

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

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

23 (b) violations involving controlled substances, as described in K.S.A.
24 2013 Supp. 21-5701 through 21-5717, and amendments thereto;

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

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

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

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

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

36 (h) medicaid fraud, as described in K.S.A. 2013 Supp. 21-5925
37 through 21-5934, and amendments thereto;

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

41 (j) an act or omission committed in furtherance of any act or omission
42 described in this section including any inchoate or preparatory offense,
43 whether or not there is a prosecution or conviction related to the act or

1 omission;

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

5 (l) *terrorism, as defined in K.S.A. 2013 Supp. 21-5421, and*
6 *amendments thereto, illegal use of weapons of mass destruction, as*
7 *defined in K.S.A. 2013 Supp. 21-5422, and amendments thereto, and*
8 *furtherance of terrorism or illegal use of weapons of mass destruction, as*
9 *described in K.S.A. 2013 Supp. 21-5423, and amendments thereto;*

10 (m) unlawful conduct of dog fighting and unlawful possession of dog
11 fighting paraphernalia, as defined in subsections (a) and (b) of K.S.A.
12 2013 Supp. 21-6414, and amendments thereto;

13 (n) unlawful conduct of cockfighting and unlawful possession of
14 cockfighting paraphernalia, as defined in subsections (a) and (b) of K.S.A.
15 2013 Supp. 21-6417, and amendments thereto;

16 (o) selling sexual relations, as defined in K.S.A. 2013 Supp. 21-6419,
17 and amendments thereto, promoting the sale of sexual relations, as defined
18 in K.S.A. 2013 Supp. 21-6420, and amendments thereto, and buying
19 sexual relations, as defined in K.S.A. 2013 Supp. 21-6421, and
20 amendments thereto;

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

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

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

27 (s) giving a worthless check, as defined in K.S.A. 2013 Supp. 21-
28 5821, and amendments thereto;

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

31 (u) making false information, as defined in K.S.A. 2013 Supp. 21-
32 5824, and amendments thereto;

33 (v) criminal use of a financial card, as defined in K.S.A. 2013 Supp.
34 21-5828, and amendments thereto;

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

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

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

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

43 (aa) commercial sexual exploitation of a child, as defined in K.S.A.

1 2013 Supp. 21-6422, and amendments thereto; ~~and~~

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

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

8 *(dd) sexual exploitation of a child, as defined in K.S.A. 2013 Supp.*
9 *21-5510, and amendments thereto.*

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

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