

HOUSE BILL No. 2463

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

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

New Section 1. (a) A person injured as a result of the conduct of another that would constitute conduct prohibited by K.S.A. 2013 Supp. 21-5421 or 21-5423, and amendments thereto, may bring an action in an appropriate state court against the person or persons who engaged in such conduct.

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

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

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

(2) the conclusion of a related criminal case.

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

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

Sec. 2. K.S.A. 2013 Supp. 21-5423 is hereby amended to read as follows: 21-5423. (a) It is unlawful for any person to receive or acquire property, or engage in transactions involving property, with the intent to commit or further the commission of any violation of K.S.A. 2013 Supp. 21-5421 or 21-5422, and amendments thereto. The provisions of this subsection do not apply to any transaction between an individual and that individual's counsel necessary to preserve that individual's right to representation, as guaranteed by section 10 of the bill of rights of the constitution of the state of Kansas and by the sixth amendment to the United States constitution. This exception does not create any presumption against or prohibition of the right of the state to seek and obtain forfeiture of any proceeds derived from a violation of K.S.A. 2013 Supp. 21-5421 or 21-5422, and amendments thereto.

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

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

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

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

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

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

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

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

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

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

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

(3) “*hindering of the prosecution of terrorism*” shall include, but is not limited to, the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(n) unlawful conduct of cockfighting and unlawful possession of cock-

fighting paraphernalia, as defined in subsections (a) and (b) of K.S.A. 2013 Supp. 21-6417, and amendments thereto;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 5. 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 passed that body

HOUSE concurred in
SENATE amendments _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.