

{As Amended by House Committee of the Whole}

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As Amended by House Committee

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{As Amended by Senate Committee of the Whole}

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Session of 2013

## SENATE BILL No. 16

By Committee on Judiciary

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1 AN ACT concerning racketeering; enacting the Kansas racketeer  
2 influenced and corrupt organization act; relating to criminal street  
3 gangs; forfeiture; amending K.S.A. 2012 Supp. 21-5302, 21-6313 and  
4 60-4104 and repealing the existing sections.

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

7 New Section 1. Sections 1 through 5, and amendments thereto, shall  
8 be known and may be cited as the Kansas racketeer influenced and corrupt  
9 organization act (Kansas RICO act).

10 New Sec. 2. As used in the Kansas racketeer influenced and corrupt  
11 organization act:

12 (a) "Beneficial interest" means:

13 (1) The interest of a person as a beneficiary under any trust  
14 arrangement pursuant to which a trustee holds legal or record title to real  
15 property for the benefit of such person; or

16 (2) the interest of a person under any other form of express fiduciary  
17 arrangement pursuant to which any other person holds legal or record title  
18 to real property for the benefit of such person.

19 The term "beneficial interest" does not include the interest of a stock  
20 holder in a corporation or the interest of a partner in either a general  
21 partnership or a limited partnership. A beneficial interest shall be deemed  
22 to be located where the real property owned by the trustee is located.

23 (b) "Covered person" means any person who:

24 (1) Is a criminal street gang member or criminal street gang associate,  
25 as defined in K.S.A. 2012 Supp. 21-6313, and amendments thereto;

26 (2) has engaged in or is engaging in any conduct prohibited by K.S.A.  
27 2012 Supp. 21-5426, and amendments thereto, human trafficking or  
28 aggravated human trafficking; **{or}**

29 (3) has engaged in or is engaging in any conduct prohibited by K.S.A.  
30 2012 Supp. 21-5703, and amendments thereto, unlawful manufacturing of  
31 controlled substances, or K.S.A. 2012 Supp. 21-5705, and amendments  
32 thereto, unlawful cultivation or distribution of controlled substances.

1 (c) "Documentary material" means any book, paper, document,  
2 writing, drawing, graph, chart, photograph, phonorecord, magnetic tape,  
3 computer printout, other data compilation from which information can be  
4 obtained or from which information can be translated into usable form, or  
5 other tangible item.

6 (d) "Enterprise" means any individual, sole proprietorship,  
7 partnership, corporation, business trust, union chartered under the laws of  
8 this state, or other legal entity, or any unchartered union, association, or  
9 group of individuals associated in fact although not a legal entity; and it  
10 includes illicit as well as licit enterprises and governmental, as well as  
11 other, entities. A criminal street gang, as defined in K.S.A. 2012 Supp. 21-  
12 6313, and amendments thereto, constitutes an enterprise.

13 (e) "Pattern of racketeering activity" means engaging in at least two  
14 incidents of racketeering activity that have the same or similar intents,  
15 results, accomplices, victims or methods of commission or that otherwise  
16 are interrelated by distinguishing characteristics and are not isolated  
17 incidents, provided at least one of such incidents occurred after the  
18 effective date of this act and that the last of such incidents occurred within  
19 5 years, excluding any period of imprisonment, after a prior incident of  
20 racketeering activity.

21 (f) "Racketeering activity" means to commit, attempt to commit,  
22 conspire to commit or to solicit, coerce or intimidate another person to  
23 commit:

24 (1) Any *{felony or misdemeanor}* violation of: the felony provisions  
25 of K.S.A. 8-1568, and amendments thereto, fleeing or attempting to elude  
26 a police officer; K.S.A. 9-508 et seq., and amendments thereto, Kansas  
27 money transmitter act; article 12a of chapter 17 of the Kansas Statutes  
28 Annotated, and amendments thereto, Kansas uniform securities act; K.S.A.  
29 2012 Supp. 21-5401, and amendments thereto, capital murder; K.S.A.  
30 2012 Supp. 21-5402, and amendments thereto, murder in the first degree;  
31 K.S.A. 2012 Supp. 21-5403, and amendments thereto, murder in the  
32 second degree; K.S.A. 2012 Supp. 21-5408, and amendments thereto,  
33 kidnapping or aggravated kidnapping; K.S.A. 2012 Supp. 21-5412, and  
34 amendments thereto; K.S.A. 2012 Supp. 21-5413, and amendments  
35 thereto; K.S.A. 2012 Supp. 21-5414, and amendments thereto, domestic  
36 battery; K.S.A. 2012 Supp. 21-5415, and amendments thereto, criminal  
37 threat or aggravated criminal threat; K.S.A. 2012 Supp. 21-5420, and  
38 amendments thereto, robbery or aggravated robbery; K.S.A. 2012 Supp.  
39 21-5421, and amendments thereto, terrorism; K.S.A. 2012 Supp. 21-5422,  
40 and amendments thereto, illegal use of weapons of mass destruction;  
41 K.S.A. 2012 Supp. 21-5423, and amendments thereto; K.S.A. 2012 Supp.  
42 21-5426, and amendments thereto, human trafficking or aggravated human  
43 trafficking; K.S.A. 2012 Supp. 21-5428, and amendments thereto,

1 blackmail; K.S.A. 2012 Supp. 21-5510, and amendments thereto, sexual  
2 exploitation of a child; K.S.A. 2012 Supp. 21-5601, and amendments  
3 thereto, endangering a child or aggravated endangering a child; K.S.A.  
4 2012 Supp. 21-5602, and amendments thereto, abuse of a child; K.S.A.  
5 2012 Supp. 21-5603, and amendments thereto, contributing to a child's  
6 misconduct or deprivation; subsection (b) of K.S.A. 2012 Supp. 21-5607,  
7 and amendments thereto, furnishing alcoholic beverages to a minor for  
8 illicit purposes; article 57 of chapter 21 of the Kansas Statutes Annotated,  
9 and amendments thereto, crimes involving controlled substances; K.S.A.  
10 2012 Supp. 21-5801, and amendments thereto, theft; K.S.A. 2012 Supp.  
11 21-5803, and amendments thereto, criminal deprivation of property;  
12 K.S.A. 2012 Supp. 21-5805, and amendments thereto; K.S.A. 2012 Supp.  
13 21-5807, and amendments thereto, burglary or aggravated burglary;  
14 K.S.A. 2012 Supp. 21-5812, and amendments thereto, arson or aggravated  
15 arson; K.S.A. 2012 Supp. 21-5813, and amendments thereto, criminal  
16 damage to property; K.S.A. 2012 Supp. 21-5814, and amendments thereto,  
17 criminal use of an explosive; K.S.A. 2012 Supp. 21-5818, and  
18 amendments thereto, tampering with a pipeline; K.S.A. 2012 Supp. 21-  
19 5821, and amendments thereto, giving a worthless check; K.S.A. 2012  
20 Supp. 21-5823, and amendments thereto, forgery; K.S.A. 2012 Supp. 21-  
21 5824, and amendments thereto, making false information; K.S.A. 2012  
22 Supp. 21-5825, and amendments thereto, counterfeiting; K.S.A. 2012  
23 Supp. 21-5826, and amendments thereto, destroying written instrument;  
24 K.S.A. 2012 Supp. 21-5828, and amendments thereto, criminal use of a  
25 financial card; K.S.A. 2012 Supp. 21-5838, and amendments thereto,  
26 conducting a pyramid promotional scheme; K.S.A. 2012 Supp. 21-5839,  
27 and amendments thereto; K.S.A. 2012 Supp. 21-5903, and amendments  
28 thereto, perjury; K.S.A. 2012 Supp. 21-5904, and amendments thereto,  
29 interference with law enforcement; K.S.A. 2012 Supp. 21-5905, and  
30 amendments thereto, interference with the judicial process; K.S.A. 2012  
31 Supp. 21-5909, and amendments thereto, intimidation of a witness or  
32 victim or aggravated intimidation of a witness or victim; K.S.A. 2012  
33 Supp. 21-5912, and amendments thereto, aiding escape; K.S.A. 2012  
34 Supp. 21-5913, and amendments thereto, obstructing apprehension or  
35 prosecution; K.S.A. 2012 Supp. 21-5918, and amendments thereto; K.S.A.  
36 2012 Supp. 21-6001, and amendments thereto, bribery; K.S.A. 2012 Supp.  
37 21-6002, and amendments thereto, official misconduct; K.S.A. 2012 Supp.  
38 21-6301, and amendments thereto, criminal use of weapons; K.S.A. 2012  
39 Supp. 21-6302, and amendments thereto, criminal carrying of a weapon;  
40 K.S.A. 2012 Supp. 21-6303, and amendments thereto, criminal  
41 distribution of firearms to a felon; K.S.A. 2012 Supp. 21-6304, and  
42 amendments thereto, criminal possession of a firearm by a convicted felon;  
43 K.S.A. 2012 Supp. 21-6305, and amendments thereto, aggravated weapons

1 violation by a convicted felon; K.S.A. 2012 Supp. 21-6306, and  
2 amendments thereto, defacing identification marks of a firearm; K.S.A.  
3 2012 Supp. 21-6308, and amendments thereto, criminal discharge of a  
4 firearm; K.S.A. 2012 Supp. 21-6310, and amendments thereto, unlawful  
5 endangerment; K.S.A. 2012 Supp. 21-6312, and amendments thereto;  
6 K.S.A. 2012 Supp. 21-6313 through 21-6316, and amendments thereto;  
7 K.S.A. 2012 Supp. 21-6401, and amendments thereto; K.S.A. 2012 Supp.  
8 21-6404, and amendments thereto, gambling; K.S.A. 2012 Supp. 21-6405,  
9 and amendments thereto, illegal bingo operation; K.S.A. 2012 Supp. 21-  
10 6406, and amendments thereto, commercial gambling; K.S.A. 2012 Supp.  
11 21-6407, and amendments thereto, dealing in gambling devices; K.S.A.  
12 2012 Supp. 21-6408, and amendments thereto; K.S.A. 2012 Supp. 21-  
13 6409, and amendments thereto, installing communication facilities for  
14 gamblers; subsections (a) or (b) of K.S.A. 2012 Supp. 21-6414, and  
15 amendments thereto, unlawful conduct of dog fighting or unlawful  
16 possession of dog fighting paraphernalia; subsections (a) or (b) of K.S.A.  
17 2012 Supp. 21-6417, and amendments thereto, unlawful conduct of  
18 cockfighting or unlawful possession of cockfighting paraphernalia; K.S.A.  
19 2012 Supp. 21-6419, and amendments thereto, prostitution; K.S.A. 2012  
20 Supp. 21-6420, and amendments thereto, promoting prostitution; K.S.A.  
21 2012 Supp. 21-6501, and amendments thereto, extortion; K.S.A. 2012  
22 Supp. 21-6502, and amendments thereto, debt adjusting; K.S.A. 2012  
23 Supp. 21-6504, and amendments thereto, equity skimming; K.S.A. 2012  
24 Supp. 21-6506, and amendments thereto, commercial bribery; K.S.A. 2012  
25 Supp. 21-6507, and amendments thereto, sports bribery; K.S.A. 2012  
26 Supp. 21-6508, and amendments thereto, tampering with a sports contest;  
27 K.S.A. 39-720, and amendments thereto, social welfare service fraud;  
28 K.S.A. 40-2,118, and amendments thereto, fraudulent insurance acts;  
29 K.S.A. 41-101 et seq., and amendments thereto, Kansas liquor control act;  
30 K.S.A. 44-5,125, and amendments thereto, workers' compensation act;  
31 K.S.A. 65-1657, and amendments thereto, nonresident pharmacy  
32 registration; K.S.A. 65-3441, and amendments thereto, hazardous waste;  
33 K.S.A. 65-4167, and amendments thereto, trafficking in counterfeit drugs;  
34 article 88 of chapter 74 of the Kansas Statutes Annotated, and amendments  
35 thereto, Kansas parimutuel racing act; or K.S.A. 79-3321, and  
36 amendments thereto, Kansas cigarette and tobacco products act; or

37 (2) any conduct defined as "racketeering activity" under 18 U.S.C. §  
38 1961(1).

39 (g) "Real property" means any real property or any interest in such  
40 real property, including, but not limited to, any lease of or mortgage upon  
41 such real property.

42 (h) "Trustee" means:

43 (1) Any person acting as trustee pursuant to a trust in which the

1 trustee holds legal or record title to real property;

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

4 (3) any successor trustee or trustees to any or all of the foregoing  
5 persons.

6 The term "trustee" does not include any person appointed or acting as a  
7 personal representative as defined in K.S.A. 59-102, and amendments  
8 thereto, or appointed or acting as a trustee of any testamentary trust or as a  
9 trustee of any indenture of trust under which any bonds have been or are to  
10 be issued.

11 (i) "Unlawful debt" means any money or other thing of value  
12 constituting principal or interest of a debt that is legally unenforceable in  
13 this state in whole or in part because the debt was incurred or contracted:

14 (1) In violation of any of the following provisions of law: article 88  
15 of chapter 74 of the Kansas Statutes Annotated, and amendments thereto,  
16 Kansas parimutuel racing act; K.S.A. 2012 Supp. 21-6404, and  
17 amendments thereto, gambling; K.S.A. 2012 Supp. 21-6405, and  
18 amendments thereto, illegal bingo operation; K.S.A. 2012 Supp. 21-6406,  
19 and amendments thereto, commercial gambling; K.S.A. 2012 Supp. 21-  
20 6407, and amendments thereto, dealing in gambling devices; K.S.A. 2012  
21 Supp. 21-6408, and amendments thereto; or K.S.A. 2012 Supp. 21-6409,  
22 and amendments thereto, installing communication facilities for gamblers;  
23 or

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

26 New Sec. 3. (a) It is unlawful for any covered person:

27 (1) Who has with criminal intent received any proceeds derived,  
28 directly or indirectly, from a pattern of racketeering activity or through the  
29 collection of an unlawful debt to use or invest, whether directly or  
30 indirectly, any part of such proceeds, or the proceeds derived from the  
31 investment or use thereof, in the acquisition of any title to, or any right,  
32 interest, or equity in, real property or in the establishment or operation of  
33 any enterprise;

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

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

40 (b) Violation of this section or conspiracy to commit a violation of  
41 this section is a severity level 2, person felony.

42 (c) The provisions of subsection (d) of K.S.A. 2012 Supp. 21-5302,  
43 and amendments thereto, shall not apply to conspiracy to commit a

1 violation of this section.

2 (d) (1) Notwithstanding the provisions of K.S.A. 2012 Supp. 21-  
3 6611, and amendments thereto, any person convicted of engaging in  
4 conduct in violation of this section, through which the person derived  
5 pecuniary value, or by which the person caused personal injury or property  
6 damage or other loss, may be sentenced to pay a fine that does not exceed  
7 three times the gross value gained or three times the gross loss caused,  
8 whichever is the greater, plus court costs and the costs of investigation and  
9 prosecution, reasonably incurred.

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

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

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

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

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

25 New Sec. 4. (a) Any district court may, after making due provision  
26 for the rights of innocent persons, enjoin violations of the provisions of  
27 section 3, and amendments thereto, by issuing appropriate orders and  
28 judgments, including, but not limited to:

29 (1) Ordering any defendant to divest such defendant of any interest in  
30 any enterprise, including real property.

31 (2) Imposing reasonable restrictions upon the future activities or  
32 investments of any defendant, including, but not limited to, prohibiting any  
33 defendant from engaging in the same type of endeavor as the enterprise in  
34 which the defendant was engaged in violation of the provisions of section  
35 3, and amendments thereto.

36 (3) Ordering the dissolution or reorganization of any enterprise.

37 (4) Ordering the suspension or revocation of a license, permit, or  
38 prior approval granted to any enterprise by any agency of the state.

39 (5) Ordering the forfeiture of the charter of a corporation organized  
40 under the laws of the state, or the revocation of a certificate authorizing a  
41 foreign corporation to conduct business within the state, upon finding that  
42 the board of directors or a managerial agent acting on behalf of the  
43 corporation, in conducting the affairs of the corporation, has authorized or

1 engaged in conduct in violation of section 3, and amendments thereto, and  
2 that, for the prevention of future criminal activity, the public interest  
3 requires the charter of the corporation forfeited and the corporation  
4 dissolved or the certificate revoked.

5 (b) All property, real or personal, including money, used in the course  
6 of, intended for use in the course of, derived from, or realized through  
7 conduct in violation of a provision of the Kansas racketeer influenced and  
8 corrupt organization act is subject to civil forfeiture pursuant to the Kansas  
9 standard asset seizure and forfeiture act, K.S.A. 60-4101 et seq., and  
10 amendments thereto.

11 New Sec. 5. (a) For the purposes of this section, "attorney" means the  
12 attorney general, assistant attorney general, county attorney or district  
13 attorney, or in the absence of the county or district attorney, a designated  
14 assistant county or district attorney. If an assistant county or district  
15 attorney is designated by the county or district attorney for the purposes of  
16 this section, such designation shall be filed with the chief judge of such  
17 judicial district.

18 (b) If an attorney is informed or has knowledge that a person or other  
19 enterprise has engaged in, or is engaging in, activity in violation of the  
20 Kansas racketeer influenced and corrupt organization act, such attorney  
21 shall be authorized to administer oaths or affirmations, subpoena witnesses  
22 or material, and collect evidence relating to such activity.

23 (c) An attorney may apply ex parte to the district court of the district  
24 in which a subpoenaed person or entity resides, is found or transacts  
25 business, for an order directing that the subpoenaed person or entity not  
26 disclose the existence of the subpoena to any other person or entity except  
27 the subpoenaed person's attorney for a period of 90 days, which time may  
28 be extended by the court for good cause shown by the attorney. The order  
29 shall be served with the subpoena, and the subpoena shall include a  
30 reference to the order and a notice to the recipient of the subpoena that  
31 disclosure of the existence of the subpoena to any other person or entity in  
32 violation of the order may subject the subpoenaed person or entity to  
33 punishment for contempt of court. Such an order may be granted by the  
34 court only upon a showing:

35 (1) Of sufficient factual grounds to reasonably indicate a violation of  
36 the Kansas racketeer influenced and corrupt organization act;

37 (2) that the documents or testimony sought appear reasonably  
38 calculated to lead to the discovery of admissible evidence; and

39 (3) of facts which reasonably indicate that disclosure of the subpoena  
40 would hamper or impede the investigation or would result in a flight from  
41 prosecution.

42 (d) If information or evidence that the attorney seeks to obtain by the  
43 subpoena is located outside the state, the person or enterprise subpoenaed

1 may make such information or evidence available to the attorney or such  
2 attorney's representative for examination at the place where such  
3 information or evidence is located. The attorney may designate  
4 representatives, including officials of the jurisdiction in which the  
5 information or evidence is located, to inspect the information or evidence  
6 on such attorney's behalf and may respond to similar requests from  
7 officials of other jurisdictions.

8 (e) Upon failure of a person or enterprise, without lawful excuse, to  
9 obey a subpoena issued under this section or a subpoena issued in the  
10 course of a civil proceeding instituted pursuant to section 4, and  
11 amendments thereto, and after reasonable notice to such person or  
12 enterprise, the attorney may apply to the district court in which such civil  
13 proceeding is pending or, if no civil proceeding is pending, to the district  
14 court of the judicial district in which such person or enterprise resides, is  
15 found or transacts business for an order compelling compliance. Except in  
16 a prosecution for perjury, an individual who complies with a court order to  
17 provide testimony or material after asserting a privilege against self-  
18 incrimination to which such individual is entitled by law shall not have the  
19 testimony or material so provided, or evidence derived therefrom, received  
20 against such individual in any criminal investigation or proceeding.

21 (f) A person who fails to obey a court order entered pursuant to this  
22 section may be adjudged in contempt of court and punished by fine and  
23 imprisonment.

24 Sec. 6. K.S.A. 2012 Supp. 21-5302 is hereby amended to read as  
25 follows: 21-5302. (a) A conspiracy is an agreement with another person to  
26 commit a crime or to assist in committing a crime. No person may be  
27 convicted of a conspiracy unless an overt act in furtherance of such  
28 conspiracy is alleged and proved to have been committed by such person  
29 or by a co-conspirator.

30 (b) It is immaterial to the criminal liability of a person charged with  
31 conspiracy that any other person with whom the defendant conspired  
32 lacked the actual intent to commit the underlying crime provided that the  
33 defendant believed the other person did have the actual intent to commit  
34 the underlying crime.

35 (c) It shall be a defense to a charge of conspiracy that the accused  
36 voluntarily and in good faith withdrew from the conspiracy, and  
37 communicated the fact of such withdrawal to one or more of the accused  
38 person's co-conspirators, before any overt act in furtherance of the  
39 conspiracy was committed by the accused or by a co-conspirator.

40 (d) (1) Conspiracy to commit an off-grid felony shall be ranked at  
41 nondrug severity level 2. Conspiracy to commit any other nondrug felony  
42 shall be ranked on the nondrug scale at two severity levels below the  
43 appropriate level for the underlying or completed crime. The lowest



1 severity level for conspiracy to commit a nondrug felony shall be a  
2 severity level 10.

3 (2) The provisions of this subsection shall not apply to a violation of  
4 conspiracy to commit the crime of:

5 (A) Aggravated human trafficking, as defined in subsection (b) of  
6 K.S.A. 2012 Supp. 21-5426, and amendments thereto, if the offender is 18  
7 years of age or older and the victim is less than 14 years of age;

8 (B) terrorism, as defined in K.S.A. 2012 Supp. 21-5421, and  
9 amendments thereto;

10 (C) illegal use of weapons of mass destruction, as defined in K.S.A.  
11 2012 Supp. 21-5422, and amendments thereto;

12 (D) rape, as defined in subsection (a)(3) of K.S.A. 2012 Supp. 21-  
13 5503, and amendments thereto, if the offender is 18 years of age or older;

14 (E) aggravated indecent liberties with a child, as defined in  
15 subsection (b)(3) of K.S.A. 2012 Supp. 21-5506, and amendments thereto,  
16 if the offender is 18 years of age or older;

17 (F) aggravated criminal sodomy, as defined in subsection (b)(1) or (b)  
18 (2) of K.S.A. 2012 Supp. 21-5504, and amendments thereto, if the  
19 offender is 18 years of age or older;

20 (G) promoting prostitution, as defined in K.S.A. 2012 Supp. 21-6420,  
21 and amendments thereto, if the offender is 18 years of age or older and the  
22 prostitute is less than 14 years of age; ~~or~~

23 (H) sexual exploitation of a child, as defined in subsection (a)(1) or  
24 (a)(4) of K.S.A. 2012 Supp. 21-5510, and amendments thereto, if the  
25 offender is 18 years of age or older and the child is less than 14 years of  
26 age; *or*

27 *(I) violations of the Kansas racketeer influenced and corrupt*  
28 *organization act, as described in section 3, and amendments thereto.*

29 (e) Conspiracy to commit a felony which prescribes a sentence on the  
30 drug grid shall reduce the prison term prescribed in the drug grid block for  
31 an underlying or completed crime by six months.

32 (f) A conspiracy to commit a misdemeanor is a class C misdemeanor.

33 Sec. 7. K.S.A. 2012 Supp. 21-6313 is hereby amended to read as  
34 follows: 21-6313. As used in K.S.A. 2012 Supp. 21-6313 through 21-  
35 6316, and amendments thereto:

36 (a) "Criminal street gang" means any organization, association or  
37 group, whether formal or informal:

38 (1) Consisting of three or more persons;

39 (2) having as one of its primary activities the commission of one or  
40 more person felonies, person misdemeanors, felony violations of K.S.A.  
41 2012 Supp. 21-5701 through 21-5717, and amendments thereto, any  
42 felony violation of any provision of the uniform controlled substances act  
43 prior to July 1, 2009, or the comparable juvenile offenses, which if

1 committed by an adult would constitute the commission of such felonies or  
2 misdemeanors;

3 (3) which has a common name or common identifying sign or  
4 symbol; and

5 (4) whose members, individually or collectively, engage in or have  
6 engaged in the commission, attempted commission, conspiracy to commit  
7 or solicitation of two or more person felonies, person misdemeanors,  
8 felony violations of K.S.A. 2012 Supp. 21-5701 through 21-5717, and  
9 amendments thereto, any felony violation of any provision of the uniform  
10 controlled substances act prior to July 1, 2009, or the comparable juvenile  
11 offenses, which if committed by an adult would constitute the commission  
12 of such felonies or misdemeanors or any substantially similar offense from  
13 another jurisdiction;

14 (b) "criminal street gang member" is a person who:

15 (1) Admits to criminal street gang membership; or

16 (2) meets three or more of the following criteria:

17 (A) Is identified as a criminal street gang member by a parent or  
18 guardian;

19 (B) is identified as a criminal street gang member by a state, county  
20 or city law enforcement officer or correctional officer or documented  
21 reliable informant;

22 (C) is identified as a criminal street gang member by an informant of  
23 previously untested reliability and such identification is corroborated by  
24 independent information;

25 (D) ~~resides in or~~ frequents a particular criminal street gang's area  
26 ~~and~~;

27 (E) adopts such gang's style of dress, color, use of hand signs or  
28 tattoos, ~~and~~;

29 (F) associates with known criminal street gang members;

30 ~~(E)~~ (G) has been arrested more than once in the company of  
31 identified criminal street gang members for offenses which are consistent  
32 with usual criminal street gang activity;

33 ~~(F)~~ (H) is identified as a criminal street gang member by physical  
34 evidence including, but not limited to, photographs or other  
35 documentation;

36 ~~(G)~~ (I) has been stopped in the company of known criminal street  
37 gang members two or more times; or

38 ~~(H)~~ (J) has participated in or undergone activities self-identified or  
39 identified by a reliable informant as a criminal street gang initiation ritual;

40 (c) "criminal street gang activity" means the commission or attempted  
41 commission of, or solicitation or conspiracy to commit, one or more  
42 person felonies, person misdemeanors, felony violations of K.S.A. 2012  
43 Supp. 21-5701 through 21-5717, and amendments thereto, any felony

1 violation of any provision of the uniform controlled substances act prior to  
2 July 1, 2009, or the comparable juvenile offenses, which if committed by  
3 an adult would constitute the commission of such felonies or  
4 misdemeanors on separate occasions;

5 (d) "criminal street gang associate" means a person who:

6 (1) Admits to criminal street gang association; or

7 (2) meets two or more defining criteria for criminal street gang  
8 membership described in subsection (b)(2); and

9 (e) for purposes of law enforcement identification and tracking only  
10 "gang-related incident" means an incident that, upon investigation, meets  
11 any of the following conditions:

12 (1) The participants are identified as criminal street gang members or  
13 criminal street gang associates, acting, individually or collectively, to  
14 further any criminal purpose of the gang;

15 (2) a state, county or city law enforcement officer or correctional  
16 officer or reliable informant identifies an incident as criminal street gang  
17 activity; or

18 (3) an informant of previously untested reliability identifies an  
19 incident as criminal street gang activity and it is corroborated by  
20 independent information.

21 Sec. 8. K.S.A. 2012 Supp. 60-4104 is hereby amended to read as  
22 follows: 60-4104. Conduct and offenses giving rise to forfeiture under this  
23 act, whether or not there is a prosecution or conviction related to the  
24 offense, are:

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

26 (b) violations involving controlled substances, as described in K.S.A.  
27 2012 Supp. 21-5701 through 21-5717, and amendments thereto;

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

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

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

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

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

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

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

- 1 (j) an act or omission committed in furtherance of any act or omission  
2 described in this section including any inchoate or preparatory offense,  
3 whether or not there is a prosecution or conviction related to the act or  
4 omission;
- 5 (k) any solicitation or conspiracy to commit any act or omission  
6 described in this section, whether or not there is a prosecution or  
7 conviction related to the act or omission;
- 8 (l) furtherance of terrorism or illegal use of weapons of mass  
9 destruction, as described in K.S.A. 2012 Supp. 21-5423, and amendments  
10 thereto;
- 11 (m) unlawful conduct of dog fighting and unlawful possession of dog  
12 fighting paraphernalia, as defined in subsections (a) and (b) of K.S.A.  
13 2012 Supp. 21-6414, and amendments thereto;
- 14 (n) unlawful conduct of cockfighting and unlawful possession of  
15 cockfighting paraphernalia, as defined in subsections (a) and (b) of K.S.A.  
16 2012 Supp. 21-6417, and amendments thereto;
- 17 (o) prostitution, as defined in K.S.A. 2012 Supp. 21-6419, and  
18 amendments thereto, promoting prostitution, as defined in K.S.A. 2012  
19 Supp. 21-6420, and amendments thereto, and patronizing a prostitute, as  
20 defined in K.S.A. 2012 Supp. 21-6421, and amendments thereto;
- 21 (p) human trafficking and aggravated human trafficking, as defined in  
22 K.S.A. 2012 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. 2012  
26 Supp. 21-5417, and amendments thereto;
- 27 (s) giving a worthless check, as defined in K.S.A. 2012 Supp. 21-  
28 5821, and amendments thereto;
- 29 (t) forgery, as defined in K.S.A. 2012 Supp. 21-5823, and  
30 amendments thereto;
- 31 (u) making false information, as defined in K.S.A. 2012 Supp. 21-  
32 5824, and amendments thereto;
- 33 (v) criminal use of a financial card, as defined in K.S.A. 2012 Supp.  
34 21-5828, and amendments thereto;
- 35 (w) unlawful acts concerning computers, as described in K.S.A. 2012  
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. 2012 Supp. 21-6107, and amendments thereto;
- 39 (y) electronic solicitation, as defined in K.S.A. 2012 Supp. 21-5509,  
40 and amendments thereto; ~~and~~
- 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; *and*
- 43 (aa) *violations of the Kansas racketeer influenced and corrupt*

1 *organization act, as described in section 3, and amendments thereto.*

2       Sec. 9. K.S.A. 2012 Supp. 21-5302, 21-6313 and 60-4104 are hereby  
3 repealed.

4       Sec. 10. This act shall take effect and be in force from and after its  
5 publication in the statute book.