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MEMORANDUM

To: Senate Committee on Judiciary
From: Office of Revisor of Statutes
Date: March 12, 2024
Subject: Bill Brief for SB 415

Senate Bill 415 creates the crime of organized retail crime, increases the criminal penalties for theft of certain property, includes organized retail crime in the definition of racketeering activity under the Kansas racketeer influenced and corrupt organization act, and authorizes the attorney general to prosecute crimes that are part of an alleged course of criminal conduct that occurred in two or more counties.

New Section 1 establishes the elements of the crime of organized retail crime as any of the following acts done with intent to permanently deprive the owner of the possession, use or benefit of the owner's property or services:

- (1) Taking merchandise with an aggregate retail market value of \$3,000 or more from one or more retailers within a 12-month period, with intent to provide, transfer or sell such merchandise to another person;
- (2) acting in concert with one or more other persons to receive, purchase, sell or possess merchandise with an aggregate retail market value of \$3,000 or more within a 12-month period, knowing or believing such merchandise to have been stolen;
- (3) acting as an agent of one or more other persons to take merchandise with an aggregate retail market value of \$3,000 or more from one or more retailers within a 12-month period, as part of an organized plan to commit theft; or
- (4) recruiting, coordinating, organizing, supervising, directing, managing or financing one or more other persons to undertake any of the acts described in paragraphs (1) through (3).

Subsection (b) provides that organized retail crime is a severity level 5, nonperson felony. Subsection (c) provides that, in addition to the venue provided for under any other provision of law, a prosecution for organized retail crime may be brought in any county where at least \$1 in

aggregate retail market value of merchandise is taken, received, sold or purchased. Subsection (d) provides definitions to be used in the section.

Section 2 amends K.S.A. 21-5801, the criminal code statute that creates the crime of theft, to increase the criminal penalties for theft of certain property. The bill adds a new subsection (b)(9) to provide that theft of property, by deception, that is refunds, money or merchandise from a retailer with an aggregate retail market value of \$3,000 or more is a severity level 5, nonperson felony. Under current law in subsection (b)(3), theft of property or services of the value of at least \$1,500 but less than \$25,000 is a severity level 9, nonperson felony.

Section 3 amends K.S.A. 21-6328, the criminal code statute that defines terms for the Kansas racketeer influenced and corrupt organization act. The bill amends the definition of “racketeering activity” in subsection (f) to include Section 1, organized retail crime.

Section 4 amends K.S.A. 75-702, the statute concerning the attorney general’s duties and responsibilities, to authorize the attorney general to prosecute crimes that are part of an alleged course of criminal conduct that occurred in two or more counties. Current law in subsection (c)(2), amended in 2023, provides that the attorney general shall have concurrent authority with any county or district attorney to prosecute theft, a violation of the Kansas racketeer influenced and corrupt organizations act, or an attempt, conspiracy or criminal solicitation of such crimes that is part of an alleged course of criminal conduct that occurred in two or more counties. The bill provides that the attorney general shall have concurrent authority with any county or district attorney to prosecute violations of the Kansas racketeer influenced and corrupt organizations act, crimes that are part of an alleged course of criminal conduct that occurred in two or more counties, and any attempt, conspiracy or criminal solicitation of such crimes.

The bill would take effect from and after publication in the statute book, July 1, 2024.