

HOUSE BILL No. 2627

By Representative Huebert

1-18

9 AN ACT concerning street gangs; relating to criminal conduct; creating
10 a civil cause of action; common nuisances; forfeiture; amending K.S.A.
11 60-4104 and K.S.A. 2005 Supp. 22-3901 and repealing the existing
12 sections.

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

15 New Section 1. (a) It shall be unlawful for any person to intentionally
16 cause, encourage, solicit or recruit another person to join a criminal street
17 gang that requires as a condition of membership or continued member-
18 ship the commission of any crime.

19 (b) Upon a first conviction of a violation of this section, a person shall
20 be guilty of a severity level 2, nonperson felony. On a second or subse-
21 quent conviction of a violation of this section, a person shall be guilty of
22 a severity level 1, nonperson felony.

23 (c) As used in this section, “criminal street gang” has the meaning
24 ascribed thereto in K.S.A. 22-3901, and amendments thereto.

25 (d) This section shall be a part of and supplemental to the Kansas
26 criminal code.

27 New Sec. 2. A person or organization establishing, by clear and con-
28 vincing evidence, coercion, intimidation, threats or other harm to that
29 person or organization by acts described in subsection (j) of K.S.A. 2005
30 Supp. 22-3901, and amendments thereto, has a civil cause of action for
31 treble damages, an injunction or any other appropriate relief in law or
32 equity. Upon prevailing, the plaintiff may recover reasonable attorney fees
33 and costs.

34 Sec. 3. K.S.A. 2005 Supp. 22-3901 is hereby amended to read as
35 follows: 22-3901. The following unlawful activities and the use of real or
36 personal property in maintaining and carrying on such activities are
37 hereby declared to be common nuisances:

- 38 (a) Commercial gambling;
- 39 (b) dealing in gambling devices;
- 40 (c) possession of gambling devices;
- 41 (d) promoting obscenity;
- 42 (e) promoting prostitution;
- 43 (f) habitually promoting prostitution;

- 1 (g) violations of any law regulating controlled substances;
- 2 (h) habitual violations of any law regulating the sale or exchange of
3 alcoholic liquor or cereal malt beverages, by any person not licensed pur-
4 suant to chapter 41 of the Kansas Statutes Annotated, and amendments
5 thereto;
- 6 (i) habitual violations of any law regulating the sale or exchange of
7 cigarettes or tobacco products, by any person not licensed pursuant to
8 article 33 of chapter 79 of the Kansas Statutes Annotated, and amend-
9 ments thereto;
- 10 (j) any felony committed for the benefit of, at the direction of, or in
11 association with any criminal street gang, with the specific intent to pro-
12 mote, further or assist in any criminal conduct by gang members. As used
13 in this subsection, “criminal street gang” means any organization, asso-
14 ciation or group of three or more persons, whether formal or informal,
15 having as one of its primary activities the commission of one or more
16 person felonies or felony violations of the uniform controlled substances
17 act, K.S.A. 65-4101 et seq., and amendments thereto, which has a com-
18 mon name or common identifying sign or symbol, whose members, in-
19 dividually or collectively engage in or have engaged in the commission,
20 attempted commission, conspiracy to commit or solicitation of two or
21 more person felonies or felony violations of the uniform controlled sub-
22 stances act, K.S.A. 65-4101 et seq., and amendments thereto, or any sub-
23 stantially similar offense from another jurisdiction; ~~or~~
- 24 (k) use of pyrotechnics, pyrotechnic devices or pyrotechnic materials
25 in violation of K.S.A. 2005 Supp. 31-170, and amendments thereto; *or*
26 *(l) a violation of section 1, and amendments thereto.*
- 27 Any real property used as a place where any such activities are carried
28 on or permitted to be carried on and any effects, equipment, parapher-
29 nalia, fixtures, appliances, musical instruments or other personal property
30 designed for and used on such premises in connection with such unlawful
31 activities are subject to the provisions of K.S.A. 22-3902, 22-3903 and 22-
32 3904, and amendments thereto.
- 33 Sec. 4. K.S.A. 60-4104 is hereby amended to read as follows: 60-
34 4104. Conduct and offenses giving rise to forfeiture under this act,
35 whether or not there is a prosecution or conviction related to the offense,
36 are:
- 37 (a) All offenses which statutorily and specifically authorize forfeiture;
- 38 (b) violations of the uniform controlled substances act, K.S.A. 65-
39 4101 et seq., and amendments thereto;
- 40 (c) theft which is classified as a felony violation pursuant to K.S.A.
41 21-3701, and amendments thereto, in which the property taken was
42 livestock;
- 43 (d) unlawful discharge of a firearm, K.S.A. 21-4219, and amendments

1 thereto;

2 (e) money laundering, K.S.A. 65-4142, and amendments thereto;

3 (f) gambling, K.S.A. 21-4303, and amendments thereto, and com-
4 mercial gambling, K.S.A. 21-4304, and amendments thereto;

5 (g) counterfeiting, K.S.A. 2005 Supp. 21-3763, and amendments
6 thereto;

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

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

15 (j) *any felony committed for the benefit of, at the direction of or in*
16 *association with any criminal street gang, as defined in K.S.A. 22-3901,*
17 *and amendments thereto, with the specific intent to promote, further or*
18 *assist in any criminal conduct by gang members; and*

19 ~~(j)~~ (k) any solicitation or conspiracy to commit any act or omission
20 described in this section, whether or not there is a prosecution or con-
21 viction related to the act or omission.

22 Sec. 5. K.S.A. 60-4104 and K.S.A. 2005 Supp. 22-3901 are hereby
23 repealed.

24 Sec. 6. This act shall take effect and be in force from and after its
25 publication in the statute book.