

Organized Retail Crime; Encouraging Suicide; Senate Sub. for HB 2144

Senate Sub. for HB 2144 establishes the crime of organized retail crime in the Kansas Criminal Code, makes organized retail crime a type of “racketeering activity” under the Kansas Racketeer Influenced and Corrupt Organization (RICO) Act, and amends law concerning Attorney General (AG) authority to prosecute crimes concurrently with county or district attorneys.

The bill also creates the crime of encouraging suicide and establishes penalties for it under the Kansas Criminal Code.

Organized Retail Crime

The crime of organized retail crime will be committing one of the following acts with the intent to permanently deprive the owner of the possession, use, or benefit of the owner’s property or services:

- Acting in concert with one or more other persons to receive, purchase, sell, or possess merchandise with an aggregate retail market value of \$5,000 or more within a 12-month period, knowing or believing such merchandise to have been stolen;
- Taking merchandise with an aggregate retail market value of \$5,000 or more from one or more retailers within a 12-month period, as part of an organized plan to commit theft; or
- Recruiting, coordinating, organizing, supervising, directing, managing, or financing one or more other persons to undertake any of the above-mentioned actions.

Tiered Penalty

The bill establishes that the penalty for organized retail crime will be based upon the aggregate retail market value of the involved merchandise, as follows:

- Value of at least \$5,000 but less than \$25,000 will be a severity level 6 nonperson felony;
- Value of at least \$25,000 but less than \$100,000 will be a severity level 5 nonperson felony; and
- Value of \$100,000 or more will be a severity level 4 nonperson felony.

Venue

The bill allows for the venue for prosecution to be any venue available under any other provision of law or any county where at least \$1 in aggregate retail market value of merchandise is taken, received, stolen, or purchased.

Definitions

The bill defines terms used in defining the crime of organized retail crime, including:

- “Aggregate retail market value” means the total combined value of merchandise taken, at the price at which the merchandise would ordinarily be sold by the retailer through legitimate sale or distribution;
- “Merchandise” means chattels of any type or description regardless of the value offered for sale in or about a store;
- “Retailer” means a person or business selling, leasing, or facilitating the sale or lease of merchandise to the public or a business; and
- “Store” means a place where merchandise is sold or offered to the public for sale at retail or leased or offered to the public for lease.

Kansas Racketeer Influenced Corrupt Organization Act

The bill amends the definition of “racketeering activity” in the Kansas RICO Act to include the crime of organized retail crime.

Attorney General Concurrent Authority to Prosecute

The bill amends the AG’s authority to prosecute certain crimes concurrently with any county or district attorney. Former law authorized the AG to concurrently prosecute:

- Theft;
- A violation of the Kansas RICO Act; or
- Any 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 modifies this authority to specify the AG may concurrently prosecute:

- Organized retail crime and any other crime that is part of such alleged course of criminal conduct;

- Theft;
- A violation of the Kansas RICO Act; or
- Any attempt, conspiracy, or criminal solicitation of the above crimes.

Encouraging Suicide

The bill defines “encouraging suicide” as knowingly encouraging a person to commit or attempt to commit suicide when:

- Such person knows the other person has communicated a desire to commit suicide;
- Encouragement of suicide is made proximate in time to the other person committing or attempting to commit suicide; and
- Such encouragement substantially influences the other person’s decision or methods used to commit or attempt to commit suicide.

Definitions

The bill defines “attempt to commit suicide” as any physical action done by a person with the intent to commit suicide.

For purposes of the new crime, the bill defines “encouraging a person to commit or attempt to commit suicide” as oral, written, or visual communication that is persuasive or intended to be persuasive and that gives advice to commit suicide, attempt to commit suicide, or develop a plan to commit suicide.

Penalties

Encouraging suicide will be a severity level 5 person felony if the other person attempts to commit suicide, and a severity level 4 person felony if the other person commits suicide.