

SENATE BILL No. 172

By Committee on Utilities

2-8

1 AN ACT concerning crimes, punishment and criminal procedure; creating
2 the crimes of trespassing on a critical infrastructure facility and
3 criminal damage to a critical infrastructure facility; eliminating the
4 crime of tampering with a pipeline; amending K.S.A. 2020 Supp. 21-
5 5818 and 21-6328 and repealing the existing sections.
6

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

8 Section 1. K.S.A. 2020 Supp. 21-5818 is hereby amended to read as
9 follows: 21-5818. (a) ~~Tampering with a pipeline is the knowing and~~
10 ~~unauthorized alteration of or interference with any part of a pipeline~~
11 ~~Trespassing on a critical infrastructure facility is, without consent of the~~
12 ~~owner or the owner's agent, knowingly entering or remaining in:~~

13 (1) *A critical infrastructure facility; or*

14 (2) *any property containing a critical infrastructure facility, if such*
15 *property is completely enclosed by a fence or other physical barrier that is*
16 *obviously designed to exclude intruders or is clearly marked with a sign or*
17 *signs that are posted on the property that are reasonably likely to come to*
18 *the attention of intruders and indicate that entry is forbidden without site*
19 *authorization.*

20 (b) ~~Tampering with a pipeline is a severity level 6, nonperson felony~~
21 ~~Aggravated trespassing on a critical infrastructure facility is:~~

22 (1) *Knowingly entering or remaining in:*

23 (A) *A critical infrastructure facility; or*

24 (B) *any property containing a critical infrastructure facility, if such*
25 *property is completely enclosed by a fence or other physical barrier that is*
26 *obviously designed to exclude intruders or is clearly marked with a sign or*
27 *signs that are posted on the property that are reasonably likely to come to*
28 *the attention of intruders and indicate that entry is forbidden without site*
29 *authorization; and*

30 (2) *with the intent to damage, destroy, vandalize, deface or tamper*
31 *with a critical infrastructure facility or impede or inhibit operations of the*
32 *facility.*

33 (c) *Criminal damage to a critical infrastructure facility is knowingly*
34 *damaging, destroying, vandalizing, defacing or tampering with a critical*
35 *infrastructure facility.*

36 (d) *Aggravated criminal damage to a critical infrastructure facility is*

1 knowingly damaging, destroying, vandalizing, defacing or tampering with
2 a critical infrastructure facility with the intent to impede or inhibit
3 operations of the facility.

4 (e) (1) Trespassing on a critical infrastructure facility is a class A
5 nonperson misdemeanor.

6 (2) Aggravated trespassing on a critical infrastructure facility is a
7 severity level 7, nonperson felony.

8 (3) Criminal damage to a critical infrastructure facility is a severity
9 level 6, nonperson felony.

10 (4) Aggravated criminal damage to a critical infrastructure facility is
11 a severity level 5, nonperson felony.

12 (f) (1) Any person who is arrested for a violation of this section or
13 convicted under this section may be held liable for any damages to
14 personal or real property. Any person or entity that provides consideration
15 or remuneration to a person to commit an act as described in this section
16 may also be held liable for any damages to personal or real property
17 caused by such person.

18 (2) In determining the amount of damage to property, damages may
19 include:

20 (A) The cost of repair or replacement of the property that was
21 damaged;

22 (B) the reasonable cost of the loss of production, crops and livestock;

23 (C) reasonable labor costs of any kind;

24 (D) reasonable material costs of any kind; and

25 (E) any reasonable costs that are attributed to equipment that is used
26 to abate or repair the damage to the property.

27 (g) ~~Any person who violates the provisions of this section may also be~~
28 ~~prosecuted for, convicted of and punished for any other offense in article~~
29 ~~58 of chapter 21 of the Kansas Statutes Annotated, and amendments~~
30 ~~thereto, or K.S.A. 66-2303, and amendments thereto.~~

31 (e)(h) As used in this section:
32 (1) ~~"Alteration of or interference with any part of a pipeline"~~
33 ~~includes, but is not limited to, any adjustment, opening, removal, change~~
34 ~~or destruction of any part of any pipeline; and~~

35 (2) ~~"pipeline" means any pipeline, and any related facility, building,~~
36 ~~structure or equipment, used in gathering, transmission or transportation of~~
37 ~~natural gas, crude oil, petroleum products or anhydrous ammonia.~~

38 ~~"Pipeline" does not include distribution lines that convey natural gas from~~
39 ~~a gas main to the ultimate consumer, "critical infrastructure facility"~~
40 ~~means a:~~

41 (1) Petroleum or alumina refinery;

42 (2) facility generating electrical power, substation, switching station,
43 electrical control center, electric power lines, including lines used for the

Nothing in this section shall be construed to prevent:
(1) An owner or operator of a critical infrastructure facility that has been damaged from pursuing any other remedy in law or equity; or
(2)

1 transmission of electricity, or associated equipment infrastructure;
2 (3) chemical, polymer or rubber manufacturing facility;
3 (4) water intake structure, water treatment facility, wastewater
4 treatment plant or pump station;
5 (5) natural gas compressor station;
6 (6) liquid natural gas or propane terminal or storage facility;
7 (7) facility that is used for wireline, broadband or wireless
8 telecommunications infrastructure, including backup power supplies;
9 (8) port, railroad switching yard, railroad tracks, trucking terminal
10 or other freight transportation facility;
11 (9) gas processing plant, including a plant used in the processing,
12 treatment or fractionation of natural gas, propane or natural gas liquids;
13 (10) transmission facility used by a federally licensed radio or
14 television station;
15 (11) steelmaking facility that uses an electric arc furnace to make
16 steel;
17 (12) facility identified and regulated by the United States department
18 of homeland security chemical facility anti-terrorism standards program;
19 (13) dam that is regulated by the state or federal government;
20 (14) natural gas distribution utility facility, including, but not limited
21 to, pipeline interconnections, a city gate or town border station, metering
22 station, belowground or aboveground piping, a regular station or a
23 natural gas storage facility;
24 (15) crude oil, including y-grade or natural gas liquids, or refined
25 products storage and distribution facility, including, but not limited to,
26 valve sites, pipeline interconnections, pump station, metering station,
27 belowground or aboveground pipeline or piping and truck loading or
28 offloading facility; or
29 (16) portion of any belowground or aboveground oil, gas, hazardous
30 liquid or chemical pipeline, tank, railroad facility or any other storage
31 facility that is enclosed by a fence or other physical barrier or is clearly
32 marked with signs prohibiting trespassing, that are obviously designed to
33 exclude intruders.

34 Sec. 2. K.S.A. 2020 Supp. 21-6328 is hereby amended to read as
35 follows: 21-6328. As used in the Kansas racketeer influenced and corrupt
36 organization act:

37 (a) (1) "Beneficial interest" means:

38 (A) The interest of a person as a beneficiary under any trust
39 arrangement pursuant to which a trustee holds legal or record title to real
40 property for the benefit of such person; or
41 (B) the interest of a person under any other form of express
42 fiduciary arrangement pursuant to which any other person holds legal or
43 record title to real property for the benefit of such person.

1 (2) The term "beneficial interest" does not include the interest of a
2 stock holder in a corporation or the interest of a partner in either a general
3 partnership or a limited partnership. A beneficial interest shall be deemed
4 to be located where the real property owned by the trustee is located.

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

6 (1) Is a criminal street gang member or criminal street gang associate,
7 as defined in K.S.A. 2020 Supp. 21-6313, and amendments thereto;

8 (2) has engaged in or is engaging in any conduct prohibited by K.S.A.
9 2020 Supp. 21-5426, and amendments thereto, human trafficking or
10 aggravated human trafficking, or K.S.A. 2020 Supp. 21-6422, and
11 amendments thereto, commercial sexual exploitation of a child; or

12 (3) has engaged in or is engaging in any conduct prohibited by K.S.A.
13 2020 Supp. 21-5703, and amendments thereto, unlawful manufacturing of
14 controlled substances, or K.S.A. 2020 Supp. 21-5705, and amendments
15 thereto, unlawful cultivation or distribution of controlled substances.

16 (c) "Documentary material" means any book, paper, document,
17 writing, drawing, graph, chart, photograph, phonorecord, magnetic tape,
18 computer printout, other data compilation from which information can be
19 obtained or from which information can be translated into usable form, or
20 other tangible item.

21 (d) "Enterprise" means any individual, sole proprietorship,
22 partnership, corporation, business trust, union chartered under the laws of
23 this state, or other legal entity, or any unchartered union, association, or
24 group of individuals associated in fact although not a legal entity; and it
25 includes illicit as well as licit enterprises and governmental, as well as
26 other, entities. A criminal street gang, as defined in K.S.A. 2020 Supp. 21-
27 6313, and amendments thereto, constitutes an enterprise.

28 (e) "Pattern of racketeering activity" means engaging in at least two
29 incidents of racketeering activity that have the same or similar intents,
30 results, accomplices, victims or methods of commission or that otherwise
31 are interrelated by distinguishing characteristics and are not isolated
32 incidents, provided at least one of such incidents occurred after the
33 effective date of this act and that the last of such incidents occurred within
34 *5* five years, excluding any period of imprisonment, after a prior incident
35 of racketeering activity.

36 (f) "Racketeering activity" means to commit, attempt to commit,
37 conspire to commit or to solicit, coerce or intimidate another person to
38 commit.

39 (1) Any felony or misdemeanor violation of: The felony provisions of
40 K.S.A. 8-1568, and amendments thereto, fleeing or attempting to elude a
41 police officer; K.S.A. 9-508 et seq., and amendments thereto, Kansas
42 money transmitter act; article 12a of chapter 17 of the Kansas Statutes
43 Annotated, and amendments thereto, Kansas uniform securities act; K.S.A.

1 2020 Supp. 21-5401, and amendments thereto, capital murder; K.S.A.
2 2020 Supp. 21-5402, and amendments thereto, murder in the first degree;
3 K.S.A. 2020 Supp. 21-5403, and amendments thereto, murder in the
4 second degree; K.S.A. 2020 Supp. 21-5408, and amendments thereto,
5 kidnapping or aggravated kidnapping; K.S.A. 2020 Supp. 21-5412, and
6 amendments thereto; K.S.A. 2020 Supp. 21-5413, and amendments
7 thereto; K.S.A. 2020 Supp. 21-5414, and amendments thereto, domestic
8 battery; K.S.A. 2020 Supp. 21-5415, and amendments thereto, criminal
9 threat or aggravated criminal threat; K.S.A. 2020 Supp. 21-5420, and
10 amendments thereto, robbery or aggravated robbery; K.S.A. 2020 Supp.
11 21-5421, and amendments thereto, terrorism; K.S.A. 2020 Supp. 21-5422,
12 and amendments thereto, illegal use of weapons of mass destruction;
13 K.S.A. 2020 Supp. 21-5423, and amendments thereto; K.S.A. 2020 Supp.
14 21-5426, and amendments thereto, human trafficking or aggravated human
15 trafficking; K.S.A. 2020 Supp. 21-5428, and amendments thereto,
16 blackmail; K.S.A. 2020 Supp. 21-5510, and amendments thereto, sexual
17 exploitation of a child; K.S.A. 2020 Supp. 21-5601, and amendments
18 thereto, endangering a child or aggravated endangering a child; K.S.A.
19 2020 Supp. 21-5602, and amendments thereto, abuse of a child; K.S.A.
20 2020 Supp. 21-5603, and amendments thereto, contributing to a child's
21 misconduct or deprivation; K.S.A. 2020 Supp. 21-5607(b), and
22 amendments thereto, furnishing alcoholic beverages to a minor for illicit
23 purposes; article 57 of chapter 21 of the Kansas Statutes Annotated, and
24 amendments thereto, crimes involving controlled substances; K.S.A. 2020
25 Supp. 21-5801, and amendments thereto, theft; K.S.A. 2020 Supp. 21-
26 5803, and amendments thereto, criminal deprivation of property; K.S.A.
27 2020 Supp. 21-5805, and amendments thereto; K.S.A. 2020 Supp. 21-
28 5807, and amendments thereto, burglary or aggravated burglary; K.S.A.
29 2020 Supp. 21-5812, and amendments thereto, arson or aggravated arson;
30 K.S.A. 2020 Supp. 21-5813, and amendments thereto, criminal damage to
31 property; K.S.A. 2020 Supp. 21-5814, and amendments thereto, criminal
32 use of an explosive; K.S.A. 2020 Supp. 21-5818, and amendments thereto,
33 ~~tampering with a pipeline trespassing on a critical infrastructure facility,~~
34 ~~aggravated trespassing on a critical infrastructure facility, criminal~~
35 ~~damage to a critical infrastructure facility or aggravated criminal damage~~
36 ~~to a critical infrastructure facility;~~ K.S.A. 2020 Supp. 21-5821, and
37 amendments thereto, giving a worthless check; K.S.A. 2020 Supp. 21-
38 5823, and amendments thereto, forgery; K.S.A. 2020 Supp. 21-5824, and
39 amendments thereto, making false information; K.S.A. 2020 Supp. 21-
40 5825, and amendments thereto, counterfeiting; K.S.A. 2020 Supp. 21-
41 5826, and amendments thereto, destroying written instrument; K.S.A.
42 2020 Supp. 21-5828, and amendments thereto, criminal use of a financial
43 card; K.S.A. 2020 Supp. 21-5838, and amendments thereto, conducting a

1 pyramid promotional scheme; K.S.A. 2020 Supp. 21-5839, and
2 amendments thereto; K.S.A. 2020 Supp. 21-5903, and amendments
3 thereto, perjury; K.S.A. 2020 Supp. 21-5904, and amendments thereto,
4 interference with law enforcement; K.S.A. 2020 Supp. 21-5905, and
5 amendments thereto, interference with the judicial process; K.S.A. 2020
6 Supp. 21-5909, and amendments thereto, intimidation of a witness or
7 victim or aggravated intimidation of a witness or victim; K.S.A. 2020
8 Supp. 21-5912, and amendments thereto, aiding escape; K.S.A. 2020
9 Supp. 21-5913, and amendments thereto, obstructing apprehension or
10 prosecution; K.S.A. 2020 Supp. 21-5918, and amendments thereto; K.S.A.
11 2020 Supp. 21-6001, and amendments thereto, bribery; K.S.A. 2020 Supp.
12 21-6002, and amendments thereto, official misconduct; K.S.A. 2020 Supp.
13 21-6301, and amendments thereto, criminal use of weapons; K.S.A. 2020
14 Supp. 21-6302, and amendments thereto, criminal carrying of a weapon;
15 K.S.A. 2020 Supp. 21-6303, and amendments thereto, criminal
16 distribution of firearms to a felon; K.S.A. 2020 Supp. 21-6304, and
17 amendments thereto, criminal possession of a firearm by a convicted felon;
18 K.S.A. 2020 Supp. 21-6305, and amendments thereto, aggravated weapons
19 violation by a convicted felon; K.S.A. 2020 Supp. 21-6306, and
20 amendments thereto, defacing identification marks of a firearm; K.S.A.
21 2020 Supp. 21-6308, and amendments thereto, criminal discharge of a
22 firearm; K.S.A. 2020 Supp. 21-6310, and amendments thereto, unlawful
23 endangerment; K.S.A. 2020 Supp. 21-6312, and amendments thereto;
24 K.S.A. 2020 Supp. 21-6314, and amendments thereto, *recruiting criminal*
25 *street gang membership*; K.S.A. 2020 Supp. 21-6315, and amendments
26 thereto, *criminal street gang intimidation*; K.S.A. 2020 Supp. 21-6401,
27 and amendments thereto, promoting obscenity or promoting obscenity to
28 minors; K.S.A. 2020 Supp. 21-6404, and amendments thereto, gambling;
29 K.S.A. 2020 Supp. 21-6405, and amendments thereto, illegal bingo
30 operation; K.S.A. 2020 Supp. 21-6406, and amendments thereto,
31 commercial gambling; K.S.A. 2020 Supp. 21-6407, and amendments
32 thereto, dealing in gambling devices; K.S.A. 2020 Supp. 21-6408, and
33 amendments thereto; K.S.A. 2020 Supp. 21-6409, and amendments
34 thereto, installing communication facilities for gamblers; K.S.A. 2020
35 Supp. 21-6414(a) or (b), and amendments thereto, unlawful conduct of dog
36 fighting or unlawful possession of dog fighting paraphernalia; K.S.A. 2020
37 Supp. 21-6417(a) or (b), and amendments thereto, unlawful conduct of
38 cockfighting or unlawful possession of cockfighting paraphernalia; K.S.A.
39 2020 Supp. 21-6419, and amendments thereto, selling sexual relations;
40 K.S.A. 2020 Supp. 21-6420, and amendments thereto, promoting the sale
41 of sexual relations; K.S.A. 2020 Supp. 21-6422, and amendments thereto,
42 commercial sexual exploitation of a child; K.S.A. 2020 Supp. 21-6501,
43 and amendments thereto, extortion; K.S.A. 2020 Supp. 21-6502, and

1 amendments thereto, debt adjusting; K.S.A. 2020 Supp. 21-6504, and
2 amendments thereto, equity skimming; K.S.A. 2020 Supp. 21-6506, and
3 amendments thereto, commercial bribery; K.S.A. 2020 Supp. 21-6507, and
4 amendments thereto, sports bribery; K.S.A. 2020 Supp. 21-6508, and
5 amendments thereto, tampering with a sports contest; K.S.A. 39-720, and
6 amendments thereto, social welfare service fraud; K.S.A. 40-2,118, and
7 amendments thereto, fraudulent insurance acts; K.S.A. 41-101 et seq., and
8 amendments thereto, Kansas liquor control act; K.S.A. 44-5,125, and
9 amendments thereto, workers' compensation act; K.S.A. 65-1657, and
10 amendments thereto, nonresident pharmacy registration; K.S.A. 65-3441,
11 and amendments thereto, hazardous waste; K.S.A. 65-4167, and
12 amendments thereto, trafficking in counterfeit drugs; article 88 of chapter
13 74 of the Kansas Statutes Annotated, and amendments thereto, Kansas
14 parimutuel racing act; or K.S.A. 79-3321, and amendments thereto,
15 Kansas cigarette and tobacco products act; or

16 (2) any conduct defined as "racketeering activity" under 18 U.S.C. §
17 1961(1).

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

21 (h) (1) "Trustee" means:

22 (A) Any person acting as trustee pursuant to a trust in which the
23 trustee holds legal or record title to real property;

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

26 (C) any successor trustee or trustees to any or all of the foregoing
27 persons.

28 (2) The term "trustee" does not include any person appointed or
29 acting as a personal representative as defined in K.S.A. 59-102, and
30 amendments thereto, or appointed or acting as a trustee of any
31 testamentary trust or as a trustee of any indenture of trust under which any
32 bonds have been or are to be issued.

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

36 (1) In violation of any of the following provisions of law: Article 88
37 of chapter 74 of the Kansas Statutes Annotated, and amendments thereto,
38 Kansas parimutuel racing act; K.S.A. 2020 Supp. 21-6404, and
39 amendments thereto, gambling; K.S.A. 2020 Supp. 21-6405, and
40 amendments thereto, illegal bingo operation; K.S.A. 2020 Supp. 21-6406,
41 and amendments thereto, commercial gambling; K.S.A. 2020 Supp. 21-
42 6407, and amendments thereto, dealing in gambling devices; K.S.A. 2020
43 Supp. 21-6408, and amendments thereto, unlawful possession of a

1 gambling device; or K.S.A. 2020 Supp. 21-6409, and amendments thereto,
2 installing communication facilities for gamblers; or
3 (2) in gambling activity in violation of federal law or in the business
4 of lending money at a rate usurious under state or federal law.
5 Sec. 3. K.S.A. 2020 Supp. 21-5818 and 21-6328 are hereby repealed.
6 Sec. 4. This act shall take effect and be in force from and after its
7 publication in the statute book.