

**Mistreatment of a Dependent Adult or Elder Person—Definitions, Penalties, Defense; Sureties and Appearance Bonds—Unlawful Sexual Relations, Own Recognizance Bonds, Felony Disqualification, Out-of-State Sureties; Kansas RICO Act—Culpability, Racketeering Activity Crimes; Attorney General—Appellate Costs; SB 256**

**SB 256** amends law related to mistreatment of a dependent adult or elder person, sureties and appearance bonds, the Kansas Racketeer Influenced and Corrupt Organization (RICO) Act, and costs of appellate representation by the Attorney General.

***Mistreatment of a Dependent Adult or Elder Person***

The bill amends the statute governing the crime of mistreatment of a dependent adult by:

- Rewriting the means of committing the crime that involves taking unfair advantage of a dependent adult's resources so that the means involve the wrongful taking of personal property or financial resources of a dependent adult for the benefit of the defendant or another person by taking control, title, use, or management of personal property or financial resources through various prohibited techniques or influences or without adequate consideration, through a violation of the Kansas Power of Attorney Act, or through a violation of the Kansas Uniform Trust Code;
- Creating the crime "mistreatment of an elder person," which could be committed by any of the means by which mistreatment of a dependent adult may be committed, except for infliction of physical injury, unreasonable confinement, or unreasonable punishment;
- Defining "elder person," as a person 70 years of age or older;
- Establishing the same tiered penalties for mistreatment of an elder person as exist for mistreatment of a dependent adult, with the following exceptions with regard to taking the personal property or financial resources of an elder person:
  - Taking of property or resources valued at least \$5,000 but less than \$25,000 is a severity level 7, person felony;
  - Taking of property or resources valued less than \$5,000 is a class A person misdemeanor, unless the offender has been convicted of the same crime two or more times within the previous five years, in which case is a severity level 7, person felony (The comparable penalties for mistreatment of a dependent adult are a severity level 7, person felony for values of at least \$1,000 but less than \$25,000 and a class A misdemeanor for values less than \$1,000, or severity level 7, person felony if the same previous conviction provision is met.);

- Establishing an affirmative defense to prosecution for the taking of property or resources from a dependent adult or elder person that the property or resources were given as a gift consistent with a pattern of gift giving before the victim became vulnerable, that the property or resources were conferred as a gift to the benefit of a person or class of persons and was reasonable under the circumstances, or that a court approved the transaction; and
- Defining “adequate consideration.”

### ***Sureties and Appearance Bonds***

The bill amends the crime of unlawful sexual relations by adding a provision which prohibits a surety or an employee of a surety from engaging in sexual relations with a person at least 16 years of age who is the subject of a surety or bail bond agreement with such surety when the offender knows the person is the subject of such surety or bail bond agreement. This provision will be a severity level 5, person felony.

The bill amends bail provisions for certain drug offenses that require at least \$50,000 cash or surety to allow any person arrested and charged for these offenses to be released upon the person’s own recognizance if the court determines, on the record, that the defendant is not likely to reoffend, the court imposes pretrial supervision, or the defendant agrees to participate in a licensed or certified drug treatment program. The bill amends similar bail provisions in criminal street gang and RICO statutes to allow release upon the person’s own recognizance if the court determines, on the record, that the defendant is not likely to reoffend, an appropriate intensive pretrial supervision program is available, and the defendant agrees to comply with the mandate of such pretrial supervision.

The bill prohibits a person convicted of any felony in the person’s lifetime from acting as a surety or as an agent of a surety. Formerly, only a person convicted of a person felony within the past ten years fell under this prohibition.

The bill requires an out-of-state surety or agent of a surety to contract with a Kansas surety or agent of a surety before attempting to apprehend a person in Kansas and be accompanied by the Kansas surety or agent during the apprehension.

The bill also updates agency references to reflect current agency authority and responsibilities.

### ***RICO***

The bill amends statutes in the Kansas RICO Act to specify the culpability requirement for a violation of the RICO Act is “recklessly.” A person covered by the RICO Act will not violate the Act itself through the collection of an unlawful debt if the person did not participate in the illegal activity creating the debt.

The bill also amends the RICO Act definitions statute to update the names of certain crimes listed under “racketeering activity” and to add the crime of commercial sexual exploitation of a child to this list.

### ***Attorney General Appellate Costs***

The bill amends the statute allowing the Attorney General to invoke the assistance of county or district attorneys on criminal appeals to allow the reasonable costs of representation by the Attorney General to be paid by the board of county commissioners from the county general fund, pursuant to an agreement with the Attorney General, changed from allowing only the payment of the costs of assistance provided by the county's county or district attorney. The Attorney General is allowed to publish a schedule of costs for services provided by the Attorney General, not to exceed the statutory rate of compensation for attorneys appointed to represent indigent persons (currently \$80 per hour). The Attorney General is allowed to enter into agreements with county or district attorneys for the payment of such costs, which could supersede the schedule of costs. The bill directs any moneys paid to the Attorney General under this section to the Criminal Appeals Cost Fund, created by the bill. The Attorney General is permitted to use this fund to represent the interests of the state in criminal appeals and post-conviction proceedings.