An Act

ENROLLED HOUSE
BILL NO. 2983

By: Duncan, Reynolds, Tibbs, Thompson, Johnson, Key and Faught of the House

and

Sykes of the Senate

An Act relating to crimes and criminal procedure; amending Section 2, Chapter 477, O.S.L. 2002 (21 O.S. Supp. 2009, Section 1268.1), which relates to the Oklahoma Antiterrorism Act; adding definitions; making certain acts unlawful; providing penalties; amending 22 O.S. 2001, Sections 1401, 1402, 1403, 1404, 1405, 1407, 1408, 1409, 1410, 1411, 1412, 1413, 1414, 1415, 1417 and 1419, which relate to the Oklahoma Corrupt Organizations Prevention Act; modifying name of act; updating statutory references; expanding scope of certain definition; adding certain crimes to racketeering activity definition; providing gender-neutral language; deleting references to obsolete statutes; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 2, Chapter 477, O.S.L. 2002 (21 O.S. Supp. 2009, Section 1268.1), is amended to read as follows:

Section 1268.1 As used in this act:

1. "Biochemical assault" means the intentional delivery of any substance or material to another person without lawful cause, whether or not such substance or material is toxic, noxious or lethal to humans, to:

a. cause intimidation, fear or anxiety and a reasonable belief by the victim that death, disease, injury or illness will occur as a result of contamination by such substance or material and, based upon that belief, an emergency response is necessary, or

b. poison, injure, harm or cause disease or illness to any person;

2. "Biochemical terrorism" means an act of terrorism involving any biological organism, pathogen, bacterium, virus, chemical or its toxins, isomers, salts or compounds, or any combination of organisms, viruses or chemicals that is capable of and intended to cause death, disease, injury, illness or harm to any human or animal upon contact or ingestion, or harm to any food supply, plant, water supply, drink, medicine or other product used for or consumed by humans or animals;

~~2.~~ 3. "Conduct" includes initiating, concluding, or participating in initiating or concluding a transaction;

4. "Financial institution" includes:

a. any financial institution, as defined in Section 5312(a)(2) of Title 31 of the United States Code, or the regulations promulgated thereunder, and

b. any foreign bank, as defined in Section 3101 of Title 12 of the United States Code;

5. "Financial transaction" means:

a. a transaction which in any way or degree affects state, interstate or foreign commerce:

(1) involving the movement of funds by wire or other means,

(2) involving one or more monetary instruments, or

(3) involving the transfer of title to any real property, vehicle, vessel, or aircraft, or

b. a transaction involving the use of a financial institution which is engaged in, or the activities of which affect, state, interstate or foreign commerce in any way or degree;

6. "Monetary instrument" means:

a. coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, and money orders, or

b. investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery;

7. "Proceeds" means all monies, negotiable instruments, and securities received, used, or intended to be used to facilitate any violation of the Oklahoma Antiterrorism Act;

8. "Terrorism" means an act of violence resulting in damage to property or personal injury perpetrated to coerce a civilian population or government into granting illegal political or economic demands; or conduct intended to incite violence in order to create apprehension of bodily injury or damage to property in order to coerce a civilian population or government into granting illegal political or economic demands. Peaceful picketing or boycotts and other nonviolent action shall not be considered terrorism;

~~3.~~ 9. "Terrorism hoax" means the willful conduct to simulate an act of terrorism as a joke, hoax, prank or trick against a place, population, business, agency or government by:

a. the intentional use of any substance to cause fear, intimidation or anxiety and a reasonable belief by any victim that such substance is used, placed, sent, delivered or otherwise employed as an act of biochemical terrorism requiring an emergency response or the evacuation or quarantine of any person, place or article, or

b. any act or threat of violence, sabotage, damage or harm against a population, place or infrastructure that causes fear, intimidation or anxiety and a reasonable belief by any victim that such act or

threat is an act of terrorism to disrupt any place, population, business, agency or government;

~~4. "Biochemical assault" means the intentional delivery of any substance or material to another person without lawful cause, whether or not such substance or material is toxic, noxious or lethal to humans, to:~~

~~a. cause intimidation, fear or anxiety and a reasonable belief by the victim that death, disease, injury or illness will occur as a result of contamination by such substance or material and, based upon that belief, an emergency response is necessary, or~~

~~b. poison, injure, harm or cause disease or illness to any person; and~~

~~5.~~ 10. "Terrorist activity" means to plan, aid or abet an act of terrorism or aid or abet any person who plans or commits an act of terrorism; and

11. "Transaction" includes a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition, and with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, use of a safe deposit box, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1268.7 of Title 21, unless there is created a duplication in numbering, reads as follows:

A. No person, knowing that property is the proceeds of an act of terrorism or a monetary instrument given, received, or intended to be used in support of an act of terrorism, shall conduct or attempt to conduct any financial transaction involving that property or transport, transmit or transfer that monetary instrument with the intent to do any of the following:

1. Commit or further the commission of an act of terrorism;

2. Conceal or disguise the nature, location, source, ownership, or control of either the proceeds of an act of terrorism or a

monetary instrument given, received, or intended to be used to support an act of terrorism; or

3. Conceal or disguise the intent to avoid a financial transaction reporting requirement as provided in 31 U.S.C., Section 5311 et seq., 31 C.F.R., Part 103, Title 6 of the Oklahoma Statutes, or other federal monetary reporting requirements under law.

B. Any person convicted of violating any provision of subsection A of this section shall be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for a term of not less than two (2) years nor more than ten (10) years, or by a fine of not more than Fifty Thousand Dollars ($50,000.00) or an amount equal to twice the dollar amount of each transaction, whichever is greater, or by both such fine and imprisonment.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1268.8 of Title 21, unless there is created a duplication in numbering, reads as follows:

Any person who knowingly or intentionally uses a money services business, as defined by the Oklahoma Financial Transaction Reporting Act, or an electronic funds transfer network for any purpose in violation of the Oklahoma Antiterrorism Act, or with intent to facilitate any violation of the Oklahoma Antiterrorism Act shall, upon conviction, be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for a term of not less than two (2) years nor more than ten (10) years, or by a fine of not more than Fifty Thousand Dollars ($50,000.00) or an amount equal to twice the dollar amount of each transaction, whichever is greater, or by both such fine and imprisonment.

SECTION 4. AMENDATORY 22 O.S. 2001, Section 1401, is amended to read as follows:

Section 1401. Sections ~~1~~ 1401 through ~~18~~ 1419 of this ~~act~~ title shall be known and may be cited as the "Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act".

SECTION 5. AMENDATORY 22 O.S. 2001, Section 1402, is amended to read as follows:

Section 1402. As used in the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act:

1. "Beneficial interest" includes:

a. the interest of a person as a beneficiary pursuant to a trust, in which the trustee holds legal title to personal or real property, or

b. the interest of a person as a beneficiary pursuant to any other arrangement under which any other person holds legal title to personal or real property for the benefit of such person.

The term beneficial interest does not include the interest of a stockholder in a corporation or the interest of a partner in either a general or limited partnership;

2. "Enterprise" includes any individual, sole proprietorship, partnership, corporation, trust, governmental entity, or other legal entity, or any union, association, unincorporated association or group of persons, associated in fact although not a legal entity, involved in any lawful or unlawful project or undertaking or any foreign organization that the United States Secretary of State has designated a foreign terrorist organization pursuant to Title 8 U.S.C.A., Section 1189;

3. "Innocent party" includes bona fide purchasers and victims;

4. "Lien notice" means the notice pursuant to the provisions of Section 1412 of this title;

5. "Pattern of racketeering activity" means two or more occasions of conduct:

a. that include each of the following:

(1) constitute racketeering activity,

(2) are related to the affairs of the enterprise,

(3) are not isolated, and

(4) are not so closely related to each other and connected in point of time and place that they constitute a single event, and

b. where each of the following is present:

(1) at least one of the occasions of conduct occurred after November 1, 1988,

(2) the last of the occasions of conduct occurred within three (3) years, excluding any period of imprisonment served by any person engaging in the conduct, of a prior occasion of conduct, and

(3) for the purposes of Section 1403 of this title each of the occasions of conduct constituted a felony pursuant to the laws of this state;

6. "Pecuniary value" means:

a. anything of value in the form of money, a negotiable instrument, or a commercial interest, or anything else, the primary significance of which is economic advantage, or

b. any other property or service that has a value in excess of One Hundred Dollars ($100.00);

7. "Person" means any individual or entity holding or capable of holding a legal or beneficial interest in property;

8. "Personal property" includes any personal property, or any interest in such personal property, or any right, including bank accounts, debts, corporate stocks, patents or copyrights. Personal property and beneficial interest in personal property shall be deemed to be located where the trustee, the personal property, or the instrument evidencing the right is located;

9. "Principal" means a person who engages in conduct constituting a violation of the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act or who is legally accountable for the conduct of another who engages in a violation of the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act;

10. "Racketeering activity" means engaging in, attempting to engage in, conspiring to engage in, or soliciting, coercing, or intimidating another person to engage in any conduct which is chargeable or indictable as constituting a felony violation of one

or more of the following provisions of the Oklahoma Statutes, regardless of whether such act is in fact charged or indicted:

a. relating to homicide pursuant to the provisions of ~~Sections~~ Section 651, 652, 653, 701.7, 701.8, 701.16, 711 or 716 of Title 21 of the Oklahoma Statutes or relating to concealment of homicidal death pursuant to the provisions of Section 543 of Title 21 of the Oklahoma Statutes,

b. relating to kidnapping pursuant to the provisions of ~~Sections~~ Section 741, 745, 891 or 1119 of Title 21 of the Oklahoma Statutes,

c. relating to sex offenses pursuant to the provisions of ~~Sections~~ Section 886, 888, 1021, 1021.2, 1021.4, 1024.2, ~~1040.51,~~ 1111, 1111.1, 1114 or 1123 of Title 21 of the Oklahoma Statutes,

d. relating to bodily harm pursuant to the provisions of ~~Sections~~ Section 645, 650, 650.2, 1289.16, 1302, 1303 or 1767.1 of Title 21 of the Oklahoma Statutes,

e. relating to theft, where the offense constitutes a felony, pursuant to the provisions of ~~Sections~~ Section 1704, 1707, 1708, 1709, 1710, 1711, 1713, 1716, 1719, 1720, 1721, 1722, 1723 or 1731 of Title 21 of the Oklahoma Statutes,

f. relating to forgery pursuant to the provisions of ~~Sections~~ Section 1561, 1562, 1571, 1572, 1574, 1575, 1577, 1578, 1579, 1580, 1581, 1582, 1583, 1584, 1585, 1586, 1587, 1588, 1589, 1590, 1591 or 1593 of Title 21 of the Oklahoma Statutes,

g. relating to robbery pursuant to the provisions of ~~Sections~~ Section 797, 800 or 801 of Title 21 of the Oklahoma Statutes,

h. relating to burglary pursuant to the provisions of ~~Sections~~ Section 1431, 1435 or 1437 of Title 21 of the Oklahoma Statutes,

i. relating to arson pursuant to the provisions of ~~Sections~~ Section 1368, 1401, 1402, 1403 or 1404 of Title 21 of the Oklahoma Statutes,

j. relating to use or possession of a firearm or other offensive weapon while committing or attempting to commit a felony pursuant to the provisions of ~~Sections~~ Section 1287, 1289.20 or 1289.21 of Title 21 of the Oklahoma Statutes,

k. relating to gambling pursuant to the provisions of ~~Sections~~ Section 941, 942, 944, 945, 946, 948, 954, 956, 957, ~~962,~~ 969, 970, 971, 981, 982, 983, 984, 985, 986, 987, 991~~,~~ or 992~~, 995.7, 995.8, 995.11 or 995.12~~ of Title 21 of the Oklahoma Statutes,

l. relating to bribery in contests pursuant to the provisions of ~~Sections~~ Section 399 or 400 of Title 21 of the Oklahoma Statutes,

m. relating to interference with public officers pursuant to the provisions of ~~Sections~~ Section 434, 436, 437, 438, 439, 440, 441, 443, 444, 521, 522, 532, 540, 543, 545 or 546 of Title 21 of the Oklahoma Statutes,

n. relating to interference with judicial procedure pursuant to the provisions of ~~Sections~~ Section 388, 453, 455, 456, 491, 496 or 504 of Title 21 of the Oklahoma Statutes,

o. relating to official misconduct pursuant to the provisions of ~~Sections~~ Section 380, 381, 382, 383, 384, 385, 386, 389, 390, 950 or 976 of Title 21 of the Oklahoma Statutes,

p. relating to the Uniform Controlled Dangerous Substances Act, where the offense constitutes a felony, pursuant to the provisions of Section 2-101 et seq. of Title 63 of the Oklahoma Statutes,

q. relating to automobile theft pursuant to the provisions of ~~Sections~~ Section 4-102, 4-103, 4-107, 4-108, 4-109 or 4-110 of Title 47 of the Oklahoma Statutes,

r. relating to embezzlement pursuant to the provisions of Section 1412 of Title 6 of the Oklahoma Statutes, Section 641 of Title 19 of the Oklahoma Statutes, ~~Sections~~ Section 341, 531~~,~~ or 1451~~, 1452, 1453, 1454, 1455, 1456, 1463 or 1464~~ of Title 21 of the Oklahoma Statutes, Section 163.4 of Title 37 of the Oklahoma Statutes, ~~Section 25 of Title 41 of the Oklahoma Statutes,~~ Section 114 of Title 64 of the Oklahoma Statutes or ~~Sections 506 or~~ Section 1361 of Title 68 of the Oklahoma Statutes,

s. relating to extortion, where the offense constitutes a felony, pursuant to the provisions of ~~Sections~~ Section 1304, 1481, 1482, 1485, 1486 or 1488 of Title 21 of the Oklahoma Statutes,

t. relating to fraud, where the offense constitutes a felony, pursuant to the provisions of ~~Sections~~ Section 208.6, 208.7 or 208.8 of Title 3A of the Oklahoma Statutes, Section 552.18 of Title 18 of the Oklahoma Statutes, ~~Sections~~ Section 358, 1411, 1412, 1413, 1414, 1415, 1416, 1503, 1521, 1541.1, 1541.3, 1542, 1543, 1544, 1550.2, 1550.22, 1550.23, 1550.24, 1550.25, 1550.26, 1550.27, 1550.28, 1550.29, 1550.30, 1550.31, 1550.32, 1632, 1635 or 1662 of Title 21 of the Oklahoma Statutes, Section 243 of Title 56 of the Oklahoma Statutes, or Section 604 of Title 62 of the Oklahoma Statutes,

u. relating to conspiracy, where the offense constitutes a felony, pursuant to the provisions of ~~Sections~~ Section 421, 422 or 424 of Title 21 of the Oklahoma Statutes,

v. relating to prostitution, pornography or obscenity pursuant to the provisions of ~~Sections~~ Section 1021, 1040.52, 1081, 1085, 1086, 1087 or 1088 of Title 21 of the Oklahoma Statutes,

w. relating to the Oklahoma Alcoholic Beverage Control Act, where the offense constitutes a felony, pursuant to the provisions of Section 506.1 et seq. of Title 37 of the Oklahoma Statutes,

x. relating to the Oklahoma Uniform Securities Act of 2004, where the offense constitutes a felony, pursuant to the provisions of ~~Section 1 et seq.~~ Sections 1-101 through 1-701 of Title 71 of the Oklahoma Statutes, ~~or~~

y. relating to human trafficking or trafficking in children pursuant to the provisions of ~~Sections~~ Section 748, 866 ~~and~~ or 867 of Title 21 of the Oklahoma Statutes~~,~~,

z. relating to illegal aliens pursuant to the provisions of Section 446 of Title 21 of the Oklahoma Statutes,

aa. relating to organized voter fraud pursuant to the provisions of Section 16-102, 16-102.1, 16-102.2, 16-103, 16-103.1, 16-104, 16-105, 16-106, 16-113, 16-118, 16-120, 16-121 or 16-123.1 of Title 26 of the Oklahoma Statutes, or

bb. relating to terrorism and terrorist activities pursuant to the provisions of the Sabotage Prevention Act or the Oklahoma Antiterrorism Act.

In addition, "racketeering activity" may be proven by proof of engaging in, attempting to engage in, conspiring to engage in, or soliciting, coercing, or intimidating another person to engage in any of the above described conduct within another state, regardless of whether said conduct is chargeable or indictable in that state~~.~~;

11. "Real property" means any real property or any interest in real property, including any lease of, or mortgage upon real property. Real property and beneficial interest in real property shall be deemed to be located where the real property is located;

12. "Trustee" includes trustees, a corporate as well as a natural person and a successor or substitute trustee in accordance with the Oklahoma Trust Act~~, Section 175.1 et seq. of Title 60 of the Oklahoma Statutes~~; and

13. "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is unenforceable in the courts of Oklahoma, because the debt was incurred or contracted in violation of a law relating to the business of gambling activity or in violation of federal or state law but does not include any debt owed to a bank, savings and loan association,

credit union or supervised lender licensed by the Oklahoma Administrator of Consumer Credit or to any debt referred or assigned to a debt collection agency, which referral or assignment is accepted in good faith by the debt collection agency as a debt collectible under the Uniform Commercial Code or other laws of this state and enforceable in the courts of this state.

SECTION 6. AMENDATORY 22 O.S. 2001, Section 1403, is amended to read as follows:

Section 1403. A. No person employed by or associated with any enterprise shall conduct or participate in, directly or indirectly, the affairs of the enterprise through a pattern of racketeering activity or the collection of an unlawful debt.

B. No person, through a pattern of racketeering activity or through the collection of an unlawful debt, shall acquire or maintain, directly or indirectly, any interest in or control of any enterprise or real property.

C. No person who has received any proceeds derived, directly or indirectly, from a pattern of racketeering activity, or through the collection of any unlawful debt, in which ~~he~~ the person participated as a principal, shall use or invest, directly or indirectly, any part of the proceeds or any proceeds derived from the investment or use of any of those proceeds in the acquisition of any right, title, or interest in real property or in the establishment or operation of any enterprise.

A purchase of securities on the open market with intent to make an investment, and without the intent of controlling or participating in the control of the issuer or of assisting another to do so, shall not be unlawful pursuant to the provisions of this section if the securities of the issuer held by the purchaser, the members of ~~his~~ the immediate family of the purchaser, and ~~his or their~~ accomplices of the purchaser or immediate family of the purchaser in any pattern of racketeering activity, or the collection of an unlawful debt after the purchase, do not amount in the aggregate to one percent (1%) of the outstanding securities of any one class and do not confer the power to elect one or more directors of the issuer.

D. No person shall attempt to violate or conspire with others to violate the provisions of subsection A, B or C of this section.

E. Venue for a civil or criminal action to enforce the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act shall be in any county in which at least one act of racketeering activity is alleged to have occurred in the petition or information or indictment, it being the intent of this act, that one district court have jurisdiction over all the conduct, persons and property subject to this act.

SECTION 7. AMENDATORY 22 O.S. 2001, Section 1404, is amended to read as follows:

Section 1404. A. Any person convicted of violating any provision of Section 1403 of this title shall be punished by a term of imprisonment in the custody of the Department of Corrections of not less than ten (10) years and shall not be eligible for a deferred sentence, probation, suspension, work furlough, or release from confinement on any other basis until the person has served one-half (1/2) of ~~his or her~~ the sentence. A violation of each of the provisions of Section 1403 of this title shall be a separate offense.

B. In lieu of the fine authorized by the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act, any person convicted of violating any provision of Section 1403 of this title, through which ~~he~~ the person derived pecuniary value, or by which ~~he~~ the person caused personal injury, or property damage or other loss, may be sentenced to pay a fine that does not exceed three times the gross value gained or three times the gross loss caused, whichever is greater, plus court costs and the costs of investigation and prosecution reasonably incurred, less the value of any property ordered forfeited pursuant to the provisions of subsection A of Section 1405 of this title. The district court shall hold a separate hearing to determine the amount of the fine authorized by the provisions of this subsection.

C. No person shall institute any proceedings, civil or criminal, pursuant to the provisions of this act, except the Attorney General, any district attorney or any district attorney appointed under the provisions of Section 215.9 of Title 19 of the Oklahoma Statutes.

SECTION 8. AMENDATORY 22 O.S. 2001, Section 1405, is amended to read as follows:

Section 1405. A. Any person convicted of violating any of the provisions of Section ~~3~~ 1403 of the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act shall criminally forfeit to the state, according to the procedures established in subsection B of this section, any real or personal property used in the course of, intended for use in the course of, derived from, or realized through conduct in violation of Section ~~3~~ 1403 of the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act, including any property constituting an interest in or means of control or influence over the enterprise involved in the conduct in violation of Section ~~3~~ 1403 of the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act, including:

1. Any compensation, right, or benefit derived from a position, office, appointment, tenure, commission, or employment contract that accrued to ~~him~~ the person during the course of conduct in violation of Section ~~3~~ 1403 of the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act;

2. Any interest in, security of, claim against, or property or contractual right affording ~~him~~ the person a source of influence or control over the affairs of an enterprise that the person exercised in violation of Section ~~3~~ 1403 of the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act; or

3. Any amount payable or paid pursuant to any contract for goods or services that was awarded or performed in violation of Section ~~3~~ 1403 of the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act.

B. The criminal forfeiture procedures are as follows:

1. A judgment of criminal forfeiture shall not be entered unless a special verdict containing a finding of property subject to forfeiture, specifying the extent of such property and describing with specificity such property and the circumstances by which the property is subject to forfeiture is returned; and

2. If any property included in a special verdict of criminal forfeiture:

a. cannot be located,

b. has been sold to a bona fide purchaser for value,

c. has been placed beyond the jurisdiction of the court,

d. has been substantially diminished in value by the conduct of the defendant,

e. has been commingled with other property that cannot be divided without difficulty or undue injury to innocent parties,

f. is otherwise unreachable without undue injury to innocent parties, or

g. is subject to a valid security interest, to the extent of the security interest, held by a bank, savings and loan association, credit union or supervised lender licensed by the Oklahoma Administrator of Consumer Credit, acquired prior to the lien notice provided by Section ~~12~~ 1412 of this ~~act~~ title,

the district court shall order forfeiture of any other property of the defendant up to the value of the property that is unreachable.

SECTION 9. AMENDATORY 22 O.S. 2001, Section 1407, is amended to read as follows:

Section 1407. Following the entry of a judgment that includes a fine or an order of criminal forfeiture pursuant to the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act, or both, the district court may enter a restraining order or an injunction, require the execution of a satisfactory bond, or take any other action, including the appointment of a receiver, that the district court deems proper to protect the interests of the state.

An order of criminal forfeiture shall authorize the Attorney General or district attorney to seize the property declared forfeited upon such terms and conditions, relating to the time and manner of seizure, as the district court shall deem proper.

SECTION 10. AMENDATORY 22 O.S. 2001, Section 1408, is amended to read as follows:

Section 1408. Criminal penalties and fines pursuant to the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act are supplemental and not mutually exclusive, except when so

designated, and shall not preclude the application of any other criminal or civil remedy pursuant to any other provision of the law.

SECTION 11. AMENDATORY 22 O.S. 2001, Section 1409, is amended to read as follows:

Section 1409. A. The Attorney General, any district attorney or any district attorney appointed under the provisions of Section 215.9 of Title 19 of the Oklahoma Statutes may institute civil proceedings against any person in an appropriate district court seeking relief from conduct constituting a violation of any provisions of Section ~~3~~ 1403 of the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act with the right to a trial by jury at the request of either party. If the plaintiff in such a proceeding proves the alleged violation by a preponderance of the evidence, the district court, after making due provisions for the rights of innocent parties, may grant relief by entering any appropriate order of judgment, including:

1. Ordering any defendant to divest himself of any interest in any enterprise or any real property;

2. Imposing reasonable restrictions upon the future activities or investments of any defendant, including prohibiting any defendant from engaging in the same type of endeavor as the enterprise in which ~~he~~ the defendant was engaged in violation of Section ~~3~~ 1403 of the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act;

3. Ordering the dissolution or reorganization of any enterprise;

4. Ordering the suspension or revocation of a license, permit, or prior approval granted to any enterprise by an agency of the state; or

5. Ordering the surrender of the charter of a corporation organized pursuant to the laws of the state or the revocation of a certificate authorizing a foreign corporation to conduct business within the state.

In a proceeding initiated pursuant to the provisions of this section, injunctive relief shall be granted in conformity with the principles that govern the granting of relief from injury or threatened injury in other cases, but no showing of special or

irreparable injury shall be required. Pending final determination of a proceeding initiated pursuant to the provisions of this section, a temporary restraining order or a preliminary injunction may be issued upon a showing of immediate danger of significant injury, including the possibility that any judgment for money damages might be difficult to execute, and, in a proceeding initiated by an aggrieved person, upon the execution of a bond in the amount of ten percent (10%) of the value of the property against injury for an injunction improvidently granted. If the district court issues an injunction or grants other relief pursuant to the provisions of this section, the plaintiff shall also recover costs, including reasonable attorney fees and costs of investigation and litigation reasonably incurred.

B. The civil penalty imposed pursuant to this section shall not exceed One Hundred Thousand Dollars ($100,000.00), with no offset for the value of any property criminally forfeited or any fine imposed pursuant to the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act. This amount shall be applied to the costs and expenses of investigation and prosecution, and the balance, if any, shall be paid pursuant to the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act.

C. Upon the filing of a civil action pursuant to the provisions of subsection A or B of this section, a district attorney shall immediately notify the Attorney General of its filing. Upon timely application, the Attorney General may intervene as a party in any civil action or proceeding brought pursuant to subsection A or B of this section if the Attorney General certifies that the action or proceeding is of general public importance.

D. A final judgment or decree rendered against the defendant in any civil or criminal proceeding pursuant to the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act, shall estop the defendant in any subsequent civil action or proceeding brought by any person as to all matters as to which the judgment or decree would be an estoppel as between the parties to a civil or criminal proceeding.

E. A civil action or proceeding pursuant to the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act may be commenced at any time within five (5) years after the conduct made unlawful pursuant to the provisions of Section ~~3~~ 1403 of the Oklahoma Racketeer-Influenced and Corrupt

Organizations ~~Prevention~~ Act terminates or the cause of action accrues. If a criminal proceeding or civil action or other proceeding is brought by or intervention is granted to the state to punish, prevent, or restrain any activity made unlawful pursuant to the provisions of Section ~~3~~ 1403 of the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act, the running of the period of limitations prescribed by this section with respect to any cause of action of an aggrieved person, based in whole or in part upon any matter complained of in any such prosecution, action, or proceeding shall be suspended during the pendency of such prosecution, action, or proceeding and for two (2) years following its termination.

F. Service of process in an action pursuant to the provisions of this section may be made upon any person outside the state if the person was a principal in any conduct constituting a violation of the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act in this state. The person shall be deemed to have thereby submitted himself to the jurisdiction of the courts of this state for the purposes of this section.

G. The application of any civil remedy pursuant to the provisions of this section shall not preclude the application of any other civil or criminal remedy pursuant to the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act or any other provision of law. Civil remedies pursuant to the provisions of this section are supplemental and not mutually exclusive.

SECTION 12. AMENDATORY 22 O.S. 2001, Section 1410, is amended to read as follows:

Section 1410. A. Upon approval of the district court, the Attorney General or district attorney shall dispose of all property ordered forfeited in any criminal proceeding pursuant to the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act as soon as feasible, making due provisions for the rights of innocent parties, by:

1. Public sale;

2. Transfer to a state, county or local governmental agency for official use;

3. Sale or transfer to an innocent party; or

4. Destruction, if the property is not needed for evidence in any pending criminal or civil proceeding.

B. Any property right not exercisable by, or transferable for value to the state shall not revert to the defendant. No defendant or any person acting in concert with ~~him~~ the defendant or on ~~his~~ behalf of the defendant shall be eligible to purchase forfeited property from the state.

C. With respect to property ordered forfeited in any criminal proceeding pursuant to the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act, the Attorney General, district attorney or other prosecutorial officer designated by the Attorney General is authorized to:

1. Compromise claims;

2. Award compensation to persons providing information resulting in a forfeiture pursuant to the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act; and

3. Petition the court to mitigate or remit a forfeiture or to restore forfeited property to victims of a violation of Section ~~3~~ 1403 of the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act.

D. The proceeds of any sale or other disposition of forfeited property imposed pursuant to the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act shall be applied as follows:

1. To a bona fide innocent purchaser, conditional sales vendor, or mortgagee of the forfeited property up to the amount of ~~his~~ the interest held by the person in the forfeited property;

2. To the fees and costs of the forfeiture and sale, including expenses of seizure, maintenance, and custody of the property pending its disposition, advertising, and the court costs;

3. To all costs and expenses of investigation and prosecution, including costs of resources and personnel incurred in investigation and prosecution; and

4. The balance to the credit of the Attorney General, district attorney, or law enforcement agencies in such proportions as are

represented by the costs and expenses of investigation and prosecution as provided in the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act.

SECTION 13. AMENDATORY 22 O.S. 2001, Section 1411, is amended to read as follows:

Section 1411. A. The balance of the proceeds of all forfeitures ordered pursuant to the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act shall be transmitted to the State Treasury and deposited in such proportions as determined by the court as are represented by the costs and expenses of such investigation and prosecution as follows:

1. Any proceeds resulting from the investigation and prosecution by a county or municipal law enforcement agency or district attorney pursuant to the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act shall be deposited in a revolving fund in the office of the county treasurer of the county wherein the forfeiture was ordered to be maintained and expended by the district attorney in ~~his~~ the discretion of the district attorney for the purposes specified in subsection B of this section with a yearly accounting to the board of county commissioners in whose county the fund is established and to the District Attorneys Council;

2. Any proceeds resulting from the investigation and prosecution by the Oklahoma State Bureau of Investigation or the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control pursuant to the provisions of ~~this act~~ the Oklahoma Racketeer-Influenced and Corrupt Organizations Act shall be deposited in the agency special account established pursuant to the provisions of Section 7.2 of Title 62 of the Oklahoma Statutes for the Oklahoma State Bureau of Investigation or the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

3. Any proceeds resulting from the investigation and prosecution by the Attorney General pursuant to the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act shall be deposited in the Attorney General's Evidence Fund pursuant to the provisions of Section 19 of Title 74 of the Oklahoma Statutes; and

4. Any proceeds resulting from the investigation and prosecution by any other agency of this state pursuant to the

provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act shall be deposited in the appropriate revolving fund, agency special account or other fund for that agency as determined by the State Treasurer.

B. Monies deposited in such funds and accounts pursuant to the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act shall be expended for the purpose of the costs and expenses of investigation and prosecution, whether criminally or civilly, of conduct made unlawful by the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act, including costs of resources and personnel.

SECTION 14. AMENDATORY 22 O.S. 2001, Section 1412, is amended to read as follows:

Section 1412. A. At any time after the institution of any civil proceeding or at any time after the filing of an indictment or information pursuant to the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act, the state may file a lien notice in the official records as may be required for perfecting a security interest for any given property. A filing fee in the amount as required by law for the filing of a mechanic's or materialmen's lien shall be required as a condition for filing the lien notice, and the county clerk, upon the presentation of such lien notice, shall immediately record it in the official records.

B. The lien notice shall be signed by the Attorney General or by a district attorney. The notice shall be in such form as the Attorney General prescribes and shall set forth the following information:

1. The name of the person against whom the proceeding has been brought or who has been charged or indicted for a violation of this act and any other names under which the person may be known. The Attorney General or district attorney may also name in the lien notice any enterprise that is either controlled by or entirely owned by the person;

2. If known to the Attorney General or district attorney, the present residence and business addresses of the persons named in the lien notice;

3. A reference to the criminal or civil proceeding stating that a proceeding pursuant to the provisions of the Oklahoma Racketeer-

Influenced and Corrupt Organizations ~~Prevention~~ Act has been brought against the person named in the lien notice or that the person has been charged or indicted for a violation of this act, the name of the county or counties where the proceeding has been brought or the conviction was made and any other lien notices filed, and, if known to the Attorney General or district attorney at the time of filing the lien notice, the case number of the proceeding;

4. A statement that the notice is being filed pursuant to the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act; and

5. The name and address of the Attorney General or the district attorney filing the lien notice.

A lien notice shall apply only to one person and, to the extent applicable, the names of enterprises, to the extent permitted in this section. A separate lien notice shall be filed for any other person against whom the Attorney General or district attorney desires to file a lien notice pursuant to the provisions of this section.

C. Within ten (10) days after filing of each lien notice, the Attorney General or district attorney shall furnish to the person named in the notice by certified mail, return receipt requested, to the last-known business or residential address, a copy of the recorded notice. In the event the person cannot be served by certified mail, service may be by publication pursuant to Section 2004 of Title 12 of the Oklahoma Statutes.

D. From the time of its filing, a lien notice creates a lien in favor of the state on the following property of the person named in the notice:

1. Any personal or real property owned by the person under any name set forth in the lien notice which is situated in the county where the notice is filed; and

2. Any beneficial interest of said property owned by the person under any name located in the county where the notice is filed.

The lien shall commence and attach as of the time of filing of the lien notice and shall continue thereafter until expiration, termination, or release of the lien. The lien created in favor of the state shall be superior and prior to the interest of any other

person in the personal or real property or beneficial interest in said property, if the interest is acquired subsequent to the filing of the notice.

E. In conjunction with any civil proceeding:

1. The Attorney General or district attorney may file without prior court order in any county a lis pendens pursuant to the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act. In that event, any person acquiring an interest in the subject real property or beneficial interest in it after the filing of the lis pendens, shall take the interest subject to the civil proceeding and any subsequent judgment of forfeiture; and

2. If a lien notice has been filed, the Attorney General or district attorney may name as defendants, in addition to the person named in the notice, any person acquiring an interest in the personal or real property or beneficial interest in it subsequent to the filing of the notice. If a judgment of forfeiture is entered in the proceeding in favor of the state, the interest of any person in the property that was acquired subsequent to the filing of the notice and judgment of forfeiture shall be subject to the notice and judgment of forfeiture.

F. Upon the entry of a final judgment of forfeiture in favor of the state, the title to the forfeited real property shall be transferred to the state and shall be recorded in the official records of the county where the real property or a beneficial interest in it is located.

In the case of personal property or a beneficial interest in it, the property shall be seized if not already in possession of the state and disposed of in accordance with the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act.

G. If personal or real property or a beneficial interest in it subject to forfeiture is conveyed, alienated, disposed of, or otherwise rendered unavailable for forfeiture after the filing of a lien notice, the state may treat it as a fraudulent and preferential conveyance and may institute an action in any district court against the person named in the lien notice, the defendant in the civil proceeding or the person convicted in the criminal proceeding; and the court shall enter final judgment against such person or any beneficial interest in it together with investigative costs and

attorneys fees incurred by the state in the action. If a civil proceeding is pending, such action shall be filed only in the court where such civil proceeding is pending.

H. The filing of a lien notice shall not affect the use to which personal or real property or a beneficial interest in it owned by the person named in the racketeering lien may be entitled to or the right of the person to receive any avails, rents, or other proceeds resulting from the use and ownership of the property, except for the conveyance of said property, until a judgment of forfeiture is entered.

I. The term of a lien notice shall be for a period of six (6) years from the date of filing unless a renewal lien notice has been filed by the Attorney General or district attorney. In this event, the term of the renewal lien notice shall be for a period of six (6) years from the date of its filing. The Attorney General or district attorney shall be entitled to only one renewal of the lien notice.

J. The Attorney General or district attorney filing the lien notice may release in whole or in part any lien notice or may release any personal or real property or beneficial interest in it from the lien notice upon such terms and conditions as ~~he~~ the Attorney General or district attorney may determine. Any release of a lien notice executed by the Attorney General or district attorney may be filed in the official records of any county. No charge or fee shall be imposed for the filing of any release of a lien notice.

K. If no civil proceeding has been instituted by the Attorney General or district attorney seeking a forfeiture of any property owned by the person named in the lien notice, the acquittal in the criminal proceeding of the person named in the lien notice or the dismissal of the criminal proceeding, shall terminate the lien notice. If the civil proceeding has been instituted, in the event the criminal proceeding has been dismissed or the person named in the lien notice has been acquitted in the criminal proceeding, the lien notice shall continue for the duration of the civil proceeding.

L. If no civil proceeding or criminal proceeding is then pending against the person named in the lien notice, any person named in a lien notice may apply to the district court in the county where the notice has been filed for the release or extinguishment of the notice and the district court shall enter a judgment extinguishing the lien notice or releasing the personal or real property or beneficial interest in it from the lien notice.

M. In the event a civil proceeding is pending against a person named in a lien notice, the district court upon motion by the person may grant the relief provided for in this section at a hearing held for that purpose:

1. If a sale of the personal or real property or beneficial interest in it is pending and the filing of the notice prevents the sale of the property or interest, the district court shall immediately enter its order releasing from the lien notice any specific personal or real property or beneficial interest in it. The proceeds resulting from the sale of the personal or real property or beneficial interest in it shall be deposited with the clerk of the district court, subject to the further order of the district court; and

2. At the hearing, the district court may release from the lien notice any personal or real property or beneficial interest in it upon the posting by such person of such security as is equal to the value of the personal or real property or beneficial interest in it owned by such person.

SECTION 15. AMENDATORY 22 O.S. 2001, Section 1413, is amended to read as follows:

Section 1413. A. A trustee, who acquires actual knowledge that a lien notice or a civil proceeding or criminal proceeding has been filed against any person for whom ~~he~~ the trustee holds legal or record title to personal or real property, shall immediately furnish to the Attorney General or district attorney the following:

1. The name and address of the person;

2. The name and address of all other persons for whose benefit the trustee holds title to the personal or real property; and

3. If requested by the Attorney General or district attorney, a copy of the trust agreement or other instrument pursuant to which the trustee holds legal or record title to the personal or real property. Any trustee who fails to comply with the provisions of this section, upon conviction, is guilty of a felony.

B. Any trustee having notice of the filing of the lien notice, who transfers or conveys title to personal or real property on which

said notice has been filed, shall not be liable to the state for the greater of:

1. The amount of proceeds received directly by the person named in the lien notice as a result of the transfer or conveyance;

2. The amount of proceeds received by the trustee as a result of the transfer or conveyance and distributed to the person named in the lien notice; or

3. The fair market value of the interest of the person named in the lien notice in the personal or real property transferred or conveyed; but if the trustee transfers or conveys the personal or real property for at least its fair market value and holds the proceeds that would otherwise be paid or distributed to the beneficiary or at the direction of the beneficiary or ~~his~~ designee of the beneficiary, the liability of the trustee shall not exceed the amount of the proceeds held for so long as the proceeds are held by the trustee.

C. The filing of a lien notice shall not constitute a lien on the record title to personal or real property owned by the trustee except to the extent the trustee is named in the lien notice. The Attorney General or district attorney may bring a civil proceeding in any district court against the trustee to recover from the trustee the amounts set forth in the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act, and the state shall also be entitled to recover investigative costs and attorneys fees incurred by the Attorney General or district attorney.

D. The provisions of this section shall not apply to any transfer or conveyance by a trustee pursuant to a court order, unless the court order is entered in an action between the trustee and the beneficiary.

SECTION 16. AMENDATORY 22 O.S. 2001, Section 1414, is amended to read as follows:

Section 1414. Each foreign corporation doing business in this state that fails to file a report or fails to comply with the provisions of Section 1130 of Title 18 of the Oklahoma Statutes shall be subject to the jurisdiction of the State of Oklahoma for purposes of the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act.

SECTION 17. AMENDATORY 22 O.S. 2001, Section 1415, is amended to read as follows:

Section 1415. A. When any person has engaged in, is engaged in, or is attempting or conspiring to engage in any conduct constituting a violation of any of the provisions of Section ~~3~~ 1403 of the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act, the Attorney General or district attorney may conduct an investigation of the conduct. On approval of the district judge, the Attorney General or district attorney in accordance with the provisions of Section 258 of Title 22 of the Oklahoma Statutes is authorized before the commencement of any civil or criminal proceeding pursuant to the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act to subpoena witnesses, compel their attendance, examine them under oath, or require the production of any business papers or records by subpoena duces tecum, except that such evidence taken shall not be receivable in any civil proceeding.

B. Any business papers and records subpoenaed by the Attorney General or district attorney shall be available for examination by the person who produced the material or by any duly authorized representative of the person. Transcripts of oral testimony shall be available for examination by the person who produced such testimony, or ~~his~~ counsel of the person.

Except as otherwise provided for in this section, no business papers or records or transcripts or oral testimony, or copies of it, subpoenaed by the Attorney General or district attorney shall be available for examination by an individual other than another law enforcement official without the consent of the person who produced the business papers or records or transcript.

C. All persons served with a subpoena by the Attorney General or district attorney pursuant to the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act shall be paid the same fees and mileage as paid witnesses in the courts of this state.

D. No person shall, with intent to avoid, evade, prevent, or obstruct compliance in whole or in part by any person with any duly served subpoena of the Attorney General or district attorney pursuant to the provisions of this section, knowingly remove from any place, conceal, withhold, destroy, mutilate, alter, or by any other means falsify any business papers or records that are the

subject of the subpoena ducus tecum. A violation of the provisions of this subsection, upon conviction, is a misdemeanor.

SECTION 18. AMENDATORY 22 O.S. 2001, Section 1417, is amended to read as follows:

Section 1417. Each judicial district shall select one or more of its district judges or associate district judges and if deemed necessary may also select one or more special judges to receive specialized education and training in applying the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act.

A program of judicial education and training shall be prepared and administered by the Administrative Office of the Courts. Such program and any materials shall be made available as needed to assist Oklahoma judges in applying the provisions of this act.

When available, the funds described in Section ~~11~~ 1411 of this ~~act~~ title may be used to help defray the expenses of such program.

SECTION 19. AMENDATORY 22 O.S. 2001, Section 1419, is amended to read as follows:

Section 1419. When the language of the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act is the same or similar to the language of Title ~~IX of P.L. 91-452 as amended~~ 18 U.S.C., Sections 1961 through 1968, the courts of this state in construing the Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act may follow the construction given to federal law by the federal courts, provided that nothing in this section shall be deemed to provide for any private right of action or confer any civil remedy except as specifically set out in this act.

SECTION 20. This act shall become effective November 1, 2010.

Passed the House of Representatives the 24th day of May, 2010.

Presiding Officer of the House of Representatives

Passed the Senate the 26th day of May, 2010.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 27th **day of** May, 2010, **at** 2:30 **o'clock** P **M.**

By:

Approved by the Governor of the State of Oklahoma the 10th **day of** June, 2010, **at** 3:55 **o'clock** A **M.**

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this 11th **day of** June, 2010 **at** 4:18 **o'clock** P **M.**

By: