

THE HOUSE OF REPRESENTATIVES  
Wednesday, February 25, 2009

House Bill No. 1845

HOUSE BILL NO. 1845 - By: SEARS, DUNCAN AND INMAN of the House.

An Act relating to crimes and punishments; amending 21 O.S. 2001, Sections 381 and 382, which relate to bribes; expanding scope of crime; making language gender neutral; updating language; amending 22 O.S. 2001, Section 1402, which relates to the Oklahoma Corrupt Organizations Prevention Act; modifying definition of racketeering activity; and providing an effective date.

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

1       SECTION 1.    AMENDATORY    21 O.S. 2001, Section 381, is amended to read as  
2 follows:  
3       Section 381.  Whoever corruptly gives, offers, or promises to any executive,  
4 legislative, county, municipal, judicial, or other public officer, or any employee of the  
5 State of Oklahoma or any political subdivision thereof, including peace officers and any  
6 other law enforcement officer, or any person assuming to act as such officer, after ~~his~~  
7 election or appointment of the person, either before or after ~~he~~ the person has qualified  
8 or has taken ~~his~~ the seat, any gift or gratuity whatever, with intent to influence ~~his~~ any  
9 act, vote, opinion, decision, or judgment on any matter, question, cause, or proceeding  
10 which then may be pending, or may by law come or be brought before ~~him~~ the person in  
11 ~~his~~ the official capacity of the person, or as a consideration for any speech, work,  
12 contract, construction agreement, right-of-way acquisition, competitive bid, or service in

1 connection therewith, shall be guilty of a felony punishable by imprisonment in the ~~State~~  
2 Penitentiary custody of the Department of Corrections for a term not exceeding five (5)  
3 years, or by a fine not exceeding Three Thousand Dollars (\$3,000.00) and imprisonment  
4 in the county jail for a term not exceeding one (1) year.

5 SECTION 2. AMENDATORY 21 O.S. 2001, Section 382, is amended to read as  
6 follows:

7 Section 382. Every executive, legislative, county, municipal, judicial, or other public  
8 officer, or any employee of the State of Oklahoma or any political subdivision thereof,  
9 including peace officers and any other law enforcement officer, or any person assuming to  
10 act as such officer, who corruptly accepts or requests a gift or gratuity, or a promise to  
11 make a gift, or a promise to do an act beneficial to such officer, or that judgment shall be  
12 given in any particular manner, or upon a particular side of any question, cause or  
13 proceeding, which is or may be by law brought before ~~him~~ the person in ~~his~~ the official  
14 capacity of the person, or as a consideration for any speech, work, contract, construction  
15 agreement, right-of-way acquisition, competitive bid, or service in connection therewith,  
16 or that in such capacity ~~he~~ the person shall make any particular nomination or  
17 appointment, shall forfeit ~~his~~ the office of the person, be forever disqualified to hold any  
18 public office, trust, or appointment under the laws of this state, and be guilty of a felony  
19 punishable by imprisonment in the ~~State Penitentiary~~ custody of the Department of  
20 Corrections for a term not exceeding ten (10) years, or by a fine not exceeding Five  
21 Thousand Dollars (\$5,000.00) and imprisonment in county jail for a term not exceeding  
22 one (1) year.

1 SECTION 3. AMENDATORY 22 O.S. 2001, Section 1402, is amended to read  
2 as follows:

3 Section 1402. As used in the Oklahoma Corrupt Organizations Prevention Act:

4 1. "Beneficial interest" includes:

- 5 a. the interest of a person as a beneficiary pursuant to a trust, in which
- 6 the trustee holds legal title to personal or real property, or
- 7 b. the interest of a person as a beneficiary pursuant to any other
- 8 arrangement under which any other person holds legal title to personal
- 9 or real property for the benefit of such person.

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

12 2. "Enterprise" includes any individual, sole proprietorship, partnership,  
13 corporation, trust, governmental entity, or other legal entity, or any union, association,  
14 unincorporated association or group of persons, associated in fact although not a legal  
15 entity, involved in any lawful or unlawful project or undertaking;

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

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

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

20 a. that include each of the following:

- 21 (1) constitute racketeering activity,
- 22 (2) are related to the affairs of the enterprise,

- 1 (3) are not isolated, and  
2 (4) are not so closely related to each other and connected in point of  
3 time and place that they constitute a single event, and  
4 b. where each of the following is present:  
5 (1) at least one of the occasions of conduct occurred after November  
6 1, 1988,  
7 (2) the last of the occasions of conduct occurred within three (3)  
8 years, excluding any period of imprisonment served by any  
9 person engaging in the conduct, of a prior occasion of conduct,  
10 and  
11 (3) for the purposes of Section 1403 of this title each of the occasions  
12 of conduct constituted a felony pursuant to the laws of this state;

13 6. "Pecuniary value" means:

- 14 a. anything of value in the form of money, a negotiable instrument, or a  
15 commercial interest, or anything else, the primary significance of  
16 which is economic advantage, or  
17 b. any other property or service that has a value in excess of One  
18 Hundred Dollars (\$100.00);

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

21 8. "Personal property" includes any personal property, or any interest in such  
22 personal property, or any right, including bank accounts, debts, corporate stocks, patents

1 or copyrights. Personal property and beneficial interest in personal property shall be  
2 deemed to be located where the trustee, the personal property, or the instrument  
3 evidencing the right is located;

4 9. "Principal" means a person who engages in conduct constituting a violation of  
5 the Oklahoma Corrupt Organizations Prevention Act or who is legally accountable for  
6 the conduct of another who engages in a violation of the Oklahoma Corrupt  
7 Organizations Prevention Act;

8 10. "Racketeering activity" means engaging in, attempting to engage in, conspiring  
9 to engage in, or soliciting, coercing, or intimidating another person to engage in any  
10 conduct which is chargeable or indictable as constituting a felony violation of one or more  
11 of the following provisions of the Oklahoma Statutes, regardless of whether such act is in  
12 fact charged or indicted:

- 13 a. relating to homicide pursuant to the provisions of Sections 651, 652,  
14 653, 701.7, 701.8, 701.16, 711 or 716 of Title 21 of the Oklahoma  
15 Statutes or relating to concealment of homicidal death pursuant to the  
16 provisions of Section 543 of Title 21 of the Oklahoma Statutes,  
17 b. relating to kidnapping pursuant to the provisions of Sections 741, 745,  
18 891 or 1119 of Title 21 of the Oklahoma Statutes,  
19 c. relating to sex offenses pursuant to the provisions of Sections 886, 888,  
20 1021, 1021.2, 1021.4, 1024.2, 1040.51, 1111, 1111.1, 1114 or 1123 of  
21 Title 21 of the Oklahoma Statutes,

- 1 d. relating to bodily harm pursuant to the provisions of Sections 645, 650,  
2 650.2, 1289.16, 1302, 1303 or 1767.1 of Title 21 of the Oklahoma  
3 Statutes,
- 4 e. relating to theft, where the offense constitutes a felony, pursuant to  
5 the provisions of Sections 1704, 1707, 1708, 1709, 1710, 1711, 1713,  
6 1716, 1719, 1720, 1721, 1722, 1723 or 1731 of Title 21 of the Oklahoma  
7 Statutes,
- 8 f. relating to forgery pursuant to the provisions of Sections 1561, 1562,  
9 1571, 1572, 1574, 1575, 1577, 1578, 1579, 1580, 1581, 1582, 1583,  
10 1584, 1585, 1586, 1587, 1588, 1589, 1590, 1591 or 1593 of Title 21 of  
11 the Oklahoma Statutes,
- 12 g. relating to robbery pursuant to the provisions of Sections 797, 800 or  
13 801 of Title 21 of the Oklahoma Statutes,
- 14 h. relating to burglary pursuant to the provisions of Sections 1431, 1435  
15 or 1437 of Title 21 of the Oklahoma Statutes,
- 16 i. relating to arson pursuant to the provisions of Sections 1368, 1401,  
17 1402, 1403 or 1404 of Title 21 of the Oklahoma Statutes,
- 18 j. relating to use or possession of a firearm or other offensive weapon  
19 while committing or attempting to commit a felony pursuant to the  
20 provisions of Sections 1287, 1289.20 or 1289.21 of Title 21 of the  
21 Oklahoma Statutes,

- 1 k. relating to gambling pursuant to the provisions of Sections 941, 942,  
2 944, 945, 946, 948, 954, 956, 957, 962, 969, 970, 971, 981, 982, 983,  
3 984, 985, 986, 987, 991, 992, 995.7, 995.8, 995.11 or 995.12 of Title 21  
4 of the Oklahoma Statutes,
- 5 l. relating to bribery in contests pursuant to the provisions of Sections  
6 399 or 400 of Title 21 of the Oklahoma Statutes,
- 7 m. relating to interference with public officers pursuant to the provisions  
8 of Sections 434, 436, 437, 438, 439, 440, 441, 443, 444, 521, 522, 532,  
9 540, 543, 545 or 546 of Title 21 of the Oklahoma Statutes,
- 10 n. relating to interference with judicial procedure pursuant to the  
11 provisions of Sections 388, 453, 455, 456, 491, 496 or 504 of Title 21 of  
12 the Oklahoma Statutes,
- 13 o. relating to official misconduct pursuant to the provisions of Sections  
14 380, 381, 382, 383, 384, 385, 386, 389, 390, 950 or 976 of Title 21 of the  
15 Oklahoma Statutes,
- 16 p. relating to the Uniform Controlled Dangerous Substances Act, where  
17 the offense constitutes a felony, pursuant to the provisions of Section  
18 2-101 et seq. of Title 63 of the Oklahoma Statutes,
- 19 q. relating to automobile theft pursuant to the provisions of Sections  
20 4-102, 4-103, 4-107, 4-108, 4-109 or 4-110 of Title 47 of the Oklahoma  
21 Statutes,

- 1 r. relating to embezzlement pursuant to the provisions of Section 1412 of  
2 Title 6 of the Oklahoma Statutes, Section 641 of Title 19 of the  
3 Oklahoma Statutes, Sections 341, 531, 1451, 1452, 1453, 1454, 1455,  
4 1456, 1463 or 1464 of Title 21 of the Oklahoma Statutes, Section 163.4  
5 of Title 37 of the Oklahoma Statutes, Section 25 of Title 41 of the  
6 Oklahoma Statutes, Section 114 of Title 64 of the Oklahoma Statutes  
7 or Sections 506 or 1361 of Title 68 of the Oklahoma Statutes,  
8 s. relating to extortion, where the offense constitutes a felony, pursuant  
9 to the provisions of Sections 1304, 1481, 1482, 1485, 1486 or 1488 of  
10 Title 21 of the Oklahoma Statutes,  
11 t. relating to fraud, where the offense constitutes a felony, pursuant to  
12 the provisions of Sections 208.6, 208.7 or 208.8 of Title 3A of the  
13 Oklahoma Statutes, Section 552.18 of Title 18 of the Oklahoma  
14 Statutes, Sections 358, 1411, 1412, 1413, 1414, 1415, 1416, 1503, 1521,  
15 1541.1, 1541.3, 1542, 1543, 1544, 1550.2, 1550.22, 1550.23, 1550.24,  
16 1550.25, 1550.26, 1550.27, 1550.28, 1550.29, 1550.30, 1550.31,  
17 1550.32, 1632, 1635 or 1662 of Title 21 of the Oklahoma Statutes,  
18 Section 243 of Title 56 of the Oklahoma Statutes, or Section 604 of  
19 Title 62 of the Oklahoma Statutes,  
20 u. relating to conspiracy, where the offense constitutes a felony, pursuant  
21 to the provisions of Sections 421, 422 or 424 of Title 21 of the  
22 Oklahoma Statutes,

- 1 v. relating to prostitution, pornography or obscenity pursuant to the  
2 provisions of Sections 1021, 1040.52, 1081, 1085, 1086, 1087 or 1088 of  
3 Title 21 of the Oklahoma Statutes,  
4 w. relating to the Oklahoma Alcoholic Beverage Control Act, where the  
5 offense constitutes a felony, pursuant to the provisions of Section 506.1  
6 et seq. of Title 37 of the Oklahoma Statutes,  
7 x. relating to the Oklahoma Securities Act, where the offense constitutes  
8 a felony, pursuant to the provisions of Section 1 et seq. of Title 71 of  
9 the Oklahoma Statutes, ~~or~~  
10 y. relating to trafficking in children pursuant to the provisions of Sections  
11 866 and 867 of Title 21 of the Oklahoma Statutes; or  
12 z. relating to any violation of the Public Competitive Bidding Act of 1974.

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

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

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

1           13. "Unlawful debt" means any money or other thing of value constituting principal  
2 or interest of a debt that is unenforceable in the courts of Oklahoma, because the debt  
3 was incurred or contracted in violation of a law relating to the business of gambling  
4 activity or in violation of federal or state law but does not include any debt owed to a  
5 bank, savings and loan association, credit union or supervised lender licensed by the  
6 Oklahoma Administrator of Consumer Credit or to any debt referred or assigned to a  
7 debt collection agency, which referral or assignment is accepted in good faith by the debt  
8 collection agency as a debt collectible under the Uniform Commercial Code or other laws  
9 of this state and enforceable in the courts of this state.

10           SECTION 4. This act shall become effective November 1, 2009.

11           COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02-24-09 - DO PASS,  
12 As Coauthored.

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.