

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 HOUSE BILL 1845

By: Duncan

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5
6 AS INTRODUCED

7 An Act relating to crimes and punishments; amending
8 21 O.S. 2001, Sections 381 and 382, which relate to
9 bribes; expanding scope of crime; making language
10 gender neutral; updating language; amending 22 O.S.
11 2001, Section 1402, which relates to the Oklahoma
12 Corrupt Organizations Prevention Act; modifying
13 definition of racketeering activity; and providing an
14 effective date.

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

16 SECTION 1. AMENDATORY 21 O.S. 2001, Section 381, is
17 amended to read as follows:

18 Section 381. Whoever corruptly gives, offers, or promises to
19 any executive, legislative, county, municipal, judicial, or other
20 public officer, or any employee of the State of Oklahoma or any
21 political subdivision thereof, including peace officers and any
22 other law enforcement officer, or any person assuming to act as such
23 officer, after ~~his~~ election or appointment of the person, either
24 before or after ~~he~~ the person has qualified or has taken ~~his~~ the
seat, any gift or gratuity whatever, with intent to influence ~~his~~
any act, vote, opinion, decision, or judgment on any matter,

1 question, cause, or proceeding which then may be pending, or may by
2 law come or be brought before ~~him~~ the person in ~~his~~ the official
3 capacity of the person, or as a consideration for any speech, work,
4 contract, construction agreement, right-of-way acquisition,
5 competitive bid, or service in connection therewith, shall be guilty
6 of a felony punishable by imprisonment in the ~~State Penitentiary~~
7 custody of the Department of Corrections for a term not exceeding
8 five (5) years, or by a fine not exceeding Three Thousand Dollars
9 (\$3,000.00) and imprisonment in the county jail for a term not
10 exceeding one (1) year.

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

13 Section 382. Every executive, legislative, county, municipal,
14 judicial, or other public officer, or any employee of the State of
15 Oklahoma or any political subdivision thereof, including peace
16 officers and any other law enforcement officer, or any person
17 assuming to act as such officer, who corruptly accepts or requests a
18 gift or gratuity, or a promise to make a gift, or a promise to do an
19 act beneficial to such officer, or that judgment shall be given in
20 any particular manner, or upon a particular side of any question,
21 cause or proceeding, which is or may be by law brought before ~~him~~
22 the person in ~~his~~ the official capacity of the person, or as a
23 consideration for any speech, work, contract, construction
24 agreement, right-of-way acquisition, competitive bid, or service in

1 connection therewith, or that in such capacity ~~he~~ the person shall
2 make any particular nomination or appointment, shall forfeit ~~his~~ the
3 office of the person, be forever disqualified to hold any public
4 office, trust, or appointment under the laws of this state, and be
5 guilty of a felony punishable by imprisonment in the ~~State~~
6 Penitentiary custody of the Department of Corrections for a term not
7 exceeding ten (10) years, or by a fine not exceeding Five Thousand
8 Dollars (\$5,000.00) and imprisonment in county jail for a term not
9 exceeding one (1) year.

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

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

14 1. "Beneficial interest" includes:

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

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

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

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

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

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

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

11 a. that include each of the following:

12 (1) constitute racketeering activity,

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

14 (3) are not isolated, and

15 (4) are not so closely related to each other and

16 connected in point of time and place that they

17 constitute a single event, and

18 b. where each of the following is present:

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

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

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

4 6. "Pecuniary value" means:

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

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

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

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

19 9. "Principal" means a person who engages in conduct
20 constituting a violation of the Oklahoma Corrupt Organizations
21 Prevention Act or who is legally accountable for the conduct of
22 another who engages in a violation of the Oklahoma Corrupt
23 Organizations Prevention Act;

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

7 a. relating to homicide pursuant to the provisions of
8 Sections 651, 652, 653, 701.7, 701.8, 701.16, 711 or
9 716 of Title 21 of the Oklahoma Statutes or relating
10 to concealment of homicidal death pursuant to the
11 provisions of Section 543 of Title 21 of the Oklahoma
12 Statutes,

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

16 c. relating to sex offenses pursuant to the provisions of
17 Sections 886, 888, 1021, 1021.2, 1021.4, 1024.2,
18 1040.51, 1111, 1111.1, 1114 or 1123 of Title 21 of the
19 Oklahoma Statutes,

20 d. relating to bodily harm pursuant to the provisions of
21 Sections 645, 650, 650.2, 1289.16, 1302, 1303 or
22 1767.1 of Title 21 of the Oklahoma Statutes,

23 e. relating to theft, where the offense constitutes a
24 felony, pursuant to the provisions of Sections 1704,

1 1707, 1708, 1709, 1710, 1711, 1713, 1716, 1719, 1720,
2 1721, 1722, 1723 or 1731 of Title 21 of the Oklahoma
3 Statutes,

4 f. relating to forgery pursuant to the provisions of
5 Sections 1561, 1562, 1571, 1572, 1574, 1575, 1577,
6 1578, 1579, 1580, 1581, 1582, 1583, 1584, 1585, 1586,
7 1587, 1588, 1589, 1590, 1591 or 1593 of Title 21 of
8 the Oklahoma Statutes,

9 g. relating to robbery pursuant to the provisions of
10 Sections 797, 800 or 801 of Title 21 of the Oklahoma
11 Statutes,

12 h. relating to burglary pursuant to the provisions of
13 Sections 1431, 1435 or 1437 of Title 21 of the
14 Oklahoma Statutes,

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

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

23 k. relating to gambling pursuant to the provisions of
24 Sections 941, 942, 944, 945, 946, 948, 954, 956, 957,

1 962, 969, 970, 971, 981, 982, 983, 984, 985, 986, 987,
2 991, 992, 995.7, 995.8, 995.11 or 995.12 of Title 21
3 of the Oklahoma Statutes,

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

7 m. relating to interference with public officers pursuant
8 to the provisions of Sections 434, 436, 437, 438, 439,
9 440, 441, 443, 444, 521, 522, 532, 540, 543, 545 or
10 546 of Title 21 of the Oklahoma Statutes,

11 n. relating to interference with judicial procedure
12 pursuant to the provisions of Sections 388, 453, 455,
13 456, 491, 496 or 504 of Title 21 of the Oklahoma
14 Statutes,

15 o. relating to official misconduct pursuant to the
16 provisions of Sections 380, 381, 382, 383, 384, 385,
17 386, 389, 390, 950 or 976 of Title 21 of the Oklahoma
18 Statutes,

19 p. relating to the Uniform Controlled Dangerous
20 Substances Act, where the offense constitutes a
21 felony, pursuant to the provisions of Section 2-101 et
22 seq. of Title 63 of the Oklahoma Statutes,
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- 1 q. relating to automobile theft pursuant to the
2 provisions of Sections 4-102, 4-103, 4-107, 4-108,
3 4-109 or 4-110 of Title 47 of the Oklahoma Statutes,
- 4 r. relating to embezzlement pursuant to the provisions of
5 Section 1412 of Title 6 of the Oklahoma Statutes,
6 Section 641 of Title 19 of the Oklahoma Statutes,
7 Sections 341, 531, 1451, 1452, 1453, 1454, 1455, 1456,
8 1463 or 1464 of Title 21 of the Oklahoma Statutes,
9 Section 163.4 of Title 37 of the Oklahoma Statutes,
10 Section 25 of Title 41 of the Oklahoma Statutes,
11 Section 114 of Title 64 of the Oklahoma Statutes or
12 Sections 506 or 1361 of Title 68 of the Oklahoma
13 Statutes,
- 14 s. relating to extortion, where the offense constitutes a
15 felony, pursuant to the provisions of Sections 1304,
16 1481, 1482, 1485, 1486 or 1488 of Title 21 of the
17 Oklahoma Statutes,
- 18 t. relating to fraud, where the offense constitutes a
19 felony, pursuant to the provisions of Sections 208.6,
20 208.7 or 208.8 of Title 3A of the Oklahoma Statutes,
21 Section 552.18 of Title 18 of the Oklahoma Statutes,
22 Sections 358, 1411, 1412, 1413, 1414, 1415, 1416,
23 1503, 1521, 1541.1, 1541.3, 1542, 1543, 1544, 1550.2,
24 1550.22, 1550.23, 1550.24, 1550.25, 1550.26, 1550.27,

- 1 1550.28, 1550.29, 1550.30, 1550.31, 1550.32, 1632,
2 1635 or 1662 of Title 21 of the Oklahoma Statutes,
3 Section 243 of Title 56 of the Oklahoma Statutes, or
4 Section 604 of Title 62 of the Oklahoma Statutes,
5 u. relating to conspiracy, where the offense constitutes
6 a felony, pursuant to the provisions of Sections 421,
7 422 or 424 of Title 21 of the Oklahoma Statutes,
8 v. relating to prostitution, pornography or obscenity
9 pursuant to the provisions of Sections 1021, 1040.52,
10 1081, 1085, 1086, 1087 or 1088 of Title 21 of the
11 Oklahoma Statutes,
12 w. relating to the Oklahoma Alcoholic Beverage Control
13 Act, where the offense constitutes a felony, pursuant
14 to the provisions of Section 506.1 et seq. of Title 37
15 of the Oklahoma Statutes,
16 x. relating to the Oklahoma Securities Act, where the
17 offense constitutes a felony, pursuant to the
18 provisions of Section 1 et seq. of Title 71 of the
19 Oklahoma Statutes, ~~or~~
20 y. relating to trafficking in children pursuant to the
21 provisions of Sections 866 and 867 of Title 21 of the
22 Oklahoma Statutes, or
23 z. relating to any violation of the Public Competitive
24 Bidding Act of 1974.

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

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

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

14 13. "Unlawful debt" means any money or other thing of value
15 constituting principal or interest of a debt that is unenforceable
16 in the courts of Oklahoma, because the debt was incurred or
17 contracted in violation of a law relating to the business of
18 gambling activity or in violation of federal or state law but does
19 not include any debt owed to a bank, savings and loan association,
20 credit union or supervised lender licensed by the Oklahoma
21 Administrator of Consumer Credit or to any debt referred or assigned
22 to a debt collection agency, which referral or assignment is
23 accepted in good faith by the debt collection agency as a debt

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1 collectible under the Uniform Commercial Code or other laws of this
2 state and enforceable in the courts of this state.

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

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5 52-1-5044 GRS 01/14/09

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