

FIFTY-SEVENTH LEGISLATURE
FIRST SESSION

February 20, 2025

SENATE FLOOR AMENDMENT number _____ to HOUSE JUDICIARY COMMITTEE
SUBSTITUTE FOR HOUSE BILL
8, as amended

Amendment sponsored by Senator Craig W. Brandt

1. On page 2, line 11, before "MAKING", insert:

"AMENDING THE RACKETEERING ACT BY ADDING CERTAIN CRIMES TO THE
DEFINITION OF "RACKETEERING", DEFINING "CRIMINAL GANG", CREATING
CRIMES RELATED TO RACKETEERING AND PRESCRIBING PENALTIES;"

2. On page 48, between lines 2 and 3, insert:

"SECTION 25. Section 30-42-3 NMSA 1978 (being Laws 1980,
Chapter 40, Section 3, as amended) is amended to read:

"30-42-3. DEFINITIONS.--As used in the Racketeering Act:

A. "racketeering" means any act that is chargeable or
indictable under the laws of New Mexico and punishable by
imprisonment for more than one year, involving any of the following
cited offenses:

- (1) murder, as provided in Section 30-2-1 NMSA 1978;
- (2) robbery, as provided in Section 30-16-2 NMSA
1978;
- (3) kidnapping, as provided in Section 30-4-1 NMSA
1978;
- (4) forgery, as provided in Section 30-16-10 NMSA
1978;
- (5) larceny, as provided in Section 30-16-1 NMSA

FIFTY-SEVENTH LEGISLATURE
FIRST SESSION

SF1/HJC/HB 8, aa

Page 2

1978;

(6) fraud, as provided in Section 30-16-6 NMSA 1978;

(7) embezzlement, as provided in Section 30-16-8 NMSA
1978;

(8) receiving stolen property, as provided in Section
30-16-11 NMSA 1978;

(9) bribery, as provided in Sections 30-24-1 through
30-24-3.1 NMSA 1978;

(10) gambling, as provided in Sections 30-19-3,
30-19-13 and 30-19-15 NMSA 1978;

(11) illegal kickbacks, as provided in Sections
30-41-1 and 30-41-2 NMSA 1978;

(12) extortion, as provided in Section 30-16-9 NMSA
1978;

(13) trafficking in controlled substances, as
provided in Section 30-31-20 NMSA 1978;

(14) arson and aggravated arson, as provided in
Subsection A of Section 30-17-5 and Section 30-17-6 NMSA 1978;

(15) promoting prostitution, as provided in Section
30-9-4 NMSA 1978;

(16) criminal solicitation, as provided in Section
30-28-3 NMSA 1978;

(17) fraudulent securities practices, as provided in
the New Mexico Uniform Securities Act;

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FIFTY-SEVENTH LEGISLATURE
FIRST SESSION

SF1/HJC/HB 8, aa

Page 3

(18) loan sharking, as provided in Sections 30-43-1 through 30-43-5 NMSA 1978;

(19) distribution of controlled substances or controlled substance analogues, as provided in Sections 30-31-21 and 30-31-22 NMSA 1978;

(20) ~~[a violation of the provisions of]~~ money laundering, as provided in Section 30-51-4 NMSA 1978;

(21) unlawful taking of a vehicle or motor vehicle, as provided in Section 30-16D-1 NMSA 1978;

(22) embezzlement of a vehicle or motor vehicle, as provided in Section 30-16D-2 NMSA 1978;

(23) fraudulently obtaining a vehicle or motor vehicle, as provided in Section 30-16D-3 NMSA 1978;

(24) receiving or transferring stolen vehicles or motor vehicles, as provided in Section 30-16D-4 NMSA 1978;

(25) altering or changing the serial number, engine number, decal or other numbers or marks of a vehicle or motor vehicle, as provided in Section 30-16D-6 NMSA 1978; ~~[and]~~

(26) trafficking cannabis products, as provided in Section 26-2C-28 NMSA 1978;

(27) sexual exploitation of children, as provided in Sections 30-6A-3 and 30-6A-4 NMSA 1978;

(28) criminal sexual penetration, as provided in Section 30-9-11 NMSA 1978;

(29) criminal sexual contact, as provided in Sections

FIFTY-SEVENTH LEGISLATURE
FIRST SESSION

SF1/HJC/HB 8, aa

Page 4

30-9-12 and 30-9-13 NMSA 1978;

(30) dog fighting and cockfighting, as provided in Section 30-18-9 NMSA 1978;

(31) escape from jail, as provided in Section 30-22-8 NMSA 1978;

(32) escape from penitentiary, as provided in Section 30-22-9 NMSA 1978;

(33) assisting escape, as provided in Section 30-22-11 NMSA 1978;

(34) bringing contraband into places of imprisonment, as provided in Section 30-22-14 NMSA 1978;

(35) tampering with public records, as provided in Section 30-26-1 NMSA 1978;

(36) impersonating a peace officer, as provided in Section 30-27-2.1 NMSA 1978; and

(37) human trafficking, as provided in Section 30-52-1 NMSA 1978;

B. "person" means an individual or entity capable of holding a legal or beneficial interest in property;

C. "enterprise" means a sole proprietorship, partnership, corporation, business, labor union, association or other legal entity or a group of [~~individuals~~] persons, including criminal gangs, associated in fact although not a legal entity, and includes illicit as well as licit entities; [~~and~~]

D. "criminal gang" means three or more persons having a

FIFTY-SEVENTH LEGISLATURE
FIRST SESSION

SF1/HJC/HB 8, aa

Page 5

common identifying sign or symbol or an identifiable leadership and who continuously or regularly associate in the commission of criminal activities; and

[D-] E. "pattern of racketeering activity" means engaging in at least two incidents of racketeering with the intent of accomplishing any of the prohibited activities set forth in Subsections A through [D] F of Section 30-42-4 NMSA 1978; provided at least one of the incidents occurred after February 28, 1980 and the last incident occurred within five years after the commission of a prior incident of racketeering."

SECTION 26. Section 30-42-4 NMSA 1978 (being Laws 1980, Chapter 40, Section 4, as amended) is amended to read:

"30-42-4. PROHIBITED ACTIVITIES--PENALTIES.--

A. It is unlawful for a person who has received proceeds derived, directly or indirectly, from a pattern of racketeering activity in which the person has participated, to use or invest, directly or indirectly, any part of the proceeds or the proceeds derived from the investment or use in the acquisition of an interest in, or the establishment or operation of, an enterprise. [~~Whoever~~] A person who violates this subsection is guilty of a second degree felony.

B. It is unlawful for a person to engage in a pattern of racketeering activity in order to acquire or maintain, directly or indirectly, an interest in or control of an enterprise. [~~Whoever~~] A person who violates this subsection is guilty of a second degree felony.

C. It is unlawful for a person employed by or associated with an enterprise to conduct or participate, directly or indirectly, in the conduct of the enterprise's affairs by engaging in a pattern of racketeering activity. [~~Whoever~~] A person who

FIFTY-SEVENTH LEGISLATURE
FIRST SESSION

SF1/HJC/HB 8, aa

Page 6

violates this subsection is guilty of a second degree felony.

D. It is unlawful for a person to solicit or coerce another person, including a minor, into becoming or continuing as a member of an enterprise or participating in the racketeering activity of an enterprise. A person who violates this subsection is guilty of a third degree felony.

E. It is unlawful for a person who is in a leadership position within an enterprise to knowingly finance, supervise or conspire to commit, through the direction of members of the enterprise, racketeering activity. A person who violates the provisions of this subsection is guilty of a first degree felony.

~~[D.]~~ F. It is unlawful for a person to conspire to violate the provisions of Subsections A through [G] E of this section. [Whoever] A person who violates this subsection is guilty of a third degree felony.

~~[E.—Whoever]~~ G. A person who is convicted of a violation of Subsection A, B, C, [or] D, E or F of this section in addition to the prescribed penalties shall forfeit to the state of New Mexico:

(1) any interest acquired or maintained in violation of the Racketeering Act; and

(2) any interest in, security of, claim against or property or contractual right of any kind affording a source of influence over an enterprise that the person has established, operated, controlled, conducted or participated in the conduct of in violation of the Racketeering Act.

~~[F.]~~ H. The provisions of the Forfeiture Act apply to the seizure, forfeiture and disposal of property described in Subsection [E] G of this section."

FIFTY-SEVENTH LEGISLATURE
FIRST SESSION

SF1/HJC/HB 8, aa

Page 7

Craig W. Brandt

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

Date _____