**T.P.I. - CRIM. 5.01(a)**

**VIOLATION OF RICO ACT (for offenses committed on or after 7/1/23)**

Any person who violates the Racketeer Influenced and Corrupt Organization Act is guilty of a crime.

For you to find the defendant guilty of this offense, the state must have proven beyond a reasonable doubt the existence of the following essential elements:

[Part A:

1. that the defendant received proceeds derived from a pattern of racketeering activity;

and

1. that the defendant *[used] [invested]* any part of such proceeds in *[the acquisition of any interest in real or personal property] [the establishment or operation of an enterprise]*;

and

1. that the defendant acted intentionally, knowingly or recklessly.]

[and

1. that the pattern of racketeering activity involved a homicide.]]

or

[Part B:

(1) that the defendant *[acquired] [maintained]*, directly or indirectly, an *[interest in] [control of]* an enterprise of real or personal property;

and

1. that the enterprise was *[acquired] [maintained]* through a pattern of racketeering activity.]

and

1. that the defendant acted intentionally, knowingly or recklessly.]

[and

1. that the pattern of racketeering activity involved a homicide.]]

or

[Part C:

1. that the defendant was *[employed by] [associated with]* an enterprise;

and

1. that the defendant knowingly *[conducted] [participated in]* the enterprise through a pattern of racketeering activity.]

[and

1. that the pattern of racketeering activity involved a homicide.]]

“Enterprise” means a formal or informal ongoing organization, association, or group that has as one (1) of its primary activities the commission of one (1) or more offenses qualifying as racketeering activity, and that consists of three (3) or more persons:

(A) Who share a common name, identifying signs, colors, or symbols,

including, but not limited to, terrorist organizations, hate groups, and

criminal gangs as defined in § 40‑35‑121 (a)(1); or

(B) Who share the primary purpose of promoting or facilitating commercial sex acts, as defined under § 39‑13‑301(4);

“Ongoing” means that the enterprise was in existence when the racketeering activity was committed as charged in a petition, warrant, indictment, information, presentment, or action for civil injunctive relief.

“Pattern of racketeering activity” means engaging in at least two (2) incidents of racketeering activity that have the same or similar intents, purposes, results, accomplices, victims, or methods of commission or are otherwise interrelated by distinguishing characteristics and are not isolated incidents; provided, that at least one (1) of the incidents occurred after July 1, 2023, and the last of the incidents occurred within eight (8) years after a prior incident.]

“Person” means any individual or entity holding or capable of holding a legal or beneficial interest in property.

[“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.]

“Racketeering activity” means to commit, to attempt to commit, to conspire to commit, or to aid, attempt to aid, solicit, coerce, facilitate or intimidate another person to commit (insert in this space an offense listed in 39-12-203 under the definition of “racketeering activity)” as alleged in Count(s) \_\_\_\_\_\_ of the indictment.

[“Real property” means any real property situated in this state or any interest in such real property, including, but not limited to, any lease of or mortgage upon such real property. Real property and beneficial interest in real property are deemed to be located where the real property is located.]

[“Recklessly” means that a person acts recklessly with respect to circumstances surrounding the conduct or the result of the conduct when the person is aware of, but consciously disregards, a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the accused person’s standpoint.]

[The requirement of “recklessly” is also established if it is shown that the defendant acted knowingly or intentionally.]

“Knowingly” means that a person acts knowingly with respect to the conduct or to circumstances surrounding the conduct when the person is aware of the nature of the conduct or that the circumstances exist. A person acts knowingly with respect to a result of the person’s conduct when the person is aware that the conduct is reasonably certain to cause the result.

The requirement of “knowingly” is also established if it is shown that the defendant acted intentionally.

“Intentionally” means a person acts intentionally with respect to the nature of the conduct or to a result of the conduct when it is the person’s conscious objective or desire to engage in the conduct or cause the result.