

SENATE BILL No. 141

By Senator Holland

2-2

1 AN ACT concerning the attorney general; relating to corruption committed
2 by a public officer or public employee; requiring the attorney general to
3 carry out certain duties related to inquiry and investigation and request
4 an inquisition or state grand jury under certain circumstances;
5 amending K.S.A. 2022 Supp. 22-3001 and repealing the existing
6 section.

7
8 WHEREAS, The provisions of section 1 and the amendments made to
9 the provisions of K.S.A. 2022 Supp. 22-3001 by this act shall be known
10 as the corrupt public officer or public employee reporting act (corrupt
11 reporting act).

12 Now, therefore:

13 *Be it enacted by the Legislature of the State of Kansas:*

14 New Section 1. (a) A person may request an inquiry and investigation
15 by the attorney general by filing a statement with the attorney general,
16 signed by the person under penalty of perjury, declaring that the person is
17 or has been:

18 (1) The victim of corruption committed by a public officer or public
19 employee; or

20 (2) a witness to corruption committed by a public officer or public
21 employee.

22 (b) If, by the attorney general's own inquiries or as a result of
23 statements filed pursuant to subsection (a), the attorney general has
24 reasonable grounds to believe that a crime has been committed as a result
25 of conduct described in subsection (a), the attorney general shall either:

26 (1) Apply to a district judge to conduct an inquisition pursuant to
27 K.S.A. 22-3101 et seq., and amendments thereto; or

28 (2) petition for a state grand jury to be summoned pursuant to K.S.A.
29 22-3001(d), and amendments thereto.

30 (c) The attorney general shall make all statements filed pursuant to
31 subsection (a) publicly available on the official website of the attorney
32 general, except that the attorney general shall redact all personally
33 identifiable information from each statement.

34 (d) As used in this section:

35 (1) "Public officer" and "public employee" mean the same as defined
36 in K.S.A. 2022 Supp. 21-5111, and amendments thereto;

1 (2) "victim" means any individual against whom the alleged
2 corruption is being, has been or is attempted to be committed; and

3 (3) "witness" means any individual who has personal knowledge of
4 the existence or nonexistence of facts relating to the alleged corruption,
5 including, but not limited to, an individual who has reported the alleged
6 corruption to any law enforcement officer, prosecutor, probation officer,
7 parole officer, correctional officer, community correctional services officer
8 or judicial officer.

9 Sec. 2. K.S.A. 2022 Supp. 22-3001 is hereby amended to read as
10 follows: 22-3001. (a) A majority of the district judges in any judicial
11 district may order a grand jury to be summoned in any county in the
12 district when it is determined to be in the public interest.

13 (b) The district or county attorney in such attorney's county may
14 petition the chief judge or the chief judge's designee in such district court
15 to order a grand jury to be summoned in the designated county in the
16 district to consider any alleged felony law violation, including any alleged
17 misdemeanor law violation ~~which~~ that arises as part of the same criminal
18 conduct or investigation. The attorney general in any judicial district may
19 petition the chief judge or the chief judge's designee in such judicial
20 district to order a grand jury to be summoned in the designated county in
21 the district to consider any alleged felony law violation, including any
22 alleged misdemeanor law violation ~~which~~ that arises as part of the same
23 criminal conduct or investigation, if authorized by the district or county
24 attorney in such judicial district or if jurisdiction is otherwise authorized
25 by law. The chief judge or the chief judge's designee in the district court of
26 the county shall then consider the petition and, if it is found that the
27 petition is in proper form, as set forth in this subsection, shall order a
28 grand jury to be summoned within 15 days after receipt of such petition.

29 (c) (1) A grand jury shall be summoned in any county within 60 days
30 after a petition praying therefor is presented to the district court, bearing
31 the signatures of a number of electors equal to 100 plus 2% of the total
32 number of votes cast for governor in the county in the last preceding
33 election.

34 (2) The petition, upon its face, shall state the name, address and
35 phone number of the person filing the petition, the subject matter of the
36 prospective grand jury, a reasonably specific identification of areas to be
37 inquired into and sufficient general allegations to warrant a finding that
38 such inquiry may lead to information ~~which~~ that, if true, would warrant a
39 true bill of indictment.

40 (3) (A) The petition shall be in substantially the following form:

41 The undersigned qualified electors of the county of _____
42 and state of Kansas hereby request that the district court of
43 _____ county, Kansas, within 60 days after the filing of this

1 petition, cause a grand jury to be summoned in the county to investigate
2 alleged violations of law and to perform such other duties as may be
3 authorized by law.

4 (B) (i) The signatures to the petition need not all be affixed to one
5 paper, but each paper to which signatures are affixed shall have
6 substantially the foregoing form written or printed at the top thereof. Each
7 signer shall add to such signer's signature such signer's place of residence,
8 giving the street and number or rural route number, if any. One of the
9 signers of each paper shall verify upon oath that each signature appearing
10 on the paper is the genuine signature of the person whose name it purports
11 to be and that such signer believes that the statements in the petition are
12 true.

13 (ii) The petition shall be filed in the office of the clerk of the district
14 court who shall forthwith transmit it to the county election officer, who
15 shall determine whether the persons whose signatures are affixed to the
16 petition are qualified electors of the county. Thereupon, the county election
17 officer shall return the petition to the clerk of the district court, together
18 with such election officer's certificate stating the number of qualified
19 electors of the county whose signatures appear on the petition and the
20 aggregate number of votes cast for all candidates for governor in the
21 county in the last preceding election.

22 (iii) The judge or judges of the district court of the county shall then
23 consider the petition and, if it is found that the petition is in proper form
24 and bears the signatures of the required number of electors, a grand jury
25 shall be ordered to be summoned. If a grand jury is not summoned because
26 of a finding that the petition, substantially in the form required by this
27 subsection on its face, is not in proper form, the person who filed the
28 petition and whose name, address and phone number appear on the face of
29 each petition shall have the right to appeal the decision to not summon a
30 grand jury as a final judgment pursuant to K.S.A. 22-3601, and
31 amendments thereto.

32 (4) After a grand jury is summoned pursuant to this subsection, but
33 before it begins deliberations, the judge or judges of the district court of
34 the county in which the petition is presented shall provide instructions to
35 the grand jury regarding its conduct and deliberations, which instructions
36 shall include, but not be limited to, the following:

37 (A) You have been impaneled as a grand jury pursuant to a citizens'
38 petition filed in this court, signed by (insert number) qualified electors of
39 this county, stating (insert the subject matter described in the petition,
40 including a reasonably specific identification of the areas to be inquired
41 into and the allegations sufficient to warrant a finding that the grand jury's
42 inquiry may lead to information which, if true, would warrant a true bill of
43 indictment). You are charged with making inquiry with regard to this

1 subject matter and determining whether the facts support allegations
2 warranting a true bill of indictment.

3 (B) The person filing the citizens' petition filed in this court must be
4 the first witness you call for the purpose of presenting evidence and
5 testimony as to the subject matter and allegations of the petition.

6 (C) You may, with the approval of this court, employ special counsel
7 and investigators, and incur such other expense for services and supplies
8 as you and this court deem necessary. Any special counsel or investigator
9 you employ shall be selected by a majority vote of your grand jury. You
10 may make such selection only after hearing testimony from the person
11 who filed the citizens' petition. You may utilize the services of any special
12 counsel or investigator you employ instead of, or in addition to, the
13 services of the prosecuting attorney.

14 (D) If any witness duly summoned to appear and testify before you
15 fails or refuses to obey, compulsory process will be issued by this court to
16 enforce the witness' attendance.

17 (E) If any witness appearing before you refuses to testify or to answer
18 any questions asked in the course of the witness' examination, you shall
19 communicate that fact to this court in writing, together with a statement
20 regarding the question the witness refuses to answer. This court will
21 determine and inform you of whether the witness is bound to answer or
22 not. However, no witness appearing before you can be compelled to make
23 any statement ~~which~~ that will incriminate such witness.

24 (F) Any person may file a written request with the prosecuting
25 attorney or with the foreman of the grand jury and request to testify or
26 retestify in an inquiry before a grand jury or to appear before a grand jury.
27 Any written request shall include a summary of such person's written
28 testimony.

29 (G) At the conclusion of your inquiry and determination, you will
30 return either a no bill of indictment or a true bill of indictment.

31 (d) *Whenever the attorney general is required by section 1, and*
32 *amendments thereto, to petition for a grand jury to be summoned, the*
33 *attorney general shall petition the chief judge of any district court to order*
34 *a state grand jury to be summoned. The chief judge or the chief judge's*
35 *designee shall order a state grand jury to be summoned that has*
36 *jurisdiction to investigate and indict for crimes committed anywhere*
37 *within the state.*

38 (e) The grand jury shall consist of 15 members and shall be drawn,
39 qualified and summoned in the same manner as petit jurors for the district
40 court. Twelve members thereof shall constitute a quorum. The judge or
41 judges ordering the grand jury shall direct that a sufficient number of
42 legally qualified persons be summoned for service as grand jurors. In the
43 case of grand juries impaneled pursuant to subsection (c), the judge or

1 judges ordering the grand jury shall allow the person that filed the petition
2 under the provisions of subsection (c)(2), and such person's attorney, to
3 witness the instructions to the grand jury regarding its conduct and
4 deliberations pursuant to subsection (c)(4).

5 Sec. 3. K.S.A. 2022 Supp. 22-3001 is hereby repealed.

6 Sec. 4. This act shall take effect and be in force from and after its
7 publication in the statute book.