

HOUSE BILL No. 2131

By Committee on Corrections and Juvenile Justice

Requested by Representative Lewis

1-28

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to jailhouse witness testimony; requiring prosecutors to disclose their
3 intent to introduce testimony from a jailhouse witness and to forward
4 related information to the Kansas bureau of investigation.
5

6 WHEREAS, The provisions of this act shall be known as the Pete
7 Coones memorial act.

8 Now, therefore:

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

10 Section 1. (a) (1) In any criminal prosecution, the prosecuting
11 attorney shall disclose its intent to introduce testimony of a jailhouse
12 witness regarding statements made by a suspect or defendant while such
13 witness and suspect or defendant were both incarcerated within the time
14 provided by K.S.A. 22-3212, and amendments thereto. The prosecuting
15 attorney shall provide to the defense:

16 (A) The criminal history of the jailhouse witness, including any
17 pending or dismissed criminal charges;

18 (B) the jailhouse witness's cooperation agreement and any benefit that
19 has been requested by, provided to or will be provided in the future to the
20 jailhouse witness;

21 (C) the contents of any statement allegedly given by the suspect or
22 defendant to the jailhouse witness and the contents of any statement given
23 by the jailhouse witness to law enforcement regarding the statements
24 allegedly made by the suspect or defendant, including the time and place
25 such statements were given;

26 (D) any information regarding the jailhouse witness recanting
27 testimony or statements, including the time and place of the recantation,
28 the nature of the recantation and the names of the people present at the
29 recantation; and

30 (E) any information concerning other criminal cases in which the
31 testimony of the jailhouse witness was introduced or was intended to be
32 introduced by a prosecuting attorney regarding statements made by a
33 suspect or defendant, including any cooperation agreement and any benefit
34 that the jailhouse witness received in such case.

35 (2) The court may permit the prosecuting attorney to comply with the

1 provisions of this section after the time period provided in paragraph (1) if
2 the court finds that the jailhouse witness was not known or the information
3 described in paragraph (1) could not be discovered or obtained by the
4 prosecuting attorney exercising due diligence within such time period.

5 (3) If the court finds that disclosing the information described in
6 paragraph (1) is likely to cause bodily harm to the jailhouse witness, the
7 court may:

8 (A) Order that such evidence be viewed only by the defense counsel
9 and not by the defendant or others; and

10 (B) issue a protective order.

11 (b) (1) Each prosecuting attorney's office shall maintain a central
12 record containing information regarding:

13 (A) Any case in which testimony by a jailhouse witness is introduced
14 or is intended to be introduced by a prosecuting attorney regarding
15 statements made by a suspect or defendant and the substance of such
16 testimony; and

17 (B) any benefit that has been requested by, provided to or will be
18 provided in the future to a jailhouse witness in connection with testimony
19 provided by such witness.

20 (2) Each prosecuting attorney's office shall forward the information
21 described in paragraph (1) to the Kansas bureau of investigation. The
22 bureau shall maintain a statewide database containing the information
23 forwarded pursuant to this section. Such database shall be accessible only
24 to prosecuting attorneys and shall otherwise remain confidential and not
25 subject to the open records act, K.S.A. 45-215 et seq., and amendments
26 thereto. The provision regarding confidentiality shall expire on July 1,
27 2029, unless the legislature reviews and acts to continue such provision
28 pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2029.

29 (c) If a jailhouse witness receives any benefit in connection with
30 offering or providing testimony against a defendant, the prosecuting
31 attorney shall notify any victim connected to the criminal prosecution.

32 (d) As used in this section:

33 (1) "Benefit" means any plea bargain, bail consideration, reduction or
34 modification of sentence, or any other leniency, immunity, financial
35 payment, reward or amelioration of current or future conditions of
36 sentence that is requested, provided or will be provided in the future in
37 connection with, or in exchange for, testimony of a jailhouse witness.

38 (2) "Jailhouse witness" means a person who provides testimony, or is
39 intended to provide testimony during a criminal prosecution regarding
40 statements made by a suspect or defendant while both the witness and the
41 suspect or defendant were incarcerated, and who has requested, has been
42 offered or may in the future receive a benefit in connection with such
43 testimony. "Jailhouse witness" does not mean a person who is a

1 confidential informant, an accomplice or a co-defendant.

2 (e) This section shall be a part of and supplemental to the Kansas
3 code of criminal procedure.

4 Sec. 2. This act shall take effect and be in force from and after its
5 publication in the statute book.