

SENATE BILL No. 73

By Senator Holland

1-26

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; requiring
4 the attorney general to request an inquisition or state grand jury under
5 certain circumstances; amending K.S.A. 2020 Supp. 22-3001 and
6 repealing the existing section.

7
8 WHEREAS, The provisions of section 1 and K.S.A. 2020 Supp. 22-
9 3001, as amended by this act, shall be known as the corrupt public officer
10 or public employee reporting act (corrupt reporting act).

11 Now, therefore:

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

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

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

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

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

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

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

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

33 (e) As used in this section:

34 (1) "Public officer" and "public employee" mean the same as in
35 K.S.A. 2020 Supp. 21-5111, and amendments thereto;

36 (2) "victim" means any individual against whom the alleged

1 corruption is being, has been or is attempted to be committed; and

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

8 Sec. 2. K.S.A. 2020 Supp. 22-3001 is hereby amended to read as
9 follows: 22-3001. (a) A majority of the district judges in any judicial
10 district may order a grand jury to be summoned in any county in the
11 district when it is determined to be in the public interest.

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

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

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

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

40 The undersigned qualified electors of the county of _____
41 and state of Kansas hereby request that the district court of
42 _____ county, Kansas, within 60 days after the filing of this
43 petition, cause a grand jury to be summoned in the county to investigate

1 alleged violations of law and to perform such other duties as may be
2 authorized by law.

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

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

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

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

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

1 warranting a true bill of indictment.

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

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

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

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

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

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

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

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

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

4 Sec. 3. K.S.A. 2020 Supp. 22-3001 is hereby repealed.

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