

SENATE BILL No. 74

By Senator Holland

1-26

1 AN ACT concerning the attorney general; relating to sexual abuse
2 committed by a minister of religion; 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 clergy sexual predator
10 reporting act (CLEAR 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 sexual abuse committed by a minister of religion; or
18 (2) a witness to sexual abuse committed by a minister of religion.

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

- 23 (1) Apply to a district judge to conduct an inquisition pursuant to
24 K.S.A. 22-3101 et seq., and amendments thereto; or
25 (2) petition for a state grand jury to be summoned pursuant to K.S.A.
26 22-3001(d), and amendments thereto.

27 (c) As used in this section:

28 (1) "Minister of religion" means a duly ordained minister of religion
29 or a regular minister of religion as defined in K.S.A. 60-429, and
30 amendments thereto;

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

33 (3) "witness" means any individual who has personal knowledge of
34 the existence or nonexistence of facts relating to the alleged sexual abuse,
35 including, but not limited to, an individual who has reported the alleged
36 sexual abuse to any law enforcement officer, prosecutor, probation officer,

1 parole officer, correctional officer, community correctional services officer
2 or judicial officer.

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

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

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

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

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

35 The undersigned qualified electors of the county of _____
36 and state of Kansas hereby request that the district court of
37 _____ county, Kansas, within 60 days after the filing of this
38 petition, cause a grand jury to be summoned in the county to investigate
39 alleged violations of law and to perform such other duties as may be
40 authorized by law.

41 (B) (i) The signatures to the petition need not all be affixed to one
42 paper, but each paper to which signatures are affixed shall have
43 substantially the foregoing form written or printed at the top thereof. Each

1 signer shall add to such signer's signature such signer's place of residence,
2 giving the street and number or rural route number, if any. One of the
3 signers of each paper shall verify upon oath that each signature appearing
4 on the paper is the genuine signature of the person whose name it purports
5 to be and that such signer believes that the statements in the petition are
6 true.

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

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

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

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

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

43 (C) You may, with the approval of this court, employ special counsel

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

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

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

18 (F) Any person may file a written request with the prosecuting
19 attorney or with the foreman of the grand jury and request to testify or
20 retestify in an inquiry before a grand jury or to appear before a grand jury.
21 Any written request shall include a summary of such person's written
22 testimony.

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

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

32 (e) The grand jury shall consist of 15 members and shall be drawn,
33 qualified and summoned in the same manner as petit jurors for the district
34 court. Twelve members thereof shall constitute a quorum. The judge or
35 judges ordering the grand jury shall direct that a sufficient number of
36 legally qualified persons be summoned for service as grand jurors. In the
37 case of grand juries impaneled pursuant to subsection (c), the judge or
38 judges ordering the grand jury shall allow the person that filed the petition
39 under the provisions of subsection (c)(2), and such person's attorney, to
40 witness the instructions to the grand jury regarding its conduct and
41 deliberations pursuant to subsection (c)(4).

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

43 Sec. 4. This act shall take effect and be in force from and after its

- 1 publication in the statute book.