

## SENATE BILL No. 65

By Senator Holland

1-31

AN ACT concerning the attorney general; relating to corruption committed by a public officer or public employee; investigation; inquisition; state grand jury; amending K.S.A. 2018 Supp. 22-3001 and repealing the existing section.

WHEREAS, The provisions of section 1 and K.S.A. 2018 Supp. 22-3001, as amended by this act, shall be known as the corrupt public officer or public employee reporting act (corrupt reporting act).

Now, therefore:

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

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

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

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

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

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

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

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

(e) As used in this section:

(1) "Public officer" and "public employee" mean the same as in K.S.A. 2018 Supp. 21-5111, and amendments thereto;

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

(3) "witness" means any individual who has personal knowledge of

1 the existence or nonexistence of facts relating to the alleged corruption,  
2 including, but not limited to, an individual who has reported the alleged  
3 corruption to any law enforcement officer, prosecutor, probation officer,  
4 parole officer, correctional officer, community correctional services officer  
5 or judicial officer.

6 Sec. 2. K.S.A. 2018 Supp. 22-3001 is hereby amended to read as  
7 follows: 22-3001. (a) A majority of the district judges in any judicial  
8 district may order a grand jury to be summoned in any county in the  
9 district when it is determined to be in the public interest.

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

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

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

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

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

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

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

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

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

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

43 (B) The person filing the citizens' petition filed in this court must be

1 the first witness you call for the purpose of presenting evidence and  
2 testimony as to the subject matter and allegations of the petition.

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

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

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

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

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

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

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

1 deliberations pursuant to subsection (c)(4).

2 Sec. 3. K.S.A. 2018 Supp. 22-3001 is hereby repealed.

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

4 publication in the statute book.