

As Amended by Senate Committee

Session of 2010

SENATE BILL No. 468

By Committee on Ways and Means

1-27

10 AN ACT concerning grand juries; relating to summoning; amending
11 K.S.A. 22-3001 and repealing the existing section.

12

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

14 Section 1. K.S.A. 22-3001 is hereby amended to read as follows: 22-
15 3001. ~~(1)~~ (a) A majority of the district judges in any judicial district may
16 order a grand jury to be summoned in any county in the district when it
17 is determined to be in the public interest.

18 ~~(2) A grand jury shall be summoned in any county within 60 days~~
19 ~~after a petition praying therefor is presented to the district court, bearing~~
20 ~~the signatures of a number of electors equal to 100 plus 2% of the total~~
21 ~~number of votes cast for governor in the county in the last preceding~~
22 ~~election.~~

23 (b) *The attorney general in any judicial district or the district or*
24 *county attorney in such attorney's judicial district may petition **the chief***
25 ***judge or the chief judge's designee in** such district court to order a*
26 *grand jury to be summoned in the designated county in the district to*
27 *investigate alleged violations of an off-grid felony, a severity level 1, 2, 3*
28 *~~or 4, 4 or 5~~ felony or a drug severity level 1 or 2 felony. ~~The judge or~~*
29 *~~judges of~~ **chief judge or the chief judge's designee in** the district court*
30 *of the county shall then consider the petition and, if it is found that the*
31 *petition is in proper form, **as set forth in this subsection**, shall order a*
32 *grand jury to be summoned.*

33 (c) *A grand jury shall be summoned in any county within 60 days*
34 *after a petition requesting a grand jury is presented to the district court,*
35 *bearing the signatures of a number of electors equal to 100 plus ~~10%~~ **5%***
36 *of the active registered voters in the county, and found to be in compliance*
37 *with this subsection.*

38 (1) *Before circulating any petition to summon a grand jury, the affi-*
39 *davit required by this subsection shall be submitted to the clerk of the*
40 *district court where the grand jury is requested to be summoned.*

41 (2) *A committee of petitioners consisting of five registered voters may*
42 *commence a proceeding to summon a grand jury, by filing an affidavit*
43 *with the clerk of the district court that contains the following information:*

- 1 (A) *The name and address of each registered voter who is a member*
2 *of the committee;*
- 3 (B) *the mailing address to which all correspondence concerning the*
4 *committee is to be sent;*
- 5 (C) *a statement that the committee will be responsible for circulating*
6 *the petition and will comply with all applicable requirements governing*
7 *the filing of a petition to summon a grand jury established by this section;*
- 8 (D) *specific reference to any statute that is alleged to have been vio-*
9 *lated; and*
- 10 (E) *a statement of facts that support the alleged statutory violation*
11 *and a statement that, upon good faith and belief, the members of the*
12 *committee assert that the facts supporting the alleged statutory violation*
13 *are true.*
- 14 (3) *Within 15 days after an affidavit is submitted to the clerk of the*
15 *district court, the chief judge of the district court shall review the affidavit*
16 *and determine whether, in the circumstances alleged by the affidavit sub-*
17 *mitted to the clerk of the district court, the facts stated in the affidavit*
18 *adequately support a potential statutory violation sufficient to warrant*
19 *circulating a petition to summon a grand jury. If the chief judge deter-*
20 *mines that circulation of the petition should be allowed to proceed, that*
21 *conclusion shall be supported by the court's written findings, filed with*
22 *the clerk of the district court, that:*
- 23 (A) *The petition is not being presented for any improper purpose,*
24 *such as to harass, cause unnecessary delay, interfere with official duties*
25 *or operations or needlessly cause an individual or governmental body to*
26 *incur expense;*
- 27 (B) *the factual contentions appear to have evidentiary support or will*
28 *likely have evidentiary support after a reasonable opportunity for further*
29 *investigation by a grand jury; and*
- 30 (C) *the factual contentions appear to be based on the affiants' best*
31 *knowledge, information and belief, formed after an inquiry that is rea-*
32 *sonable under the circumstances.*
- 33 (4) *A petition to summon a grand jury containing the requisite sig-*
34 *natures obtained in the manner required by law shall be filed with the*
35 *clerk of the district court by one member of the committee of petitioners*
36 *who submitted the affidavit required by this subsection, not later than*
37 *180 days after the chief judge has filed the findings required by subsection*
38 *(c)(3) with the clerk of the district court.*
- 39 (5) *The petition shall be in substantially the following form, shall be*
40 *uniform in size and style and each page shall be sequentially numbered:*
41 *The undersigned qualified electors of the county of _____ and*
42 *state of Kansas hereby request that the district court of _____*
43 *county, Kansas, within 60 days after the filing of this petition, cause a*

1 grand jury to be summoned in the county to investigate alleged violations
 2 of ~~law~~ *the statute or statutes set forth in this petition* and to perform such
 3 other duties as may be authorized by law.

4 (6) The signatures to the petition need not all be affixed to one paper,
 5 but each paper to which signatures are affixed shall have substantially the
 6 foregoing form written or printed at the top ~~thereof~~. Each signer shall
 7 add to such signer's signature such signer's place of residence, giving the
 8 street and number or rural route number, if any, *and the date on which*
 9 *the signer is signing the petition*. ~~One of the signers of each paper~~ *Each*
 10 *person circulating a paper to a petition shall verify upon oath that:*

11 (A) Each signature appearing on the paper is the genuine signature
 12 of the person whose name it purports to be ~~and that such signer;~~

13 (B) *the person who signed the paper did so in the circulator's presence*
 14 *and believes that the statements in the petition are true;*

15 (C) *the petition language set forth in this subsection was at all times*
 16 *during circulation of that paper affixed to that paper; and*

17 (D) *each person who signed that paper had an opportunity to read*
 18 *the entire statement before signing the petition.*

19 (7) The petition shall be filed in the office of the clerk of the district
 20 court who shall ~~forthwith~~ *promptly* transmit it to the county election
 21 officer, who shall determine whether the persons whose signatures are
 22 affixed to the petition are qualified electors of the county. ~~Thereupon,~~
 23 The county election officer shall return the petition to the clerk of the
 24 district court, together with such election officer's certificate stating the
 25 number of qualified electors of the county whose signatures appear on
 26 the petition and the aggregate number of votes cast for all candidates for
 27 governor in the county in the last preceding election. The judge or judges
 28 of the district court of the county shall then consider the petition and, if
 29 it is found that the petition is in proper form and bears the signatures of
 30 the required number of electors, a grand jury shall be ordered to be
 31 summoned.

32 (8) *Notwithstanding the provisions of K.S.A. 22-3013, and amend-*
 33 *ments thereto, no grand jury summoned after a petition is filed, as pro-*
 34 *vided for in this subsection, shall remain in session in excess of 10 calendar*
 35 *days, unless the chief judge, by written order filed with the clerk of the*
 36 *district court, extends the session.*

37 ~~(d)~~ (d) The grand jury shall consist of 15 members and shall be drawn
 38 and summoned in the same manner as petit jurors for the district court.
 39 Twelve members ~~thereof~~ shall constitute a quorum. The judge or judges
 40 ordering the grand jury shall direct that a sufficient number of legally
 41 qualified persons be summoned for service as grand jurors.

42 Sec. 2. K.S.A. 22-3001 is hereby repealed.

43

1 Sec. 3. This act shall take effect and be in force from and after its
2 publication in the Kansas register.