

HOUSE BILL No. 2468

By Committee on Corrections and Juvenile Justice

1-17

1 AN ACT concerning criminal procedure; relating to discovery and  
2 production requirements of defense attorneys; amending K.S.A. 2011  
3 Supp. 22-3212 and repealing the existing section.  
4

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

6 Section 1. K.S.A. 2011 Supp. 22-3212 is hereby amended to read as  
7 follows: 22-3212.(a) Upon request, the prosecuting attorney shall permit  
8 the defendant to inspect and copy or photograph the following, if relevant:

- 9 (1) Written or recorded statements or confessions made by the defendant,
- 10 or copies thereof, which are or have been in the possession, custody or
- 11 control of the prosecution, the existence of which is known, or by the
- 12 exercise of due diligence may become known, to the prosecuting attorney;
- 13 (2) results or reports of physical or mental examinations, and of scientific
- 14 tests or experiments made in connection with the particular case, or copies
- 15 thereof, the existence of which is known, or by the exercise of due
- 16 diligence may become known, to the prosecuting attorney; (3) recorded
- 17 testimony of the defendant before a grand jury or at an inquisition; and (4)
- 18 memoranda of any oral confession made by the defendant and a list of the
- 19 witnesses to such confession, the existence of which is known, or by the
- 20 exercise of due diligence may become known to the prosecuting attorney.
- 21 (b) (1) Upon request, the prosecuting attorney shall permit the
- 22 defendant to inspect and copy or photograph books, papers, documents,
- 23 tangible objects, buildings or places, or copies, or portions thereof, which
- 24 are or have been within the possession, custody or control of the
- 25 prosecution, and which are material to the case and will not place an
- 26 unreasonable burden upon the prosecution.
- 27 (2) Except as provided in subsections (a)(2) and (a)(4), and as
- 28 otherwise provided by law, this section does not authorize the discovery or
- 29 inspection of reports, memoranda or other internal government documents
- 30 made by officers in connection with the investigation or prosecution of the
- 31 case, or of statements made by state witnesses or prospective state
- 32 witnesses, other than the defendant, ~~except as may be provided by law.~~

33 (3) Except as provided in subsection (e), this section does not require  
34 the prosecuting attorney to provide unredacted vehicle identification  
35 numbers or personal identifiers of persons mentioned in such books,  
36 papers or documents.

1 (4) As used in this subsection, personal identifiers include, but are not  
 2 limited to, birthdates, social security numbers, taxpayer identification  
 3 numbers, drivers license numbers, account numbers of active financial  
 4 accounts, home addresses and personal telephone numbers of any victims  
 5 or material witnesses.

6 (5) If the prosecuting attorney does provide the defendant's counsel  
 7 with unredacted vehicle identification numbers or personal identifiers, the  
 8 defendant's counsel shall not further disclose the unredacted numbers or  
 9 identifiers to the defendant or any other person, directly or indirectly,  
 10 except as authorized by order of the court.

11 (6) If the prosecuting attorney provides books, papers or documents  
 12 to the defendant's counsel with vehicle identification numbers or personal  
 13 identifiers redacted by the prosecuting attorney, the prosecuting attorney  
 14 shall provide notice to the defendant's counsel that such books, papers or  
 15 documents had such numbers or identifiers redacted by the prosecuting  
 16 attorney.

17 (7) Any redaction of vehicle identification numbers or personal  
 18 identifiers by the prosecuting attorney shall be by alteration or truncation  
 19 of such numbers or identifiers and shall not be by removal.

20 (c) If the defendant seeks discovery and inspection under subsection  
 21 (a)(2) or subsection (b), the defendant shall:

22 (1) Permit the attorney for the prosecution to inspect and copy or  
 23 photograph scientific or medical reports, books, papers, documents,  
 24 tangible objects, or copies or portions thereof, which the defendant intends  
 25 to produce at any hearing, ~~and which~~ are material to the case and will not  
 26 place an unreasonable burden on the defense; ~~and~~

27 (2) provide for the attorney for the prosecution, no less than 30 days  
 28 prior to trial;

29 (A) A summary or written report of what any expert witness intends  
 30 to testify, including the witness' qualifications, the witness' opinions and  
 31 the bases and reasons for such opinions; ←

32 (B) the names and addresses of all prospective witnesses; and  
 33 (C) any tangible papers, objects or exhibits that the defendant  
 34 intends to produce.

35 (4) Except as to scientific or medical reports, this subsection (c) does  
 36 not authorize the discovery or inspection of reports, memoranda or other  
 37 internal defense documents made by the defendant, or the defendant's  
 38 attorneys or agents in connection with the investigation or defense of the  
 39 case, or of statements made by the defendant, or by prosecution or defense  
 40 witnesses, or by prospective prosecution or defense witnesses, to the  
 41 defendant, the defendant's agents or attorneys.

42 (d) The prosecuting attorney and the defendant shall cooperate in  
 43 discovery and reach agreement on the time, place and manner of making

and  
 (3) provide for the  
 attorney for the  
 prosecution, no  
 less than ten days  
 prior to trial;