

2012 Kansas Statutes

60-4118. Powers of enforcement personnel. (a) A county attorney, district attorney, the attorney general or such attorney's designee may conduct an investigation of alleged conduct in violation of this act. Such attorney is authorized, before commencement of any civil proceeding or action under this act, to subpoena witnesses, compel such attendance, examine witnesses under oath, and require the production of documentary evidence for inspection, reproducing or copying. Except as otherwise provided by this section, such attorney shall proceed under this subsection with the same powers and limitations, and judicial oversight and enforcement, and in the manner provided by this act and by K.S.A. 22-3101 *et seq.*, and amendments thereto.

(b) The examination of all witnesses under this section shall be conducted by the attorney or such attorney's designee before a person authorized to administer oaths. The testimony shall be taken stenographically or by a sound recording device and may be transcribed. The attorney shall exclude from the place where the examination is held all persons except the person being examined, such person's counsel, if any, the authorized individual or individuals before whom the testimony is to be taken, law enforcement officials and any stenographer taking such testimony. Prior to oral examination, the person shall be advised of such person's right to refuse to answer any questions on the basis of the privilege against self-incrimination. The examination shall be conducted in a manner consistent with the taking of depositions under the code of civil procedure.

(c) Except as otherwise provided in this act, no documentary material, transcripts, oral testimony or copies of it in the possession of the attorney shall be available, prior to the filing of a civil or criminal proceeding or action relating to it, for examination by any individual other than a law enforcement officer or agent of such officer without the consent of the person who produced the material or transcripts.

(d) No person, with intent to avoid, evade, prevent, or obstruct compliance in whole or in part by any person with any duly served subpoena of the attorney under this section, shall knowingly remove from any place, conceal, withhold, destroy, mutilate any documentary material that is the subject of a subpoena. A violation of this subsection shall be a class B nonperson misdemeanor.

(e) Acts or omissions by the attorneys for the seizing agencies in the course of the attorney's duties in the enforcement of any of the provisions of this act, including provision of any legal services prior to charging, complaint or seizure, are prosecutorial and shall not subject the attorneys or the attorney's principals to civil liability.

(f) During the investigation of real property and upon probable cause to believe the real property is in violation of this act, but before any liens or other proceedings are initiated under this act, a seizing agency may place a notice of potential claim with the register of deeds in the county in which such real property is located as notification that a forfeiture investigation is in progress and that a forfeiture proceeding against such real property may be initiated by the seizing agency. Such notice shall automatically expire 180 days after filing, unless renewed, and shall contain such real property's legal description, the date the investigation began, and the name, position, agency, business address, and business telephone number of the person filing such notice of potential claim. The notice shall be sworn to and verified in the manner provided for in the filing of *lis pendens*. The agency shall not be charged a filing or release fee.

History: L. 1994, ch. 339, § 18; July 1.