

## Substitute for HOUSE BILL No. 2151

By Committee on Judiciary

3-10

1 AN ACT concerning grand juries; summoning; jury instructions;  
2 witnesses; amending K.S.A. 2014 Supp. 22-3001 and repealing the  
3 existing section.  
4

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

6 Section 1. K.S.A. 2014 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 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 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, if true, would warrant a true  
36 bill of indictment.

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

2       The undersigned qualified electors of the county of \_\_\_\_\_  
3 and state of Kansas hereby request that the district court of  
4 \_\_\_\_\_ county, Kansas, within 60 days after the filing of this  
5 petition, cause a grand jury to be summoned in the county to investigate  
6 alleged violations of law and to perform such other duties as may be  
7 authorized by law.

8       The signatures to the petition need not all be affixed to one paper, but  
9 each paper to which signatures are affixed shall have substantially the  
10 foregoing form written or printed at the top thereof. Each signer shall add  
11 to such signer's signature such signer's place of residence, giving the street  
12 and number or rural route number, if any. One of the signers of each paper  
13 shall verify upon oath that each signature appearing on the paper is the  
14 genuine signature of the person whose name it purports to be and that such  
15 signer believes that the statements in the petition are true. The petition  
16 shall be filed in the office of the clerk of the district court who shall  
17 forthwith transmit it to the county election officer, who shall determine  
18 whether the persons whose signatures are affixed to the petition are  
19 qualified electors of the county. Thereupon, the county election officer  
20 shall return the petition to the clerk of the district court, together with such  
21 election officer's certificate stating the number of qualified electors of the  
22 county whose signatures appear on the petition and the aggregate number  
23 of votes cast for all candidates for governor in the county in the last  
24 preceding election. The judge or judges of the district court of the county  
25 shall then consider the petition and, if it is found that the petition is in  
26 proper form and bears the signatures of the required number of electors, a  
27 grand jury shall be ordered to be summoned.

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

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

42       (B) The person filing the citizens' petition filed in this court must be  
43 the first witness you call for the purpose of presenting evidence and

1 testimony as to the subject matter and allegations of the petition.

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

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

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

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

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

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

37 Sec. 2. K.S.A. 2014 Supp. 22-3001 is hereby repealed.

38 Sec. 3. This act shall take effect and be in force from and after its  
39 publication in the statute book.