

**SENATE BILL No. 439**

By Committee on Ways and Means

3-7

1 AN ACT concerning criminal procedure; relating to grand juries;  
2 amending K.S.A. 2017 Supp. 22-3006, 22-3011 and 22-3015 and  
3 repealing the existing sections.  
4

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

6 Section 1. K.S.A. 2017 Supp. 22-3006 is hereby amended to read as  
7 follows: 22-3006. (a) Persons summoned for service as grand jurors shall  
8 be compensated for their service and expenses at the rates provided by law  
9 for the compensation of petit jurors in the district court. Such  
10 compensation shall be paid from the general fund of the county.

11 (b) *All proceedings before the grand jury, including all testimony,*  
12 *shall be recorded.* The grand jury shall *select the method of recording and*  
13 *may* employ a certified shorthand reporter who shall make a stenographic  
14 record of all ~~testimony and other~~ proceedings ~~before the grand jury~~. The  
15 compensation of the reporter shall be fixed by the district court and paid  
16 from the general fund of the county. *The grand jury may also elect to*  
17 *record the proceedings utilizing a digital recording system maintained by*  
18 *the court, if such system is available.*

19 (c) The grand jury may, with the approval of the district court,  
20 employ investigators and, except in the case of grand juries impaneled  
21 pursuant to ~~subsection (b) of~~ K.S.A. 22-3001(b), and amendments thereto,  
22 employ special counsel. The grand jury may also incur other expenses for  
23 services and supplies as it and the district court may deem necessary.  
24 Compensation for such services and supplies shall be fixed by the district  
25 court and shall be paid from the general fund of the county. Any special  
26 counsel or investigator employed by the grand jury shall be selected by  
27 majority vote of such grand jury only after hearing testimony from the  
28 person filing the petition pursuant to K.S.A. 22-3001, and amendments  
29 thereto. Subject to the provisions of this section, the grand jury shall have  
30 all authority to investigate any concerns associated with such petition.

31 Sec. 2. K.S.A. 2017 Supp. 22-3011 is hereby amended to read as  
32 follows: 22-3011. (a) An indictment may be found only on the concurrence  
33 of 12 or more grand jurors. When an indictment is found, the presiding  
34 juror shall endorse thereon "a true bill" and shall sign the presiding juror's  
35 name as presiding juror *or sign the indictment "Presiding Grand Juror"*.

36 (b) When 12 or more grand jurors do not concur in finding an

1 indictment, the presiding juror shall certify that the indictment is "not a  
2 true bill."

3 (c) Indictments found by the grand jury shall be presented by its  
4 presiding juror, in the jury's presence, to the court and shall be filed and  
5 remain as records of the court.

6 (d) A grand jury impaneled pursuant to ~~subsection (e) of~~ K.S.A. 22-  
7 3001(c), and amendments thereto, may request that the attorney general  
8 prosecute the case arising from an indictment found by such grand jury if,  
9 in the opinion of the grand jury, the prosecuting attorney would not  
10 diligently prosecute such case. The court shall notify the attorney general  
11 of such request and the attorney general may prosecute such case.

12 Sec. 3. K.S.A. 2017 Supp. 22-3015 is hereby amended to read as  
13 follows: 22-3015. (a) *Matters of form, time, place, names.* At any time  
14 before or during trial, the court may, upon application of the ~~people~~  
15 *prosecuting attorney* and with notice to the defendant and opportunity for  
16 the defendant to be heard, order the amendment of an indictment with  
17 respect to defects, errors or variances from the proof relating to matters of  
18 form, time, place and names of persons when such amendment does not  
19 change the substance of the charge, and does not prejudice the defendant  
20 on the merits. Upon ordering an amendment, the court, for good cause  
21 shown, may grant a continuance to provide the defendant adequate  
22 opportunity to prepare a defense.

23 (b) *Prohibition as to matters of substance, exception.*

24 (1) An indictment shall not be amended as to the substance of the  
25 offense charged, except as provided further.

26 (2) The court may, upon application of the ~~people~~ *prosecuting*  
27 *attorney* and with notice to the defendant and opportunity for the  
28 defendant to be heard, order the substance of an indictment to be amended  
29 for the limited purpose of effecting a change of plea by the defendant  
30 pursuant to a plea agreement reached between the defendant and the  
31 prosecuting attorney. The provisions of this paragraph shall apply only to  
32 an indictment found by a grand jury impaneled pursuant to ~~subsection (a)~~  
33 ~~or (b) of~~ K.S.A. 22-3001(a) or (b), and amendments thereto, and shall not  
34 apply to an indictment found by a grand jury impaneled pursuant to  
35 ~~subsection (e) of~~ K.S.A. 22-3001(c), and amendments thereto.

36 (c) This section shall be part of and supplemental to article 30 of  
37 chapter 22 of the Kansas Statutes Annotated, and amendments thereto.

38 Sec. 4. K.S.A. 2017 Supp. 22-3006, 22-3011 and 22-3015 are hereby  
39 repealed.

40 Sec. 5. This act shall take effect and be in force from and after its  
41 publication in the statute book.