

2020 Kansas Statutes

21-6331. Same; certain attorneys authorized to administer oaths and issue subpoenas; contempt of court. (a) For the purposes of this section, "attorney" means the attorney general, assistant attorney general, county attorney or district attorney, or in the absence of the county or district attorney, a designated assistant county or district attorney. If an assistant county or district attorney is designated by the county or district attorney for the purposes of this section, such designation shall be filed with the chief judge of such judicial district.

(b) If an attorney is informed or has knowledge that a person or other enterprise has engaged in, or is engaging in, activity in violation of the Kansas racketeer influenced and corrupt organization act, such attorney shall be authorized to administer oaths or affirmations, subpoena witnesses or material, and collect evidence relating to such activity.

(c) An attorney may apply ex parte to the district court of the district in which a subpoenaed person or entity resides, is found or transacts business, for an order directing that the subpoenaed person or entity not disclose the existence of the subpoena to any other person or entity except the subpoenaed person's attorney for a period of 90 days, which time may be extended by the court for good cause shown by the attorney. The order shall be served with the subpoena, and the subpoena shall include a reference to the order and a notice to the recipient of the subpoena that disclosure of the existence of the subpoena to any other person or entity in violation of the order may subject the subpoenaed person or entity to punishment for contempt of court. Such an order may be granted by the court only upon a showing:

- (1) Of sufficient factual grounds to reasonably indicate a violation of the Kansas racketeer influenced and corrupt organization act;
- (2) that the documents or testimony sought appear reasonably calculated to lead to the discovery of admissible evidence; and
- (3) of facts which reasonably indicate that disclosure of the subpoena would hamper or impede the investigation or would result in a flight from prosecution.

(d) If information or evidence that the attorney seeks to obtain by the subpoena is located outside the state, the person or enterprise subpoenaed may make such information or evidence available to the attorney or such attorney's representative for examination at the place where such information or evidence is located. The attorney may designate representatives, including officials of the jurisdiction in which the information or evidence is located, to inspect the information or evidence on such attorney's behalf and may respond to similar requests from officials of other jurisdictions.

(e) Upon failure of a person or enterprise, without lawful excuse, to obey a subpoena issued under this section or a subpoena issued in the course of a civil proceeding instituted pursuant to K.S.A. 2020 Supp. 21-6330, and amendments thereto, and after reasonable notice to such person or enterprise, the attorney may apply to the district court in which such civil proceeding is pending or, if no civil proceeding is pending, to the district court of the judicial district in which such person or enterprise resides, is found or transacts business for an order compelling compliance. Except in a prosecution for perjury, an individual who complies with a court order to provide testimony or material after asserting a privilege against self-incrimination to which such individual is entitled by law shall not have the testimony or material so provided, or evidence derived therefrom, received against such individual in any criminal investigation or proceeding.

(f) A person who fails to obey a court order entered pursuant to this section may be adjudged in contempt of court and punished by fine and imprisonment.

History: L. 2013, ch. 78, § 5; July 1.