

## Rule 147

### NOTICE OF CHALLENGE TO STATUTE OR CONSTITUTIONAL PROVISION IN CRIMINAL CASE

- (a) **Notice Requirements.** A party in a criminal case before a district court or any judge of a district court that contests or calls into doubt the validity of any Kansas statute or constitutional provision on grounds that the law violates the state constitution, federal constitution, or any provision of federal law must serve notice of the disputed validity on the prosecuting attorney representing the state in the matter. The notice must state that the prosecuting attorney is being provided notice under K.S.A. 75-764.
- (b) **Filing of Notice.** A party that gives notice under this rule must promptly file a copy of the notice with the clerk of the district court, along with a certificate of service.
- (c) **Failure to Respond to Notice.** A prosecuting attorney is deemed to have failed to respond to the notice if the prosecuting attorney does not file a written response addressing the validity of the challenged law within 21 days after notification is served.
- (d) **Notice to Attorney General.** If a prosecuting attorney fails to respond, a judge of the district court must direct the clerk of the district court to give notice to the attorney general of Kansas on a form prescribed by the judicial administrator. The clerk of the district court must record the date notice was given to the attorney general in the register of actions for the case.
- (e) **Sufficiency of Notice.** Any notice provided under this rule will be deemed sufficient if it is in substantial compliance with the form set forth by the judicial administrator.
- (f) **Application.** This rule does not apply in any action or proceeding in which the attorney general is the party disputing or defending the validity of the law at issue.

[**History:** New rule effective September 6, 2016.]