

By: Dutton

H.B. No. 462

A BILL TO BE ENTITLED

AN ACT

relating to the secrecy of grand jury proceedings.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 19.34, Code of Criminal Procedure, is amended to read as follows:

Art. 19.34. OATH OF GRAND JURORS. (a) When the grand jury is completed, the court shall appoint one of the number foreman; and the following oath shall be administered by the court, or under its direction, to the jurors: "You solemnly swear that you will diligently inquire into, and true presentment make, of all such matters and things as shall be given you in charge; the State's counsel, your fellows and your own, you shall keep secret during the term of the grand jury, unless required to disclose the same in the course of a judicial proceeding in which the truth or falsity of evidence given in the grand jury room, in a criminal case, shall be under investigation. You shall present no person from envy, hatred or malice; neither shall you leave any person unrepresented for love, fear, favor, affection or hope of reward; but you shall present things truly as they come to your knowledge, according to the best of your understanding, so help you God".

(b) In this article, the term of a grand jury includes any period during which the term of the grand jury has been extended under Article 19.07.

SECTION 2. Article 19.36, Code of Criminal Procedure, is

1 amended to read as follows:

2 Art. 19.36. BAILIFFS APPOINTED. (a) The court and the
3 district attorney may each appoint one or more bailiffs to attend
4 upon the grand jury, and at the time of appointment, the following
5 oath shall be administered to each of them by the court, or under
6 its direction: "You solemnly swear that you will faithfully and
7 impartially perform all the duties of bailiff of the grand jury, and
8 that during the term of the grand jury you will keep secret the
9 proceedings of the grand jury, so help you God". Such bailiffs
10 shall be compensated in a sum to be set by the commissioners court
11 of said county.

12 (b) In this article, the term of a grand jury includes any
13 period during which the term of the grand jury has been extended
14 under Article 19.07.

15 SECTION 3. Article 20.02, Code of Criminal Procedure, is
16 amended to read as follows:

17 Art. 20.02. PROCEEDINGS SECRET DURING GRAND JURY TERM. (a)
18 The proceedings of the grand jury shall be secret during the term of
19 the grand jury.

20 (b) A grand juror, bailiff, interpreter, stenographer or
21 person operating an electronic recording device, or person
22 preparing a typewritten transcription of a stenographic or
23 electronic recording who during the term of the grand jury
24 discloses anything transpiring before the grand jury, regardless of
25 whether the thing transpiring is recorded, in the course of the
26 official duties of the grand jury shall be liable to a fine as for
27 contempt of the court, not exceeding five hundred dollars,

1 imprisonment not exceeding thirty days, or both such fine and
2 imprisonment.

3 (c) A disclosure of a record made under Article 20.012, a
4 disclosure of a typewritten transcription of that record, or a
5 disclosure otherwise prohibited by Subsection (b) or Article 20.16
6 may be made by the attorney representing the state, during or after
7 the term of the grand jury, in performing the attorney's duties to a
8 grand juror serving on the grand jury before whom the record was
9 made, another grand jury, a law enforcement agency, or a
10 prosecuting attorney, as permitted by the attorney representing the
11 state and determined by the attorney as necessary to assist the
12 attorney in the performance of the attorney's duties. The attorney
13 representing the state shall warn any person the attorney
14 authorizes to receive information under this subsection of the
15 person's duty to maintain the secrecy of the information during the
16 term of the grand jury before which the information was presented.
17 Any person who receives information under this subsection and
18 discloses the information for purposes other than those permitted
19 by this subsection and at a time other than that permitted by this
20 subsection is subject to punishment for contempt in the same manner
21 as persons who violate Subsection (b).

22 (d) The defendant may petition a court to order the
23 disclosure of information otherwise made secret by this article or
24 the disclosure of a recording or typewritten transcription under
25 Article 20.012 as a matter preliminary to or in connection with a
26 judicial proceeding. The court may order disclosure of the
27 information, recording, or transcription on a showing by the

1 defendant of a particularized need.

2 (e) A petition for disclosure under Subsection (d) must be
3 filed in the district court in which the case is pending. The
4 defendant must also file a copy of the petition with the attorney
5 representing the state, the parties to the judicial proceeding, and
6 any other persons required by the court to receive a copy of the
7 petition. All persons receiving a petition under this subsection
8 are entitled to appear before the court. The court shall provide
9 interested parties with an opportunity to appear and present
10 arguments for the continuation of or end to the requirement of
11 secrecy.

12 (f) A person who receives information under Subsection (d)
13 or (e) and during the term of the grand jury before which the
14 information was presented discloses that information is subject to
15 punishment for contempt in the same manner as a person who violates
16 Subsection (b).

17 (g) The attorney representing the state may not disclose
18 anything transpiring before the grand jury during the term of the
19 grand jury except as permitted by Subsections (c), (d), and (e).

20 (h) In this article, the term of a grand jury includes any
21 period during which the term of the grand jury is extended under
22 Article 19.07.

23 SECTION 4. Article 20.16, Code of Criminal Procedure, is
24 amended to read as follows:

25 Art. 20.16. OATHS TO WITNESSES. (a) The following oath
26 shall be administered by the foreman, or under his direction, to
27 each witness before being interrogated: "You solemnly swear that

1 you will not divulge during the term of the grand jury, either by
2 words or signs, any matter about which you may be interrogated, and
3 that you will keep secret during the term of the grand jury all
4 proceedings of the grand jury which may be had in your presence, and
5 that you will true answers make to such questions as may be
6 propounded to you by the grand jury, or under its direction, so help
7 you God." Any witness who during the term of the grand jury divulges
8 any matter about which he is interrogated [7] or any proceedings of
9 the grand jury had in his presence, other than when required to give
10 evidence thereof in due course, shall be liable to a fine as for
11 contempt of court, not exceeding \$500, and to imprisonment not
12 exceeding six months.

13 (b) In this article, the term of a grand jury includes any
14 period during which the term of the grand jury is extended under
15 Article 19.07.

16 SECTION 5. This Act applies only to a grand jury for which
17 the term of the grand jury commences on or after the effective date
18 of this Act.

19 SECTION 6. This Act takes effect September 1, 2005.