

By: Dutton

H.B. No. 686

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. The heading to Article 20.02, Code of Criminal  
16 Procedure, is amended to read as follows:

17           Art. 20.02. PROCEEDINGS SECRET DURING GRAND JURY TERM.

18           SECTION 4. Article 20.02, Code of Criminal Procedure, is  
19 amended by amending Subsections (a), (b), (c), (f), (g), and (h) and  
20 adding Subsection (i) to read as follows:

21           (a) The proceedings of the grand jury shall be secret during  
22 the term of the grand jury.

23           (b) A grand juror, bailiff, interpreter, stenographer or  
24 person operating an electronic recording device, or person  
25 preparing a typewritten transcription of a stenographic or  
26 electronic recording who during the term of the grand jury  
27 discloses anything transpiring before the grand jury, regardless of

1 whether the thing transpiring is recorded, in the course of the  
2 official duties of the grand jury shall be liable to a fine as for  
3 contempt of the court, not exceeding five hundred dollars,  
4 imprisonment not exceeding thirty days, or both such fine and  
5 imprisonment.

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

25 (f) A person who receives information under Subsection (d)  
26 or (e) and during the term of the grand jury before which the  
27 information was presented discloses that information is subject to

1 punishment for contempt in the same manner as a person who violates  
2 Subsection (b).

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

6 (h) A subpoena or summons relating to a grand jury  
7 proceeding or investigation must be kept secret to the extent and  
8 for as long as necessary to prevent, during the term of the grand  
9 jury, the unauthorized disclosure of a matter before that [~~the~~]  
10 grand jury. This subsection may not be construed to limit a  
11 disclosure permitted by Subsection (c), (d), or (e).

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

15 SECTION 5. Article 20.16, Code of Criminal Procedure, is  
16 amended to read as follows:

17 Art. 20.16. OATHS TO WITNESSES. (a) The following oath  
18 shall be administered by the foreman, or under the foreman's  
19 direction, to each witness before being interrogated: "You  
20 solemnly swear that during the term of the grand jury you will not  
21 reveal, by your words or conduct, and will keep secret any matter  
22 about which you may be interrogated or that you have observed during  
23 the proceedings of the grand jury, and that you will answer  
24 truthfully the questions asked of you by the grand jury, or under  
25 its direction, so help you God."

26 (b) A witness who during the term of the grand jury reveals  
27 any matter about which the witness is interrogated or that the

1 witness has observed during the proceedings of the grand jury,  
2 other than when required to give evidence thereof in due course,  
3 shall be liable to a fine as for contempt of court, not exceeding  
4 \$500, and to imprisonment not exceeding six months.

5 (c) In this article, the term of a grand jury includes any  
6 period during which the term of the grand jury is extended under  
7 Article 19.07.

8 SECTION 6. This Act applies only to a grand jury for which  
9 the term of the grand jury commences on or after the effective date  
10 of this Act.

11 SECTION 7. This Act takes effect September 1, 2011.