

By: Reynolds

H.B. No. 2427

A BILL TO BE ENTITLED

AN ACT

relating to grand jury proceedings.

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

SECTION 1. Article 20.011(a), Code of Criminal Procedure, is amended to read as follows:

(a) Only the following persons may be present in a grand jury room while the grand jury is conducting proceedings:

(1) grand jurors;

(2) bailiffs;

(3) the attorney representing the state;

(4) witnesses while being examined or when necessary to assist the attorney representing the state in examining other witnesses or presenting evidence to the grand jury;

(5) interpreters, if necessary;

(6) a stenographer or person operating an electronic recording device, as provided by Article 20.012; ~~and~~

(7) a person operating a video teleconferencing system for use under Article 20.151; and

(8) an attorney representing a witness, including a witness who is an accused or suspected person, during the time the witness is being examined or offering testimony to the grand jury and for the sole purpose of providing consultation in the manner described by Article 20.03(c).

SECTION 2. Article 20.02(g), Code of Criminal Procedure, is

1 amended to read as follows:

2 (g) The attorney representing the state may not disclose
3 anything transpiring before the grand jury except as permitted by
4 Subsections (c), (d), and (e) and Article 39.14(h).

5 SECTION 3. Article 20.03, Code of Criminal Procedure, is
6 amended to read as follows:

7 Art. 20.03. ATTORNEY [~~REPRESENTING STATE~~] ENTITLED TO
8 APPEAR. (a) In this chapter, "attorney ["The attorney]
9 representing the state [State]" means the attorney general
10 [Attorney General], district attorney, criminal district attorney,
11 or county attorney.

12 (b) The attorney representing the state [~~State,~~] is
13 entitled to go before the grand jury and inform the grand jurors
14 [them] of offenses liable to indictment at any time except when the
15 grand jury is:

16 (1) [~~they are~~] discussing the propriety of finding an
17 indictment; or

18 (2) voting on an indictment [~~upon the same~~].

19 (c) A witness who testifies before a grand jury, including a
20 witness who is an accused or suspected person, is entitled to have
21 an attorney present while the grand jury is questioning the
22 witness. The grand jury shall permit the attorney or the witness to
23 interrupt the questioning at any time so that the witness may
24 consult with the attorney outside the hearing of the grand jury.

25 SECTION 4. Article 20.17(c), Code of Criminal Procedure, is
26 amended to read as follows:

27 (c) If an accused or suspected person is subpoenaed to

1 appear before a grand jury prior to any questions before the grand
2 jury, the person accused or suspected shall be orally warned as
3 follows:

4 (1) "Your testimony before this grand jury is under
5 oath";

6 (2) "Any material question that is answered falsely
7 before this grand jury subjects you to being prosecuted for
8 aggravated perjury";

9 (3) "You have the right to refuse to make answers to
10 any question, the answer to which would incriminate you in any
11 manner";

12 (4) "During questioning, you [~~"You]~~ have the right to
13 have an attorney [~~a lawyer]~~ present [~~outside this chamber]~~ to
14 advise you before making answers to questions you feel might
15 incriminate you";

16 (5) "Any testimony you give may be used against you at
17 any subsequent proceeding";

18 (6) "If you are unable to employ an attorney [~~a~~
19 ~~lawyer]~~, you have the right to have an attorney [~~a lawyer]~~ appointed
20 to advise you before making an answer to a question, the answer to
21 which you feel might incriminate you."

22 SECTION 5. Article 20.18, Code of Criminal Procedure, is
23 amended to read as follows:

24 Art. 20.18. HOW WITNESS QUESTIONED. (a) A person who is
25 subpoenaed to appear as a witness before a grand jury shall be given
26 a reasonable opportunity to retain counsel and to consult with
27 counsel before the person's appearance.

1 (b) Before the grand jury may question the witness, a
2 witness appearing before a grand jury shall be orally given the
3 warnings described by Article 20.17(c), other than the warning
4 described by Article 20.17(c)(6).

5 (c) When a felony has been committed in any county within
6 the jurisdiction of the grand jury, and the name of the offender is
7 known or unknown or where it is uncertain when or how the felony was
8 committed, the grand jury shall first state to the witness called
9 the subject matter under investigation, then may ask pertinent
10 questions relative to the transaction in general terms and in such a
11 manner as to determine whether the witness [~~he~~] has knowledge of the
12 violation of any particular law by any person, and if so, by what
13 person.

14 SECTION 6. Article 39.14(h), Code of Criminal Procedure, is
15 amended to read as follows:

16 (h) Notwithstanding any other provision of this article,
17 the state shall disclose to the defendant any exculpatory,
18 impeachment, or mitigating document, item, or information in the
19 possession, custody, or control of the state that tends to negate
20 the guilt of the defendant or would tend to reduce the punishment
21 for the offense charged, including any exculpatory, impeachment, or
22 mitigating document, item, or information that was obtained as a
23 result of a grand jury proceeding.

24 SECTION 7. The changes in law made by this Act apply only to
25 a grand jury proceeding that begins on or after the effective date
26 of this Act. A grand jury proceeding that begins before the
27 effective date of this Act is governed by the law in effect on the

1 date the proceeding began, and the former law is continued in effect
2 for that purpose.

3 SECTION 8. This Act takes effect September 1, 2019.