

By: Whitmire, et al.
(Collier, Thompson of Harris)

S.B. No. 1492

A BILL TO BE ENTITLED

AN ACT

relating to grand jury proceedings and establishing a commission to study improvements and alternatives to those proceedings.

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

SECTION 1. Article 20.012, Code of Criminal Procedure, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) Questions propounded by the grand jury or the attorney representing the state to a fact witness or a person accused or suspected and the testimony of that person to the grand jury shall be recorded either by a stenographer or by use of an electronic device capable of recording sound.

(d) For purposes of this article, "fact witness" means a person who is testifying regarding the person's personal knowledge of events relating to the case under investigation by the grand jury. The term does not include a law enforcement officer who:

(1) is acting in the lawful discharge of the officer's official duty;

(2) is assisting the attorney representing the state by presenting evidence to the grand jury; and

(3) has no personal knowledge of events relating to the case under investigation by the grand jury.

SECTION 2. Chapter 20, Code of Criminal Procedure, is amended by adding Article 20.013 to read as follows:

1 Art. 20.013. CERTAIN INVESTIGATIONS AND VOTES BY GRAND JURY
2 PROHIBITED. (a) Except as provided by Subsection (b), a grand
3 jury may not investigate a person who is accused or suspected of an
4 offense and may not vote to present an indictment for the offense if
5 the person has previously been investigated by a grand jury for the
6 same offense, that grand jury voted on whether to present an
7 indictment, and fewer than nine grand jurors concurred in finding
8 the bill.

9 (b) A grand jury may investigate, and may present an
10 indictment with respect to, a person described by Subsection (a)
11 only if the attorney representing the state presents to the grand
12 jury material evidence that was not known to the applicable
13 attorney representing the state before or during the previous grand
14 jury investigation.

15 SECTION 3. (a) In this section, "commission" means the
16 Texas Commission on Grand Juries.

17 (b) The commission is established to develop
18 recommendations for improvements to the grand jury system and
19 explore alternative procedures for establishing probable cause to
20 proceed to trial in a felony case.

21 (c) The commission is composed of 11 members, consisting of
22 the following:

23 (1) five members appointed by the governor;

24 (2) three members appointed by the lieutenant
25 governor; and

26 (3) three members appointed by the speaker of the
27 house of representatives.

1 (d) The members appointed by the governor must include:

2 (1) one member who is a district judge selected from a
3 list of 10 names submitted by the Texas Center for the Judiciary;

4 (2) one member who is a prosecuting attorney selected
5 from a list of 10 names submitted by the Texas District and County
6 Attorneys Association;

7 (3) one member who is a criminal defense attorney
8 selected from a list of 10 names submitted by the Texas Criminal
9 Defense Lawyers Association;

10 (4) one member who is a county judge or county
11 commissioner selected from a list of 10 names submitted by the Texas
12 Association of Counties; and

13 (5) one member who has served as the foreperson of a
14 grand jury in this state.

15 (e) The members appointed by the lieutenant governor and the
16 speaker of the house of representatives must each consist of three
17 members of the applicable legislative chamber.

18 (f) The governor shall designate the presiding officer of
19 the commission.

20 (g) A member of the commission is not entitled to
21 compensation or reimbursement of expenses.

22 (h) Not later than December 1, 2020, the commission shall
23 prepare and deliver to the governor and the legislature a report
24 that recommends:

25 (1) improvements to the grand jury system, including
26 the identification of any statutory changes necessary for that
27 purpose; and

1 (2) alternative procedures for establishing probable
2 cause to proceed to trial in a felony case.

3 (i) The commission is abolished January 12, 2021.

4 SECTION 4. The changes in law made by this Act apply only to
5 a grand jury proceeding that begins on or after the effective date
6 of this Act. A grand jury proceeding that begins before the
7 effective date of this Act is governed by the law in effect on the
8 date the proceeding began, and the former law is continued in effect
9 for that purpose.

10 SECTION 5. This Act takes effect September 1, 2019.