

1-1 By: Whitmire S.B. No. 1492  
1-2 (In the Senate - Filed March 5, 2019; March 14, 2019, read  
1-3 first time and referred to Committee on Criminal Justice;  
1-4 May 13, 2019, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 7, Nays 0; May 13, 2019,  
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Whitmire	X		
1-10	Huffman	X		
1-11	Buckingham	X		
1-12	Flores	X		
1-13	Hughes	X		
1-14	Miles	X		
1-15	Perry	X		

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 1492 By: Whitmire

1-17 A BILL TO BE ENTITLED  
1-18 AN ACT

1-19 relating to grand jury proceedings and establishing a commission to  
1-20 study improvements and alternatives to those proceedings.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Article 20.012, Code of Criminal Procedure, is  
1-23 amended by amending Subsection (a) and adding Subsection (d) to  
1-24 read as follows:

1-25 (a) Questions propounded by the grand jury or the attorney  
1-26 representing the state to a fact witness or a person accused or  
1-27 suspected and the testimony of that person to the grand jury shall  
1-28 be recorded either by a stenographer or by use of an electronic  
1-29 device capable of recording sound.

1-30 (d) For purposes of this article, "fact witness" means a  
1-31 person who is testifying regarding the person's personal knowledge  
1-32 of events relating to the case under investigation by the grand  
1-33 jury. The term does not include a law enforcement officer who:

1-34 (1) is acting in the lawful discharge of the officer's  
1-35 official duty;

1-36 (2) is assisting the attorney representing the state  
1-37 by presenting evidence to the grand jury; and

1-38 (3) has no personal knowledge of events relating to  
1-39 the case under investigation by the grand jury.

1-40 SECTION 2. Chapter 20, Code of Criminal Procedure, is  
1-41 amended by adding Article 20.013 to read as follows:

1-42 Art. 20.013. CERTAIN INVESTIGATIONS AND VOTES BY GRAND JURY  
1-43 PROHIBITED. (a) Except as provided by Subsection (b), a grand  
1-44 jury may not investigate a person who is accused or suspected of an  
1-45 offense and may not vote to present an indictment for the offense if  
1-46 the person has previously been investigated by a grand jury for the  
1-47 same offense, that grand jury voted on whether to present an  
1-48 indictment, and fewer than nine grand jurors concurred in finding  
1-49 the bill.

1-50 (b) A grand jury may investigate, and may present an  
1-51 indictment with respect to, a person described by Subsection (a)  
1-52 only if the attorney representing the state presents to the grand  
1-53 jury material evidence that was not known to the applicable  
1-54 attorney representing the state before or during the previous grand  
1-55 jury investigation.

1-56 SECTION 3. (a) In this section, "commission" means the  
1-57 Texas Commission on Grand Juries.

1-58 (b) The commission is established to develop  
1-59 recommendations for improvements to the grand jury system and  
1-60 explore alternative procedures for establishing probable cause to

2-1 proceed to trial in a felony case.

2-2 (c) The commission is composed of 11 members, consisting of  
2-3 the following:

2-4 (1) five members appointed by the governor;

2-5 (2) three members appointed by the lieutenant  
2-6 governor; and

2-7 (3) three members appointed by the speaker of the  
2-8 house of representatives.

2-9 (d) The members appointed by the governor must include:

2-10 (1) one member who is a district judge selected from a  
2-11 list of 10 names submitted by the Texas Center for the Judiciary;

2-12 (2) one member who is a prosecuting attorney selected  
2-13 from a list of 10 names submitted by the Texas District and County  
2-14 Attorneys Association;

2-15 (3) one member who is a criminal defense attorney  
2-16 selected from a list of 10 names submitted by the Texas Criminal  
2-17 Defense Lawyers Association;

2-18 (4) one member who is a county judge or county  
2-19 commissioner selected from a list of 10 names submitted by the Texas  
2-20 Association of Counties; and

2-21 (5) one member who has served as the foreperson of a  
2-22 grand jury in this state.

2-23 (e) The members appointed by the lieutenant governor and the  
2-24 speaker of the house of representatives must each consist of three  
2-25 members of the applicable legislative chamber.

2-26 (f) The governor shall designate the presiding officer of  
2-27 the commission.

2-28 (g) A member of the commission is not entitled to  
2-29 compensation or reimbursement of expenses.

2-30 (h) Not later than December 1, 2020, the commission shall  
2-31 prepare and deliver to the governor and the legislature a report  
2-32 that recommends:

2-33 (1) improvements to the grand jury system, including  
2-34 the identification of any statutory changes necessary for that  
2-35 purpose; and

2-36 (2) alternative procedures for establishing probable  
2-37 cause to proceed to trial in a felony case.

2-38 (i) The commission is abolished January 12, 2021.

2-39 SECTION 4. The changes in law made by this Act apply only to  
2-40 a grand jury proceeding that begins on or after the effective date  
2-41 of this Act. A grand jury proceeding that begins before the  
2-42 effective date of this Act is governed by the law in effect on the  
2-43 date the proceeding began, and the former law is continued in effect  
2-44 for that purpose.

2-45 SECTION 5. This Act takes effect September 1, 2019.

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