

By: Reynolds

H.B. No. 713

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 20A.102(a), Code of Criminal Procedure, is amended to read as follows:

(a) While the grand jury is conducting proceedings, only the following persons may be present in the grand jury room:

(1) a grand juror;

(2) a bailiff;

(3) the attorney representing the state;

(4) a witness:

(A) while the witness is being examined; or

(B) when the witness's presence is necessary to assist the attorney representing the state in examining another witness or presenting evidence to the grand jury;

(5) an interpreter, if necessary;

(6) a stenographer or a person operating an electronic recording device, as provided by Article 20A.201; ~~and~~

(7) a person operating a video teleconferencing system for use under Article 20A.259; 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

1 described by Article 20A.1031.

2 SECTION 2. Subchapter C, Chapter 20A, Code of Criminal
3 Procedure, is amended by adding Article 20A.1031 to read as
4 follows:

5 Art. 20A.1031. ATTORNEY REPRESENTING WITNESS ENTITLED TO
6 APPEAR. A witness who testifies before a grand jury, including a
7 witness who is an accused or suspected person, is entitled to have
8 an attorney present while the grand jury is questioning the
9 witness. The grand jury shall permit the attorney or the witness to
10 interrupt the questioning at any time so that the witness may
11 consult with the attorney outside the hearing of the grand jury.

12 SECTION 3. Article 20A.204(a), Code of Criminal Procedure,
13 is amended to read as follows:

14 (a) The attorney representing the state may not disclose
15 anything transpiring before the grand jury except as permitted by
16 this article, ~~[or]~~ Article 20A.205(a) or (b), or Article 39.14(h).

17 SECTION 4. Article 20A.257, Code of Criminal Procedure, is
18 amended to read as follows:

19 Art. 20A.257. EXAMINATION OF WITNESSES. (a) A person who
20 is subpoenaed to appear as a witness before a grand jury shall be
21 given a reasonable opportunity to retain counsel and to consult
22 with counsel before the person's appearance.

23 (b) Only a grand juror or the attorney representing the
24 state may examine a witness before the grand jury.

25 (c) ~~(b)~~ The attorney representing the state shall advise
26 the grand jury regarding the proper mode of examining a witness.

27 (d) Before the grand jury may question the witness, a

1 witness appearing before a grand jury shall be orally given the
2 following warning:

3 "Your testimony before this grand jury is under oath. Any
4 material question that is answered falsely before this grand jury
5 subjects you to being prosecuted for aggravated perjury. You have
6 the right to refuse to make answers to any question, the answer to
7 which would incriminate you in any manner. During questioning, you
8 have the right to have an attorney present to advise you before
9 making answers to questions you feel might incriminate you. Any
10 testimony you give may be used against you at any subsequent
11 proceeding."

12 (e) [~~(e)~~] If a felony has been committed in any county in
13 the grand jury's jurisdiction, and the name of the offender is known
14 or unknown or if it is uncertain when or how the felony was
15 committed, the grand jury shall first state the subject matter
16 under investigation to a witness called before the grand jury and
17 may then ask questions relevant to the transaction in general terms
18 and in a manner that enables a determination as to whether the
19 witness has knowledge of the violation of any particular law by any
20 person, and if so, by what person.

21 SECTION 5. Article 39.14(h), Code of Criminal Procedure, is
22 amended to read as follows:

23 (h) Notwithstanding any other provision of this article,
24 the state shall disclose to the defendant any exculpatory,
25 impeachment, or mitigating document, item, or information in the
26 possession, custody, or control of the state that tends to negate
27 the guilt of the defendant or would tend to reduce the punishment

1 for the offense charged, including any exculpatory, impeachment, or
2 mitigating document, item, or information that was obtained as a
3 result of a grand jury proceeding.

4 SECTION 6. 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 7. This Act takes effect September 1, 2021.