

By: Smithee

H.B. No. 3664

A BILL TO BE ENTITLED

AN ACT

relating to the training of prospective grand jurors and to grand jury proceedings.

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

SECTION 1. Subchapter C, Chapter 19A, Code of Criminal Procedure, is amended by adding Article 19A.1021 to read as follows:

Art. 19A.1021. TRAINING OF PROSPECTIVE GRAND JURORS REQUIRED. Before a prospective grand juror may be accepted and impaneled, each person who is presented to serve as a grand juror must complete the training described by Section 72.0365, Government Code.

SECTION 2. Subchapter A, Chapter 20A, Code of Criminal Procedure, is amended by adding Article 20A.002 to read as follows:

Art. 20A.002. WHO MAY BE INVESTIGATED. (a) Except as provided by Subsection (b), a grand jury may not investigate a person who is accused or suspected of an offense and may not vote to present an indictment for the offense if the person has previously been investigated by a grand jury for the same offense and that grand jury found no bill of indictment.

(b) A grand jury may investigate, and may present an indictment with respect to, a person described by Subsection (a) only if the attorney representing the state presents material evidence that was not known to the state before or during the

1 previous grand jury investigation.

2 SECTION 3. The heading to Article 20A.201, Code of Criminal
3 Procedure, is amended to read as follows:

4 Art. 20A.201. RECORDING OF GRAND JURY PROCEEDINGS [~~ACCUSED~~
5 ~~OR SUSPECTED PERSON'S TESTIMONY~~]; RETENTION OF RECORDS.

6 SECTION 4. Articles 20A.201(a) and (b), Code of Criminal
7 Procedure, are amended to read as follows:

8 (a) Except as otherwise provided by this subsection, all
9 statements made by the grand jury or the attorney representing the
10 state and the [~~The~~] examination and testimony of a witness [~~an~~
11 ~~accused or suspected person before the grand jury and that person's~~
12 ~~testimony~~] shall be recorded by a stenographer or by use of an
13 electronic device capable of recording sound. Deliberations of the
14 grand jury may not be recorded.

15 (b) The validity of a grand jury proceeding is not affected
16 by an unintentional failure to record all or part of the proceedings
17 as required by [~~examination or testimony under~~] Subsection (a).

18 SECTION 5. Article 20A.202(b), Code of Criminal Procedure,
19 is amended to read as follows:

20 (b) A subpoena or summons relating to a grand jury
21 proceeding or investigation must be kept secret to the extent and
22 for as long as necessary to prevent the unauthorized disclosure of a
23 matter before the grand jury. This subsection may not be construed
24 to limit a disclosure permitted by Article 20A.204(b), (c), or (d)
25 or 20A.205 [~~20A.205(a) or (b)~~].

26 SECTION 6. Article 20A.204(a), Code of Criminal Procedure,
27 is amended to read as follows:

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

SECTION 7. Article 20A.205, Code of Criminal Procedure, is amended to read as follows:

Art. 20A.205. DISCOVERY [~~PETITION FOR DISCLOSURE~~] BY OR ON BEHALF OF ACCUSED OR SUSPECTED PERSON [~~DEFENDANT~~]. (a) Except as otherwise provided by this article, if the state provides notice to an accused or suspected person of the grand jury investigation, as soon as practicable after receiving a request from an accused or suspected person, the attorney representing the state shall produce and permit the inspection and the electronic duplication, copying, and photographing, by or on behalf of the accused or suspected person, of any:

(1) offense reports, designated documents, or designated papers arising from the alleged offense;

(2) designated written or recorded statements of the accused or suspected person or a witness that arise from the alleged offense, including witness statements of law enforcement officers; and

(3) designated books, accounts, letters, photographs, or objects or other tangible things that:

(A) are not otherwise privileged;

(B) constitute or contain evidence material to any matter involved in the grand jury investigation; and

(C) are in the possession, custody, or control of the state or any person under contract with the state.

1 (b) Subsection (a) does not authorize the removal of
2 documents, items, or information from the possession of the state,
3 and any inspection shall be in the presence of a representative of
4 the state.

5 (c) In the case of a pro se accused or suspected person, the
6 state shall permit the inspection or review of the document, item,
7 or information as provided by Subsection (a), but is not required to
8 allow electronic duplication as described by that subsection.

9 (d) The attorney representing the state may provide to an
10 accused or suspected person electronic duplicates of any document,
11 item, or information described by Subsection (a).

12 (e) Subsection (a) does not authorize the disclosure of:

13 (1) the work product of the attorney representing the
14 state in the investigation; or

15 (2) the work product of the state's investigators,
16 including an investigator's notes or reports.

17 (f) The rights granted to the accused or suspected person
18 under Subsection (a) do not extend to written communications
19 between the state and an agent, representative, or employee of the
20 state.

21 (g) If only a portion of the applicable document, item, or
22 information is subject to discovery under this article, the state
23 is not required to produce or permit the inspection of the remaining
24 portion that is not subject to discovery and may withhold or redact
25 that portion. The state shall inform the accused or suspected
26 person that a portion of the document, item, or information has been
27 withheld or redacted.

1 (h) The accused or suspected person, the attorney
2 representing the accused or suspected person, or an investigator,
3 expert, consulting legal counsel, or other agent of the attorney
4 representing the accused or suspected person may not disclose to a
5 third party any documents, evidence, materials, or witness
6 statements received under this article unless:

7 (1) a court orders the disclosure after notice and
8 hearing, on a showing of good cause and after considering the
9 security and privacy interests of any victim or witness; or

10 (2) the documents, evidence, materials, or witness
11 statements have already been publicly disclosed.

12 (i) Notwithstanding any other provision of this article,
13 information identifying any victim or witness, including the name
14 of a victim or witness and including the address, telephone number,
15 driver's license number, social security number, date of birth, or
16 bank account information or any other information that by reference
17 would make it possible to identify a victim or witness, is
18 confidential and may not be disclosed unless the disclosure is
19 ordered by the court under Subsection (h) or otherwise required by
20 Subsection (j).

21 (j) Notwithstanding any other provision of this article,
22 the state shall disclose to the accused or suspected person any
23 exculpatory, impeachment, or mitigating document, item, or
24 information that is in the possession, custody, or control of the
25 state or any person under contract with the state that tends to
26 negate the guilt of the accused or suspected person or would tend to
27 reduce the punishment for the offense being investigated.

1 (k) The state shall electronically record or otherwise
2 document any document, item, or other information provided to the
3 accused or suspected person under this article.

4 (l) Except as provided by Subsection (i), this article does
5 not prohibit the attorney representing the state from providing
6 discovery and documentation beyond that required by this article.

7 (m) This article applies only to discovery for a grand jury
8 investigation. This article does not limit an accused or suspected
9 person's right to discovery authorized by other law.

10 (n) [The defendant may petition a court to order the
11 disclosure of information made secret by Article 20A.202,
12 20A.203(a), or 20A.204, including a recording or typewritten
13 transcription under Article 20A.201, as a matter preliminary to or
14 in connection with a judicial proceeding. The court may order
15 disclosure of the information if the defendant shows a
16 particularized need.

17 [(b) A petition for disclosure under Subsection (a) must be
18 filed in the district court in which the case is pending. The
19 defendant must also file a copy of the petition with the attorney
20 representing the state, the parties to the judicial proceeding, and
21 any other person the court requires. Each person who receives a
22 copy of the petition under this subsection is entitled to appear
23 before the court. The court shall provide interested parties with
24 an opportunity to appear and present arguments for or against the
25 requested disclosure.

26 [(e)] A person who receives information under this article
27 and discloses that information in a manner not authorized by this

1 article may be punished for contempt in the same manner as a person
2 who violates Article 20A.203(a).

3 SECTION 8. Article 20A.257, Code of Criminal Procedure, is
4 amended to read as follows:

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

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

11 (c) [~~(b)~~] The attorney representing the state shall advise
12 the grand jury regarding the proper mode of examining a witness.

13 (d) Before the grand jury may question the witness, a
14 witness appearing before a grand jury shall be orally given the
15 following warning:

16 "Your testimony before this grand jury is under oath. Any
17 material question that is answered falsely before this grand jury
18 subjects you to being prosecuted for aggravated perjury. You have
19 the right to refuse to make answers to any question, the answer to
20 which would incriminate you in any manner. Any testimony you give
21 may be used against you at any subsequent proceeding."

22 (e) [~~(c)~~] If a felony has been committed in any county in
23 the grand jury's jurisdiction, and the name of the offender is known
24 or unknown or if it is uncertain when or how the felony was
25 committed, the grand jury shall first state the subject matter
26 under investigation to a witness called before the grand jury and
27 may then ask questions relevant to the transaction in general terms

1 and in a manner that enables a determination as to whether the
2 witness has knowledge of the violation of any particular law by any
3 person, and if so, by what person.

4 SECTION 9. Article 20A.258(b), Code of Criminal Procedure,
5 is amended to read as follows:

6 (b) The warnings required under Subsection (a)(1) must
7 consist of the following:

8 "Your testimony before this grand jury is under oath. Any
9 material question that is answered falsely before this grand jury
10 subjects you to being prosecuted for aggravated perjury. You have
11 the right to refuse to make answers to any question, the answer to
12 which would incriminate you in any manner. You have the right to
13 have an attorney [~~a lawyer~~] present outside this chamber to advise
14 you before making answers to questions you feel might incriminate
15 you. Any testimony you give may be used against you at any
16 subsequent proceeding. If you are unable to employ an attorney [~~a~~
17 ~~lawyer~~], you have the right to have an attorney [~~a lawyer~~] appointed
18 to advise you before making an answer to a question, the answer to
19 which you feel might incriminate you."

20 SECTION 10. Subchapter C, Chapter 72, Government Code, is
21 amended by adding Section 72.0365 to read as follows:

22 Sec. 72.0365. TRAINING COURSE FOR PROSPECTIVE GRAND JURORS.

23 (a) Before a prospective grand juror may be accepted and impaneled
24 under Chapter 19A, Code of Criminal Procedure, the prospective
25 grand juror shall complete a training course regarding grand jury
26 proceedings that is administered by the office.

27 (b) The training course required by Subsection (a):

1 (1) must include instruction regarding:

2 (A) the purpose and rules of grand jury service;

3 (B) the grand juror selection process; and

4 (C) grand jury procedures and deliberations; and

5 (2) may be offered online.

6 (c) The office shall adopt rules as necessary to implement
7 this section, including rules regarding the content of the training
8 course required by Subsection (a).

9 SECTION 11. As soon as practicable after the effective date
10 of this Act, the Office of Court Administration of the Texas
11 Judicial System shall adopt rules as required by Section 72.0365,
12 Government Code, as added by this Act.

13 SECTION 12. The changes in law made by this Act apply only
14 to a grand jury proceeding that begins on or after the effective
15 date of this Act. A grand jury proceeding that begins before the
16 effective date of this Act is governed by the law in effect on the
17 date the proceeding began, and the former law is continued in effect
18 for that purpose.

19 SECTION 13. This Act takes effect September 1, 2025.