

Act No. 204
Public Acts of 1989
Approved by the Governor
November 1, 1989
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STATE OF MICHIGAN
85TH LEGISLATURE
REGULAR SESSION OF 1989

Introduced by Reps. Saunders, Kilpatrick, Harrison, Martin, Joe Young, Jr., DeMars, Weeks, Sofio, Power, Profit, Stupak, Pitoniak, Bartnik, Dutko, Hart, Niederstadt, DeBeaussaert, Stallworth, Jacobetti, Gubow, Scott, Murphy, Maynard, Knight, Keith, Dunaskiss, Hoffman, Ciaramitaro, Wartner, Van Singel, Ouwinga, Hunter, Jaye, O'Connor, Krause, DeLange, Bankes, Stacey and Crandall

ENROLLED HOUSE BILL No. 4310

AN ACT to amend sections 9, 19a, 19e, 20, 22, 25, and 43 of chapter VII of Act No. 175 of the Public Acts of 1927, entitled as amended "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," being sections 767.9, 767.19a, 767.19e, 767.20, 767.22, 767.25, and 767.43 of the Michigan Compiled Laws; and to add sections 7b, 7c, 7d, 7e, 7f, 7g, 23a, and 96.

The People of the State of Michigan enact:

Section 1. Sections 9, 19a, 19e, 20, 22, 25, and 43 of chapter VII of Act No. 175 of the Public Acts of 1927, being sections 767.9, 767.19a, 767.19e, 767.20, 767.22, 767.25, and 767.43 of the Michigan Compiled Laws, are amended and sections 7b, 7c, 7d, 7e, 7f, 7g, 23a, and 96 are added to read as follows:

CHAPTER VII

Sec. 7b. (1) The attorney general may petition the court of appeals of this state to convene a grand jury with jurisdiction over 2 or more counties in this state.

(2) Two or more attorneys who are county prosecuting attorneys in this state may, with the approval of the attorney general, petition the court of appeals of this state to convene a grand jury with jurisdiction over all of the counties in which they are prosecuting attorneys.

(3) A petition to the court of appeals under this section shall contain all of the following:

(a) The name and official title of each petitioner.

(b) The name of each county over which the grand jury is to have jurisdiction.

(c) A statement setting forth probable cause to believe that a crime, or a portion of that crime, has been committed in 2 or more of the counties named in the petition.

(d) A statement setting forth the reasons to convene a grand jury with jurisdiction over all of the counties named in the petition.

(e) The signature of each petitioner.

(f) The date of the petition.

Sec. 7c. The court of appeals of this state, acting in a 3-judge panel consistent with the Michigan court rules, may convene a grand jury with jurisdiction over 2 or more counties in this state as follows:

(a) If a petition is filed under section 7b(1) by the attorney general, the court of appeals may convene a grand jury with jurisdiction over 2 or more of the counties named in the petition.

(b) If a petition is filed under section 7b(2) by 2 or more attorneys who are county prosecuting attorneys in this state, the court of appeals may convene a grand jury with jurisdiction over 2 or more of the counties named in the petition in which the attorneys are prosecuting attorneys.

Sec. 7d. The court of appeals may convene a grand jury under section 7c with jurisdiction over 2 or more counties in this state if a petition is properly filed under section 7b, and all of the following circumstances exist:

(a) The petition establishes probable cause to believe that a crime, or a portion of that crime, has been committed in 2 or more of the counties named in the petition.

(b) The petition establishes reason to believe that a grand jury with jurisdiction over 2 or more of the counties named in the petition could more effectively address the criminal activity referred to in the petition than could a grand jury with jurisdiction over 1 of those counties.

Sec. 7e. If the court of appeals convenes a grand jury with jurisdiction over 2 or more counties, the court of appeals shall do all of the following:

(a) Designate a judge of the circuit court or of the recorder's court to preside over the grand jury proceedings.

(b) If the petition to convene the grand jury was filed under section 7b(2), designate the prosecuting attorney of 1 of the counties over which the grand jury is to have jurisdiction to assist the grand jury.

(c) Designate the counties from which the jurors shall be drawn from among the counties over which the grand jury is to have jurisdiction.

(d) Designate the number of jurors to be drawn for the grand jury and the number of jurors to be drawn from each county.

(e) Designate the locations for the grand jury proceedings.

Sec. 7f. (1) Except as provided in subsection (2), the term of a grand jury convened under section 7c shall not exceed 6 months.

(2) The court of appeals of this state may order the term of the grand jury extended for an additional period not to exceed 6 months, for good cause shown. The judge presiding over the grand jury proceedings shall dismiss the grand jury upon completion of the functions of the grand jury whether or not the maximum term of the grand jury has been met. The grand jurors may be recalled at any time by the presiding judge or his or her successor to conclude business commenced during their term of service.

Sec. 7g. (1) If a grand jury has been convened under section 7c(a), and the attorney general seeks to expand the jurisdiction of the grand jury to include 1 or more additional counties, the attorney general may petition the court of appeals under section 7b(1) to convene a grand jury which includes the additional county or counties. If the petition is granted, the court of appeals shall convene a new grand jury pursuant to section 7e and shall dismiss the existing grand jury.

(2) If a grand jury has been convened under section 7c(b) and the prosecuting attorneys of all of the counties over which the grand jury has jurisdiction seek to expand the jurisdiction of the grand jury to include 1 or more additional counties, the prosecuting attorneys of the counties over which the grand jury had jurisdiction and the prosecuting attorneys of the additional counties may, with the approval of the attorney general, petition the court of appeals under section 7b(2) to convene a grand jury with jurisdiction over all of those counties. If the petition is granted, the court of appeals shall convene a new grand jury pursuant to section 7e and shall dismiss the existing grand jury.

Sec. 9. The clerk of the court shall prepare an alphabetical list of all the persons returned as grand jurors. When the jury is to be impaneled, the following oath shall be administered to the jurors: "You as grand jurors of this inquest do solemnly swear that you will diligently inquire and true presentment make of all such matters and things as shall be given you in charge; your own counsel and the counsel of the people, and of your fellows, you shall keep secret; you shall present no person for envy, hatred or malice, neither shall you leave any person unpresented for love, fear, favor, affection or hope of reward; but you shall present things truly, as they come to your knowledge, according to the best of your understanding; so help you God".

Sec. 19a. The prosecuting attorney may apply to the judge who summoned the jury or his or her successor, or to the presiding judge, for an order granting immunity to any person designated by name and address in the application who might give testimony concerning any matter before the grand jury. The application shall be accompanied by a verified petition of the prosecuting attorney that sets forth the facts upon which the application is based. If the judge to whom the application is presented is satisfied that it is in the interest of justice that immunity be granted to that person, the judge shall enter an order granting immunity to the person, if the person appears before the grand jury and testifies under oath about any matter before the grand jury and set forth in the petition of the prosecuting attorney.

Sec. 19e. A witness called before the grand jury is at all times entitled to legal counsel not involving delay. The witness may discuss fully with his or her legal counsel any matter relating to the witness's part in the inquiry without being subject to citation for contempt. The witness has the right to have legal counsel present in the room in which the inquiry is held. All communications between the witness and his or her legal counsel are subject to the requirements of section 19f, and any disclosure of those communications by the witness or his or her legal counsel in violation of section 19f is punishable as provided in section 19f.

Sec. 20. If requested by the grand jury, the prosecuting attorney or attorney general shall examine witnesses in the presence of the grand jury, and advise the grand jury on legal matters.

Sec. 22. The prosecuting attorney, attorney general, or other prosecuting officer, shall be allowed at all times to appear before the grand jury on his or her request to give information to the grand jury regarding any matter cognizable by the grand jury. No person other than a grand juror shall be present during the deliberations of the grand jury or during the vote of the grand jury upon any matter before the grand jury.

Sec. 23a. A grand jury convened under section 7c may indict a person for an offense committed in any county over which the grand jury has jurisdiction. If the grand jury indicts a person under this subsection, the grand jury shall specify in the indictment the county or counties in which the offense took place.

Sec. 25. (1) If a person is indicted by a grand jury, the grand jury shall indorse all of the names of the complainants and all of the names of the witnesses on the back of the indictment. The foreperson of the grand jury shall present the indictment to the court in the presence of the grand jury.

(2) If a person is indicted by a grand jury convened under section 7c, the indictment shall remain with the court having jurisdiction over the offense, after the indictment is certified and filed with that court.

(3) If the grand jury indicts a person under subsection (1), the judge presiding over the grand jury proceedings shall return the indictment to any court having proper jurisdiction over the offense.

(4) Except as otherwise provided in this section, the indictment shall be filed with the court and remain with the court as a public record.

(5) If a person is indicted for a felony and the person is not in custody, the indictment shall not be open to inspection by any person other than the attorney general or the prosecuting attorney until the defendant is in custody.

Sec. 43. The indictment may be substantially in the following form:

In the (here give the name of the court) term, 19..... the People of the state of Michigan vs. (here give the name or the description of the accused.)

The grand jury of the county or counties of presents that (here give the name or the description of the accused), (here set forth the offense and transaction, according to the rules herein enunciated).

Sec. 96. (1) Except as otherwise provided by law, the costs of a grand jury convened under section 7c(a) shall be borne by this state, and shall be paid from the general fund of this state.

(2) Except as otherwise provided by law, the costs of a grand jury convened under section 7c(b) shall be borne equally by each county over which the grand jury has jurisdiction, and shall be paid by those counties.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved

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Governor.