

HOUSE BILL No. 4310

February 23, 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 and referred to the Committee on Judiciary.

A bill to amend sections 9, 11, 19a, 20, 22, 23, 25, and 43 of chapter VII of Act No. 175 of the Public Acts of 1927, entitled as amended

"The code of criminal procedure,"

being sections 767.9, 767.11, 767.19a, 767.20, 767.22, 767.23, 767.25, and 767.43 of the Michigan Compiled Laws; and to add sections 7b, 7c, 7d, 7e, 7f, 7g, 25a, and 96.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 9, 11, 19a, 20, 22, 23, 25, and 43 of
2 chapter VII of Act No. 175 of the Public Acts of 1927, entitled
3 as amended being sections 767.9, 767.11, 767.19a, 767.20, 767.22,
4 767.23, 767.25, and 767.43 of the Michigan Compiled Laws, are
5 amended and sections 7b, 7c, 7d, 7e, 7f, 7g, 25a, and 96 are
6 added to read as follows:

CHAPTER VII

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SEC. 7B. (1) THE ATTORNEY GENERAL MAY PETITION THE SUPREME COURT 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 PETITION THE SUPREME COURT 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 SUPREME COURT 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 ALL 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 SUPREME COURT OF THIS STATE 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 SUPREME COURT MAY CONVENE A GRAND JURY WITH

1 JURISDICTION OVER 2 OR MORE OF THE COUNTIES NAMED IN THE
2 PETITION.

3 (B) IF A PETITION IS FILED UNDER SECTION 7B(2) BY 2 OR MORE
4 ATTORNEYS WHO ARE COUNTY PROSECUTING ATTORNEYS IN THIS STATE, THE
5 SUPREME COURT MAY CONVENE A GRAND JURY WITH JURISDICTION OVER 2
6 OR MORE OF THE COUNTIES NAMED IN THE PETITION IN WHICH THE ATTOR-
7 NEYS ARE PROSECUTING ATTORNEYS.

8 SEC. 7D. THE SUPREME COURT MAY CONVENE A GRAND JURY UNDER
9 SECTION 7C WITH JURISDICTION OVER 2 OR MORE COUNTIES IN THIS
10 STATE IF A PETITION IS PROPERLY FILED UNDER SECTION 7B, AND ALL
11 OF THE FOLLOWING CIRCUMSTANCES EXIST:

12 (A) THE PETITION ESTABLISHES PROBABLE CAUSE TO BELIEVE THAT
13 A CRIME, OR A PORTION OF THAT CRIME, HAS BEEN COMMITTED IN 2 OR
14 MORE OF THE COUNTIES NAMED IN THE PETITION.

15 (B) THE PETITION ESTABLISHES REASON TO BELIEVE THAT A GRAND
16 JURY WITH JURISDICTION OVER 2 OR MORE OF THE COUNTIES NAMED IN
17 THE PETITION COULD MORE EFFECTIVELY ADDRESS THE CRIMINAL ACTIVITY
18 REFERRED TO IN THE PETITION THAN COULD A GRAND JURY WITH JURIS-
19 DICTION OVER 1 OF THOSE COUNTIES.

20 SEC. 7E. IF THE SUPREME COURT CONVENES A GRAND JURY WITH
21 JURISDICTION OVER 2 OR MORE COUNTIES, THE SUPREME COURT SHALL DO
22 ALL OF THE FOLLOWING:

23 (A) DESIGNATE A JUDGE OF THE CIRCUIT COURT OR OF THE
24 RECORDER'S COURT TO PRESIDE OVER THE GRAND JURY PROCEEDINGS.

25 (B) IF THE PETITION TO CONVENE THE GRAND JURY WAS FILED
26 UNDER SECTION 7B(2), DESIGNATE THE PROSECUTING ATTORNEY OF 1 OF

1 THE COUNTIES OVER WHICH THE GRAND JURY IS TO HAVE JURISDICTION TO
2 ASSIST THE GRAND JURY.

3 (C) DESIGNATE THE COUNTIES FROM WHICH THE JURORS SHALL BE
4 DRAWN FROM AMONG THE COUNTIES OVER WHICH THE GRAND JURY IS TO
5 HAVE JURISDICTION.

6 (D) DESIGNATE THE NUMBER OF JURORS TO BE DRAWN FOR THE GRAND
7 JURY.

8 (E) DESIGNATE THE LOCATIONS FOR THE GRAND JURY PROCEEDINGS.

9 SEC. 7F. (1) EXCEPT AS PROVIDED IN SUBSECTION (2), THE TERM
10 OF A GRAND JURY CONVENED UNDER SECTION 7C SHALL NOT EXCEED
11 6 MONTHS.

12 (2) THE SUPREME COURT OF THIS STATE MAY ORDER THE TERM OF
13 THE GRAND JURY EXTENDED FOR AN ADDITIONAL PERIOD NOT TO EXCEED
14 6 MONTHS, FOR GOOD CAUSE SHOWN. THE JUDGE PRESIDING OVER THE
15 GRAND JURY PROCEEDINGS SHALL DISMISS THE GRAND JURY UPON COMPLE-
16 TION OF THE FUNCTIONS OF THE GRAND JURY WHETHER OR NOT THE MAXI-
17 MUM TERM OF THE GRAND JURY HAS BEEN MET.

18 SEC. 7G. (1) IF A GRAND JURY HAS BEEN CONVENED UNDER
19 SECTION 7C(A), AND THE ATTORNEY GENERAL SEEKS TO EXPAND THE
20 JURISDICTION OF THE GRAND JURY TO INCLUDE 1 OR MORE ADDITIONAL
21 COUNTIES, THE JUDGE PRESIDING OVER THE GRAND JURY PROCEEDINGS MAY
22 DISMISS THE GRAND JURY, AND THE ATTORNEY GENERAL MAY PETITION THE
23 SUPREME COURT UNDER SECTION 7B(1) TO CONVENE A GRAND JURY WHICH
24 INCLUDES THE ADDITIONAL COUNTY OR COUNTIES.

25 (2) IF A GRAND JURY HAS BEEN CONVENED UNDER SECTION 7C(B)
26 AND THE PROSECUTING ATTORNEYS OF ALL OF THE COUNTIES OVER WHICH
27 THE GRAND JURY HAS JURISDICTION SEEK TO EXPAND THE JURISDICTION

1 OF THE GRAND JURY TO INCLUDE 1 OR MORE ADDITIONAL COUNTIES, THE
2 JUDGE PRESIDING OVER THE GRAND JURY PROCEEDINGS MAY DISMISS THE
3 GRAND JURY, AND THE PROSECUTING ATTORNEYS OF THE COUNTIES OVER
4 WHICH THE GRAND JURY HAD JURISDICTION AND THE PROSECUTING ATTOR-
5 NEYS OF THE ADDITIONAL COUNTIES MAY PETITION THE SUPREME COURT
6 UNDER SECTION 7B(2) TO CONVENE A GRAND JURY WITH JURISDICTION
7 OVER ALL OF THOSE COUNTIES.

8 Sec. 9. The clerk of the court shall prepare an alphabet-
9 ical list of all the persons returned as grand jurors. ~~and~~
10 ~~when~~ WHEN the jury is to be impaneled, the following oath shall
11 be administered to ~~them~~ THE JURORS: "You as grand jurors of
12 this inquest ~~for the body of this county of~~
13 do solemnly swear that you will diligently inquire and true pre-
14 sentment make of all such matters and things as shall be given
15 you in charge; your own counsel and the counsel of the people,
16 and of your fellows, you shall keep secret; you shall present no
17 person for envy, hatred or malice, neither shall you leave any
18 person unrepresented for love, fear, favor, affection or hope of
19 reward; but you shall present things truly, as they come to your
20 knowledge, according to the best of your understanding; so help
21 you God".

22 Sec. 11. (1) ~~There shall be no more than 17 persons nor~~
23 ~~less than 13 persons~~ EXCEPT AS PROVIDED IN SUBSECTION (2), NOT
24 LESS THAN 13 NOR MORE THAN 17 INDIVIDUALS SHALL BE sworn on any
25 grand jury. ~~and after such~~ AFTER THE jurors have been impan-
26 eled and have received their charge from the court, ~~they~~ THE
27 JURORS shall retire with the officer appointed to attend them.

1 ~~and before they~~ BEFORE THE JURORS proceed to discharge the
2 duties of their office, the court shall appoint 1 of ~~their~~
3 ~~number~~ THE JURORS to be ~~foreman and the~~ FOREPERSON OF THE
4 GRAND JURY. THE clerk shall record the ~~same~~ NAME OF THE
5 FOREPERSON.

6 (2) IF THE GRAND JURY IS CONVENED UNDER SECTION 7C, THE
7 GRAND JURY SHALL CONSIST OF NOT LESS THAN 13 NOR MORE THAN 19
8 INDIVIDUALS.

9 Sec. 19a. The prosecuting attorney may apply to the judge
10 who summoned the jury or his OR HER successor, OR TO THE PRESID-
11 ING JUDGE, for an order granting immunity to any person ~~—~~ des-
12 ignated by name and address in the application ~~—~~ who might give
13 testimony concerning any matter before the grand jury. The
14 application shall be accompanied by a verified petition of the
15 prosecuting attorney ~~setting~~ THAT SETS forth the facts upon
16 which the application is based. If the judge to whom the appli-
17 cation is presented is satisfied that it is in the interest of
18 justice that ~~such~~ immunity be granted TO THAT PERSON, ~~he~~ THE
19 JUDGE shall enter an order granting immunity to the ~~witness~~
20 PERSON, if the ~~witness~~ PERSON appears before the grand jury and
21 testifies under oath ~~concerning~~ ABOUT any matter before the
22 grand jury and set forth in the petition of the prosecuting
23 attorney.

24 Sec. 20. ~~Whenever required~~ IF REQUESTED by the grand
25 jury, ~~it shall be the duty of~~ the prosecuting attorney ~~of the~~
26 ~~county to attend them for the purpose of examining~~ SHALL EXAMINE
27 witnesses in ~~their presence or of giving them advice upon any~~

1 ~~legal matter~~ THE PRESENCE OF THE GRAND JURY, AND ADVISE THE
2 GRAND JURY ON LEGAL MATTERS.

3 Sec. 22. The prosecuting attorney, ~~of the county,~~ or
4 other prosecuting officer, ~~shall be allowed at all times to~~ MAY
5 appear before the grand jury ~~, on his request, for the purpose~~
6 ~~of giving information relative~~ to GIVE INFORMATION TO THE GRAND
7 JURY REGARDING any matter cognizable by ~~them, but no prosecuting~~
8 ~~officer, constable or any other person, except grand jurors,~~ THE
9 GRAND JURY. NO PERSON OTHER THAN A GRAND JUROR shall be present
10 during the ~~expression of their opinions, or the giving of their~~
11 ~~votes~~ DELIBERATIONS OF THE GRAND JURY OR DURING THE VOTE OF THE
12 GRAND JURY upon any matter before ~~them~~ THE GRAND JURY.

13 Sec. 23. (1) ~~No indictment can be found~~ EXCEPT AS PRO-
14 VIDED IN SUBSECTION (2), A PERSON MAY NOT BE INDICTED without the
15 concurrence of at least 9 grand jurors. ~~, and when so found,~~
16 ~~and not otherwise, the foreman~~ THE FOREPERSON of the grand jury
17 shall certify ~~thereon, under his hand,~~ that the ~~same~~
18 INDICTMENT is a true bill.

19 (2) A PERSON MAY NOT BE INDICTED BY A GRAND JURY CONVENED
20 UNDER SECTION 7C UNLESS THE PERSON IS INDICTED BY A MAJORITY VOTE
21 OF THE GRAND JURORS.

22 Sec. 25. (1) ~~Indictments found~~ IF A PERSON IS INDICTED by
23 a grand jury, ~~with~~ THE GRAND JURY SHALL INDORSE ALL OF the
24 names of the ~~complainant~~ COMPLAINANTS and all OF THE NAMES OF
25 the witnesses ~~indorsed~~ on the back ~~thereof, shall be presented~~
26 ~~by their foreman, in their presence, to the court, and shall~~
27 ~~there~~ OF THE INDICTMENT. THE FOREPERSON OF THE GRAND JURY SHALL

1 PRESENT THE INDICTMENT TO THE COURT IN THE PRESENCE OF THE GRAND
2 JURY. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE INDICT-
3 MENT SHALL be filed WITH THE COURT and remain WITH THE COURT as A
4 public ~~records, but such as are found against any~~ RECORD. IF A
5 person IS INDICTED for a felony ~~, not being in actual~~
6 ~~confinement~~ AND THE PERSON IS NOT IN CUSTODY, THE INDICTMENT
7 shall not be open to ~~the~~ inspection ~~of~~ BY any person ~~except~~
8 OTHER THAN the attorney general or THE prosecuting attorney until
9 the defendant ~~therein shall have been arrested~~ IS IN CUSTODY.

10 (2) IF A PERSON IS INDICTED BY A GRAND JURY CONVENED UNDER
11 SECTION 7C, THE INDICTMENT SHALL REMAIN WITH THE COURT HAVING
12 JURISDICTION OVER THE OFFENSE, AFTER THE INDICTMENT IS CERTIFIED
13 AND FILED WITH THAT COURT BY THE JUDGE PRESIDING OVER THE GRAND
14 JURY PROCEEDINGS.

15 SEC. 25A. (1) A GRAND JURY CONVENED UNDER SECTION 7C MAY
16 INDICT A PERSON FOR AN OFFENSE COMMITTED IN ANY COUNTY OVER WHICH
17 THE GRAND JURY HAS JURISDICTION. IF THE GRAND JURY INDICTS A
18 PERSON UNDER THIS SUBSECTION, THE GRAND JURY SHALL SPECIFY IN THE
19 INDICTMENT THE COUNTY OR COUNTIES IN WHICH THE OFFENSE TOOK
20 PLACE.

21 (2) IF THE GRAND JURY INDICTS A PERSON UNDER SUBSECTION (1),
22 THE JUDGE PRESIDING OVER THE GRAND JURY PROCEEDINGS SHALL EXAMINE
23 AND CERTIFY THE INDICTMENT, AND RETURN THE INDICTMENT TO ANY
24 COURT HAVING PROPER JURISDICTION OVER THE OFFENSE.

25 Sec. 43. The indictment may be IN substantially ~~in~~ the
26 following form:

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

5 The grand jury of the county OR COUNTIES of
6 ~~do present~~ PRESENTS that (here give
7 THE name or THE description of the accused), (here set forth the
8 offense and transaction, according to the rules herein
9 enunciated).

10 SEC. 96. (1) EXCEPT AS OTHERWISE PROVIDED BY LAW, THE COSTS
11 OF A GRAND JURY CONVENED UNDER SECTION 7C(A) SHALL BE BORNE BY
12 THIS STATE, AND SHALL BE PAID FROM THE GENERAL FUND OF THIS
13 STATE.

14 (2) EXCEPT AS OTHERWISE PROVIDED BY LAW, THE COSTS OF A
15 GRAND JURY CONVENED UNDER SECTION 7C(B) SHALL BE BORNE EQUALLY BY
16 EACH COUNTY OVER WHICH THE GRAND JURY HAS JURISDICTION, AND SHALL
17 BE PAID BY THOSE COUNTIES.