GRANTING IMMUNITY TO WITNESSES
Act 289 of 1968

AN ACT to authorize certain judges to grant immunity to witnesses upon application of prosecuting attorneys; to permit grants of immunity to witnesses issued subpoenas or compelled to testify or produce evidence in certain investigations and proceedings by public officials or agencies; to prescribe the procedures therefor; and to prescribe penalties for refusal to testify and for giving false testimony.

History: 1968, Act 289, Eff. Nov. 15, 1968;—Am. 1999, Act 249, Imd. Eff. Dec. 28, 1999.

The People of the State of Michigan enact:

780.701 Order granting immunity; application by prosecuting attorney; verified statement; determination to grant immunity.

Sec. 1. (1) The prosecuting attorney may apply to the following, as applicable, for an order granting immunity to any person designated by name and address in the application who might give testimony concerning the violation charged in the complaint and warrant or alleged in the petition:

(a) The examining magistrate at a preliminary examination.

(b) The trial judge at a trial for a felony or misdemeanor.

(c) The judge at an adjudication for a juvenile alleged to be within the court's jurisdiction under section 2(a)(*i*) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, or a probable cause hearing or trial in a case designated as a case in which the juvenile is to be tried in the same manner as an adult under section 2d of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2d.

(2) The application shall be accompanied by the prosecuting attorney's verified statement setting forth the facts upon which the application is based.

(3) If the judge determines that it is in the interest of justice that immunity be granted, the judge shall enter an order granting immunity to the witness if the witness appears before the court in the proceeding and testifies truthfully under oath concerning any matter or thing of which the witness knows concerning matters charged in the complaint and warrant or alleged in the petition, as set forth in the prosecuting attorney's application.

History: 1968, Act 289, Eff. Nov. 15, 1968;—Am. 1999, Act 249, Imd. Eff. Dec. 28, 1999.

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780.702 Delivery of order to witness; applicability of order; transcript of answers; use of truthful testimony or information against witness in criminal case.

Sec. 2. (1) A true copy of the order granting immunity shall be delivered to the witness before he or she answers any questions subsequently asked at the proceeding. The order granting immunity applies until the judge informs the witness that the immunity no longer applies.

(2) All questions of the witness and his or her answers shall be transcribed at the judge's direction. A true and certified copy of the transcript shall be delivered to the witness as soon as practicable after transcription.

(3) Truthful testimony or other truthful information compelled under the order granting immunity and any information derived directly or indirectly from that truthful testimony or other truthful information shall not be used against the witness in a criminal case, except for impeachment purposes or in a prosecution for perjury or otherwise failing to comply with the order.

History: 1968, Act 289, Eff. Nov. 15, 1968;—Am. 1999, Act 249, Imd. Eff. Dec. 28, 1999.

780.702a Order granting immunity; application by public official or agency authorized to compel testimony or produce evidence; verified statement; determination to grant immunity; delivery of order to witness; transcript of answers; use of truthful testimony, evidence, or other information against witness in criminal case; application for order granting immunity under other statute.

Sec. 2a. (1) A public official or agency authorized by a statute of this state to issue a subpoena or otherwise compel the testimony of a witness or the production of evidence in an investigation or proceeding authorized by that statute, or authorized to seek a subpoena or compelled testimony or production of evidence from a court, may apply to the court required to issue the subpoena or compel the testimony or production of evidence or otherwise to the circuit court of the county in which the investigation or proceeding is conducted for an order granting immunity to a person who might give testimony or produce evidence concerning the investigation or subject of the proceeding.

(2) The application shall designate the person by name and address. The public official or agency shall

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include a verified statement setting forth the facts upon which the application is based.

(3) If the court determines that it is in the interests of justice to grant immunity, the court shall enter an order granting immunity to the witness if the witness testifies truthfully or produces evidence in the investigation or proceeding concerning the investigation or subject of the proceeding.

(4) A true copy of the order granting immunity shall be delivered to the witness before he or she answers any questions subsequently asked at the investigation or proceeding or is required to produce any evidence. The order granting immunity applies until the court informs the witness that the immunity no longer applies.

(5) All questions of the witness and his or her answers shall be transcribed. A true and certified copy of the transcript shall be delivered to the witness as soon as practicable after transcription.

(6) Truthful testimony, evidence, or other truthful information compelled under the order granting immunity and any information derived directly or indirectly from that truthful testimony, evidence, or other truthful information shall not be used against the witness in a criminal case, except for impeachment purposes or in a prosecution for perjury or otherwise failing to comply with the order.

(7) If a statute described in subsection (1) grants or permits immunity to a witness compelled to testify or produce evidence that is different in nature from the immunity authorized under this section, the public official or agency may apply for an order granting immunity under this section as an alternative to the immunity granted or permitted under that statute.

History: Add. 1999, Act 249, Imd. Eff. Dec. 28, 1999.

780.703 Failure or refusal to testify at proceeding after grant of immunity; contempt.

Sec. 3. A witness who fails or refuses to testify at a proceeding described in this act after service of a true copy of the order granting the witness immunity is guilty of contempt.

History: 1968, Act 289, Eff. Nov. 15, 1968;—Am. 1999, Act 249, Imd. Eff. Dec. 28, 1999.

780.704 False testimony; perjury, penalty.

Sec. 4. A person who wilfully swears falsely under oath in regard to any matter or thing upon which he is being examined under a grant of immunity is subject to the penalties of perjury as prescribed by law.

History: 1968, Act 289, Eff. Nov. 15, 1968.

780.705 Right to counsel.

Sec. 5. A witness granted immunity as provided by this act has the right to representation by counsel at all times at his request.

History: 1968, Act 289, Eff. Nov. 15, 1968.

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