

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 405

Session of
1979

INTRODUCED BY MESSRS. SCIRICA, RHODES, SPENCER AND BERSON,
FEBRUARY 20, 1979

AS AMENDED ON SECOND CONSIDERATION, JUNE 19, 1979

AN ACT

1 Amending the act of November 22, 1978 (P.L.1148, No.271),
2 entitled "An act providing for investigating grand juries,"
3 providing for grand jury presentments.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Section 2, act of November 22, 1978 (P.L.1148,
7 No.271), known as the "Investigating Grand Jury Act," is amended
8 by adding a definition to read:

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall
11 have, unless the context clearly indicates otherwise, the
12 meanings given to them in this section:

13 * * *

14 "Investigating grand jury presentment." A written formal
15 recommendation by an investigating grand jury that specific
16 persons be charged with the specific crimes.

17 * * *

18 Section 2. Subsection (b) of section 4, subsection (b) of

1 section 5, subsections (b) and (c) of section 7 and section 10
2 of the act are amended to read:

3 Section 4. Convening the multi-county investigating
4 grand jury.

5 * * *

6 (b) An order issued under subsection (a) shall:

7 (1) convene a multi-county investigating grand jury
8 having Statewide jurisdiction, or jurisdiction over all
9 counties requested in the application by the Attorney
10 General;

11 (2) designate a judge of a court of common pleas to be
12 the supervising judge over such multi-county investigating
13 grand jury and provide that such judge shall with respect to
14 investigations, [indictments] presentments, reports, and all
15 other proper activities of said investigating multi-county
16 grand jury, have jurisdiction over all counties in the
17 jurisdiction of said multi-county investigating grand jury;

18 (3) designate the counties which shall supply jurors and
19 in what ratios;

20 (4) designate a location or locations for the multi-
21 county investigating grand jury proceeding; and

22 (5) provide for such other incidental arrangements as
23 may be necessary including the Commonwealth's share of costs.

24 All matters to be included in such order shall be determined by
25 the justice issuing the order in any manner which he deems
26 appropriate, except that the Supreme Court may adopt rules,
27 consistent with the provisions of this section, establishing
28 standard procedures for the convening of multi-county
29 investigating grand juries.

30 * * *

1 Section 5. Composition of the investigating grand jury.

2 * * *

3 (b) Fifteen members shall constitute a quorum and may
4 conduct business for the investigating grand jury but a majority
5 of the full investigating grand jury shall be required to adopt
6 a report or [present an indictment] issue a presentment.

7 * * *

8 Section 7. Powers of the investigating grand jury.

9 * * *

10 (b) The investigating grand jury shall have the power to
11 [indict] issue a presentment with regard to any person who
12 appears to have committed within the county or counties in which
13 such investigating grand jury is summoned an offense against the
14 criminal laws of the Commonwealth. [The power of an
15 investigating grand jury to indict shall be exercised in the
16 same manner, and upon the same standards and evidence, as in the
17 case of other grand juries except as modified by section 10. An
18 indictment by an investigating grand jury shall constitute the
19 commencement of criminal proceedings against the defendant named
20 therein; and the proceedings prior and subsequent to such
21 indictment shall not include a complaint, preliminary hearing,
22 information or presentment to another grand jury.]

23 (c) [The] Except for the power to indict, the investigating
24 grand jury shall have every power available to any other grand
25 jury in the Commonwealth. The jurisdiction, powers and
26 activities of an investigating grand jury shall not, if
27 otherwise lawful, be limited in any way by the charge of the
28 court.

29 Section 10. Investigating grand jury [indictments]
30 presentments.

1 (a) Should the investigating grand jury determine that upon
2 the basis of evidence presented to it a [criminal indictment]
3 presentment should be returned against an individual, the grand
4 jury shall direct the attorney for the Commonwealth to prepare a
5 [bill of indictment] presentment which shall be submitted to the
6 investigating grand jury for a vote. Should a majority of the
7 full grand jury vote approval for the [indictment] presentment
8 it shall then be [presented] submitted to the supervising judge.
9 The supervising judge shall examine the presentment, and if it
10 is within the authority of the investigating grand jury and is
11 otherwise in accordance with the provisions of the act, the
12 supervising judge shall issue an order accepting the
13 presentment. Otherwise, the supervising judge shall refuse to
14 accept the presentment and shall order that the investigating
15 grand jury take further appropriate action.

16 [(b) The supervising judge shall then schedule a probable
17 cause hearing which may in the interests of justice be held in
18 camera and at which the attorney for the Commonwealth shall
19 present evidence from the grand jury record to demonstrate that
20 the decision of the grand jury to return an indictment was based
21 upon evidence before it which constitutes probable cause that
22 the indicted individual committed the offenses alleged. The
23 person sought to be indicted shall have the right to be present
24 at and participate in this hearing with the assistance of
25 retained or appointed counsel and to contest the allegations of
26 the attorney for the Commonwealth.

27 (c) If the supervising judge determines on the basis of the
28 evidence submitted at the hearing that there is probable cause
29 for the indictment he shall approve it and direct that it be
30 filed with the court. No indictment approved by an investigating

1 grand jury shall be filed until such a probable cause hearing
2 shall be held.†

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3 †(d)] (b) The supervising judge [may seal the †proposed
4 indictment before or after the conducting of the hearing†

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5 ~~presentment~~ for cause shown.] TO WHOM A PRESENTMENT IS SUBMITTED
6 MAY, ON HIS OWN MOTION OR AT THE REQUEST OF THE COMMONWEALTH,
7 DIRECT THAT THE PRESENTMENT BE KEPT SECRET UNTIL THE DEFENDANT
8 IS IN CUSTODY OR HAS BEEN RELEASED PENDING TRIAL. IN DIRECTING
9 THAT THE PRESENTMENT BE KEPT SECRET, THE SUPERVISING JUDGE SHALL
10 ENTER AN ORDER REQUIRING THAT THE PRESENTMENT BE SEALED AND THAT
11 NO PERSON SHALL DISCLOSE A RETURN OF THE PRESENTMENT EXCEPT WHEN
12 NECESSARY FOR ISSUANCE AND EXECUTION OF PROCESS.

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13 [(e)] (c) Whenever a multi-county investigating grand jury
14 returns [an indictment] a presentment against any person or
15 persons the Attorney General or his designee shall, with respect
16 to the alleged criminal activities, be authorized to prosecute
17 said person or persons on behalf of the Commonwealth by
18 instituting criminal proceedings in the county of appropriate
19 venue. The Attorney General or his designee shall take the oath
20 of office required by law to be taken of district attorneys, and
21 shall be clothed with all the powers and subject to all the
22 liabilities imposed upon them by law.

23 [(f)] (d) In any case where a multi-county investigating
24 grand jury returns [an indictment] a presentment the supervising
25 judge shall select the county for conducting the trial from
26 among those counties having jurisdiction.

27 Section 3. The act is amended by adding a section
28 to read:

29 Section 10.1. Procedure following presentment.

30 When the attorney for the Commonwealth proceeds on the basis

1 of a presentment, a complaint shall be filed, the case shall <—
2 proceed in the manner of other criminal cases and, EXCEPT FOR <—
3 GOOD CAUSE, AND the defendant shall be entitled to a preliminary <—
4 hearing AS IN OTHER CRIMINAL CASES. <—

5 Section 4. This act shall take effect immediately.