
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 158

Session of
1977

INTRODUCED BY MESSRS. FREIND, ZEARFOSS, SPITZ, BURD, LYNCH
AND DAVIES, FEBRUARY 8, 1977

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 8, 1977

AN ACT

1 Providing immunity from prosecution to certain persons required
2 to testify or furnish information under certain circumstances
3 and the procedure in connection therewith; making refusal to
4 testify after such immunity contempt and providing penalties.

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

7 Section 1. Use immunity created.

8 No testimony or other information compelled by an order
9 issued by a court of competent jurisdiction under this act, or
10 any information directly or indirectly derived from such
11 testimony or other information, may be used against the witness
12 so compelled to testify or provide such information in any
13 criminal case, except a prosecution for perjury, giving a false
14 statement, or otherwise failing to comply with the order. No
15 witness shall be otherwise protected against prosecution for or
16 on account of any transaction, matter, or thing concerning which
17 he is so compelled to testify.

18 Section 2. Immunity of witness before court or grand jury.

19 Whenever a witness refuses, on the basis of his privilege

1 against self-incrimination, to testify or provide other
2 information in a proceeding before or ancillary to a court or
3 grand jury of this Commonwealth, and the judge presiding over
4 such proceeding, upon petition of the prosecuting authority,
5 communicates an order to the witness under section 5, the
6 witness may not refuse to comply with the order on the basis of
7 his privilege against self-incrimination. For the purposes of
8 this act, "prosecuting authority" shall mean a district attorney
9 or his designee, the Attorney General or his designee, and a
10 special prosecutor or his designee, while acting within the
11 scope of their authority.

12 Section 3. Immunity of witness before crime commission.

13 Whenever a witness refuses, on the basis of his privilege
14 against self-incrimination, to testify or provide information in
15 a proceeding before or ancillary to the Pennsylvania Crime
16 Commission, the Commonwealth Court, upon petition of the
17 executive director of said commission, supported by the vote of
18 a majority of the commissioners actually present at a quorum
19 meeting of the commission, communicates an order to the witness
20 under section 5, the witness may not refuse to comply with the
21 order on the basis of his privilege against self-incrimination.

22 Section 4. Immunity of witness before General Assembly.

23 (a) Whenever a witness refuses, on the basis of his
24 privilege against self-incrimination, to testify or provide
25 information in a proceeding before either House of the General
26 Assembly, a joint committee of the two Houses, or a committee or
27 subcommittee of either House, the Supreme Court, upon petition
28 of a duly authorized officer of the proceeding, supported by a
29 majority vote of the body over which he presides, communicates
30 an order to the witness under section 5, the witness may not

1 refuse to comply with the order on the basis of his privilege
2 against self-incrimination. The Supreme Court shall grant an
3 expedited hearing on such petition and render a decision with
4 sufficient promptitude to make possible a complete examination
5 of the witness before the expiration of the General Assembly.

6 (b) No committee or subcommittee of either House and no
7 joint committee, or representative or designee of any of the
8 preceding shall petition the Supreme Court for a grant of
9 immunity to any witness unless so authorized by resolution of
10 the House of which it is a committee or subcommittee or, in the
11 case of a joint committee, by resolution of both Houses. Such a
12 resolution need not be obtained for each witness to whom
13 immunity is to be granted. The committee, subcommittee, or joint
14 committee may be authorized by resolution to petition the
15 Supreme Court for a grant of immunity in any case in which the
16 committee, subcommittee, or joint committee deems appropriate.
17 Section 5. Grant of immunity; notice to law enforcement
18 agencies.

19 (a) If, in a proceeding under sections 2, 3 or 4, a witness
20 refuses to testify or produce other information on the basis of
21 his privilege against self-incrimination, the court designated
22 in said section of this act shall, upon petition of the
23 designated authority and after a hearing at which such authority
24 shall demonstrate a need for a grant of immunity, issue an order
25 compelling such witness to testify subject to the immunity
26 provided in section 1. Such grants of immunity shall not be
27 limited to investigations and prosecutions of organized crime
28 and racketeering but shall be applicable to all investigations
29 and prosecutions under Title 18 (Crimes and Offenses) of the
30 Pennsylvania Consolidated Statutes and the common law and to any

1 other investigation within the jurisdiction of the investigating
2 agency.

3 (b) Prior to the hearing mandated by this section, the court
4 shall give notice to the Attorney General of Pennsylvania, the
5 United States Attorneys for the Eastern, Middle and Western
6 Districts of Pennsylvania, and any district attorney having
7 jurisdiction of a crime for testimony concerning which immunity
8 is to be granted. Any such officer may appear as a party and
9 request a reasonable delay or denial of the grant of immunity if
10 an immediate grant would jeopardize an actual or impending
11 prosecution: Provided, That the court may, in a proceeding under
12 this act, refuse to allow such delay if it determines, in the
13 exercise of its discretion, that it will jeopardize a
14 prosecution by the prosecuting authority seeking the grant of
15 immunity.

16 (c) Upon motion of the petitioner or such officers as are
17 permitted to appear as parties pursuant to subsection (b) and a
18 showing that the prosecution or investigation would be
19 prejudiced by publicity, the court may review evidence in camera
20 or issue any necessary protective orders.

21 Section 6. Contempt.

22 (a) Any person who refuses or declines to testify or produce
23 evidence of any other kind after being granted immunity and
24 ordered to testify or otherwise produce evidence of any kind by
25 the court, is guilty of criminal contempt, and upon conviction
26 thereof, shall be sentenced to pay a fine not exceeding \$1,000,
27 or to undergo imprisonment for a period not exceeding one year,
28 or both.

29 (b) This section shall not be construed to limit any power
30 of the court, either House of the General Assembly, or the

1 Pennsylvania Crime Commission to hold such a contumacious
2 witness in civil contempt.

3 Section 7. Repeal.

4 The act of November 22, 1968 (P.L.1080, No.333), entitled "An
5 act authorizing courts of record to grant witnesses immunity
6 from prosecution for or on account of any matter or thing
7 concerning which they were ordered to testify in a proceeding
8 before certain grand juries, investigating committees or
9 commissions and courts of record; making the refusal to testify
10 after such immunity criminal contempt and providing penalties,"
11 is repealed. This repeal shall not affect any action commenced
12 prior to the effective date of this act. All other acts and
13 parts of acts are repealed insofar as they are inconsistent
14 herewith.

15 Section 8. Severability.

16 If any provisions of this act or the application thereof to a
17 person or circumstance is held invalid, the other provisions and
18 their application to other persons and circumstances shall not
19 be affected thereby.

20 Section 9. Effective date.

21 This act shall take effect immediately.