

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

HOUSE BILL HB2198

By: Dank

AS INTRODUCED

An Act relating to criminal procedure; amending 22 O.S. 2001, Sections 346 and 355, which relate to information authorized to be released by grand juries and multicounty grand juries; requiring certain reports be issued under certain conditions; disallowing prohibition against release of witness information under certain conditions; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 22 O.S. 2001, Section 346, is amended to read as follows:

Section 346. In addition to any indictments or accusations that may be returned, the grand jury, ~~in their discretion, may~~ shall make formal written reports as to the condition and operation of any public office or public institution investigated by them. No such report shall charge any public officer, or other person with willful misconduct or malfeasance, nor reflect on the management of any public office as being willful and corrupt misconduct. ~~It being the intent of this section to preserve to every~~ Every person shall retain the right to meet ~~his~~ the accusers of the person in a court of competent jurisdiction and be heard, in open court, in ~~his~~ the defense.

SECTION 2. AMENDATORY 22 O.S. 2001, Section 355, is amended to read as follows:

Section 355. A. Disclosure of matters occurring before the multicounty grand jury other than its deliberations and the vote of any juror may be used by the Attorney General in the performance of ~~his~~ the duties of the Attorney General. The Attorney General may

disclose so much of the multicounty grand jury's proceedings to law enforcement agencies and the news media as ~~he~~ the Attorney General considers essential to the public interest and effective law enforcement. Otherwise, a grand juror, attorney, interpreter, stenographer, operator of any recording device, or any typist who transcribes recorded testimony may disclose matters occurring before the multicounty grand jury only when so directed by the court. All such persons shall be sworn to secrecy and shall be in contempt of court if they reveal any information which they are sworn to keep secret.

B. 1. A witness subpoenaed to appear and testify before a multicounty grand jury or to produce documents, records, or other evidence shall be entitled to the assistance of counsel, including assistance during such time as the witness is questioned in the presence of the multicounty grand jury.

2. If counsel desired by the witness is not available, the witness shall obtain other counsel within a reasonable time in order that the multicounty grand jury may proceed with its investigation.

3. Such counsel may be retained by the witness or shall be appointed in the case of any person unable to procure sufficient funds to obtain legal representation.

4. Such counsel shall be allowed to be present in the grand jury room during the questioning of the witness and shall be allowed to advise the witness but shall make no objections or arguments or otherwise address the multicounty grand jury or its legal advisor. The presiding judge shall have the same power to remove such counsel from the grand jury room as a judge has with respect to an attorney in any court proceeding. Violation of this subsection shall be punishable as contempt.

C. No witness shall be prohibited from disclosing ~~his~~ the testimony of such witness before the multicounty grand jury except for cause shown in a hearing before the presiding judge. In no

event may a witness be prevented from disclosing ~~his~~ the testimony of such witness to ~~his~~ the attorney of the witness or to the news media if the presiding judge deems the testimony may be essential to the public interest.

SECTION 3. This act shall become effective July 1, 2002.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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