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April 8, 2025

ENGROSSED HOUSE
BILL NO. 2131

By: Kannady of the House

and

Howard of the Senate

An Act relating to criminal procedure; amending 22 O.S. 2021, Section 340, which relates to procedures for advising grand juries; providing limitations on the use of grand jury transcripts; establishing notice and hearing procedures for releasing grand jury transcripts; making hearings closed to the public; providing an exception; providing limitations on representing certain parties; allowing prosecutions concurrent to civil litigation related to grand jury transcripts; allowing the disclosure of transcribed testimony to witnesses under certain circumstances; making witnesses subject to restrictions on disclosure; providing penalties for violations; and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 2021, Section 340, is amended to read as follows:

Section 340. A. The grand jury may at all reasonable times ask the advice of the court or of the district attorney. In no event shall the grand jury be advised as to the sufficiency or insufficiency of the evidence necessary to return a true bill, in a matter under investigation before them. The district attorney, with

1 or without a regularly appointed assistant district attorney
2 individually or collectively, or if the district attorney and all of
3 his or her assistants are disqualified for any reason, a district
4 attorney or assistant district attorney from another district,
5 appointed by the Attorney General of Oklahoma pursuant to Sections
6 215.9 and 215.13 of Title 19 of the Oklahoma Statutes, and where
7 proper, the Attorney General, or an assistant attorney general, may
8 at all times appear before the grand jury for the purpose of giving
9 information or advice relative to any matter cognizable before them
10 and may interrogate witnesses before them whenever he or she thinks
11 it necessary. A qualified court reporter shall be present and take
12 the testimony of all witnesses.

13 B. Upon request, a grand jury transcript of the testimony or
14 any portion thereof shall be made available to ~~an~~ the attorney for
15 the accused or, the district attorney, assistant district attorney,
16 the Attorney General, or an assistant attorney general, at the
17 expense of the requesting party or officer, ~~and, in.~~ In the event
18 of an indigent accused, ~~at the expense of~~ for the transcript shall
19 be borne by the state in the same manner and from the same funds as
20 indigent representation. Any attorney or other person who obtains a
21 copy of a grand jury transcript shall ~~not reproduce the transcript~~
22 ~~in whole or in part or otherwise disclose~~ be prohibited from
23 disclosing its contents to any person other than his or her attorney
24 ~~without leave of~~ in the court criminal proceeding, related asset

1 forfeiture proceeding, or removal proceeding. A transcript obtained
2 pursuant to this subsection shall not be used for any purpose other
3 than in proceedings relating to the grand jury testimony, civil
4 asset forfeiture proceedings related to an indictment from the grand
5 jury, or an accusation for removal of a public official from the
6 grand jury, or in preparation for those proceedings, without good
7 cause shown supported by clear and convincing evidence after written
8 motion and hearing before the judge presiding over the grand jury.

9 The prosecutor serving as a legal advisor to the grand jury
10 shall receive timely notice of the motion and hearing and be allowed
11 an opportunity to object to any order of release of grand jury
12 transcripts. The pleadings relating to a request for grand jury
13 transcripts shall be sealed and any hearing held pursuant to a
14 request for grand jury transcripts shall be closed to the public
15 unless the presiding judge of the grand jury finds that the public
16 interest in unsealing the pleadings or opening the hearing to the
17 public outweighs the public interest in maintaining the secrecy of
18 the grand jury investigation.

19 Except in a civil asset forfeiture proceeding related to a grand
20 jury indictment, an attorney who obtains a copy of a grand jury
21 transcript pursuant to this subsection shall be precluded from
22 representing any party in a civil case related to the grand jury
23 testimony or using the grand jury transcripts to the benefit or
24 detriment of a party in a civil proceeding.

1 Nothing in this subsection shall prohibit the Attorney General
2 or a district attorney from prosecuting an indictment or accusation
3 for removal while his or her office is or has been engaged in
4 related civil litigation, provided that the grand jury transcripts
5 or their contents are not provided or disclosed to the staff of the
6 Attorney General or district attorney involved in the civil
7 litigation. Nor does this subsection prohibit the attorney for the
8 accused, district attorney, assistant district attorney, the
9 Attorney General, or an assistant attorney general from providing to
10 a witness the transcribed grand jury testimony of that witness for
11 the sole purpose of preparing the witness for his or her subsequent
12 testimony at a trial or hearing arising out of a grand jury
13 indictment, accusation for removal, or civil asset forfeiture action
14 related to a grand jury indictment. The witness who is provided a
15 transcript of his or her testimony shall be subject to the same
16 restrictions on disclosure as any other person.

17 Violation of this ~~provision~~ subsection shall be a misdemeanor
18 and may also be punishable as contempt. ~~Provided, nothing in this~~
19 ~~section shall prohibit the attorney for the accused, the district~~
20 ~~attorney or assistant district attorney from reproducing in whole or~~
21 ~~in part the transcribed testimony of a witness he or she anticipates~~
22 ~~calling to testify at trial and providing same to said witness for~~
23 ~~the sole purpose of preparing for trial.~~

1 C. No other person is permitted to be present during sessions
2 of the grand jury except the members of the grand jury, the witness
3 actually under examination, and one attorney representing such
4 witness, except that an interpreter, when necessary, may be present
5 during the interrogation of a witness; provided that, no person,
6 except the members of the grand jury, shall be permitted to be
7 present during the expression of juror opinions or the giving of
8 votes upon any matter before the grand jury; provided further that
9 neither the district attorney, nor an assistant district attorney,
10 may be present or participate in an official capacity, as herein
11 provided, during an investigation by the grand jury of the district
12 attorney's office, or of any person officially associated with said
13 office.

14 SECTION 2. This act shall become effective November 1, 2025.

15 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
16 April 8, 2025 - DO PASS
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