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HOUSE BILL NO. 704

Offered January 21, 2000

A BILL to amend and reenact § 19.2-215.9 of the Code of Virginia, relating to testimony before a multi-jurisdiction grand jury.

Patrons—Albo, Howell, Jones, J.C. and Kilgore

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 19.2-215.9 of the Code of Virginia is amended and reenacted as follows:**

§ 19.2-215.9. Court reporter provided; safekeeping of transcripts, notes, etc.; when disclosure permitted; access to record of testimony and evidence.

A. A court reporter shall be provided for a multi-jurisdiction grand jury to record, manually or electronically, and transcribe all oral testimony taken before a multi-jurisdiction grand jury, but such a reporter shall not be present during any stage of its deliberations. Such transcription shall include the original or copies of all documents, reports or other evidence presented to the multi-jurisdiction grand jury. The notes, tapes and transcriptions of the reporter are for the use of the multi-jurisdiction grand jury, and the contents thereof shall not be used or divulged by anyone except as provided in this article. After the multi-jurisdiction grand jury has completed its use of the notes, tapes and transcriptions, the foreman shall cause them to be delivered to the presiding judge.

B. The presiding judge shall cause the notes, tapes and transcriptions or other evidence to be kept safely. Upon motion to the presiding judge, special counsel shall be permitted to review any of the evidence which was presented to the multi-jurisdiction grand jury, and shall be permitted to make notes and to duplicate portions of the evidence as he deems necessary for use in a criminal investigation or proceeding. Special counsel shall maintain the secrecy of all information obtained from a review or duplication of the evidence presented to the multi-jurisdiction grand jury, except that this information may be disclosed pursuant to the provisions of subdivision 2 of § 19.2-215.1. Upon motion to the presiding judge by a person indicted by a multi-jurisdiction grand jury, similar permission to review, note or duplicate evidence shall be extended if it appears that the permission is consistent with the ends of justice and is necessary to reasonably inform such person of the nature of the evidence to be presented against him, or to adequately prepare his defense.

C. If any witness who voluntarily testified or produced evidence before the multi-jurisdiction grand jury is prosecuted on the basis of his testimony or the evidence he produced, or if any witness who was compelled to testify or to produce evidence is prosecuted for perjury on the basis of his testimony or the evidence he produced before the multi-jurisdiction grand jury, the presiding judge, on motion of either the Commonwealth or the defendant, shall permit both the Commonwealth and the defendant access to the testimony of or evidence produced by the defendant before the multi-jurisdiction grand jury. The testimony and the evidence produced by the defendant voluntarily before the multi-jurisdiction grand jury shall then be admissible in the trial of the criminal offense with which the defendant is charged, ~~for the purpose of impeaching the defendant~~ *provided, that prior to testifying or producing evidence the defendant was advised of his rights and privileges under the Fifth Amendment of the United States Constitution and he voluntarily, intelligently, and knowingly waived such rights.*

INTRODUCED

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