

VIRGINIA ACTS OF ASSEMBLY -- 2003 SESSION

CHAPTER 565

An Act to amend and reenact § 19.2-208 of the Code of Virginia, relating to subpoena power of special grand jury.

[S 811]

Approved March 18, 2003

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-208 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-208. Subpoena power of special grand jury.

The special grand jury may subpoena persons to appear before it to testify and to produce specified records, papers, and documents *or other tangible things*, but before any witness testifies, he shall be warned by the foreman that he need not answer any questions or produce any evidence that would tend to incriminate him, and that the witness may have counsel of his own procurement present when he appears to testify, and at the same time the foreman also shall warn each witness that he may later be called upon to testify in any case that might grow out of the investigation and report of the special grand jury.

A witness who has been called to testify or produce specified records, papers and documents *or other tangible things* before a grand jury requested by the attorney for the Commonwealth, and who refuses to testify or produce specified records, papers and documents *or other tangible things* by expressly invoking his right not to incriminate himself, may be compelled to testify or produce specified records, papers and documents *or other tangible things* by the presiding judge. Such witness who refuses to testify or produce specified records, papers and documents *or other tangible things* after being ordered to do so by the presiding judge may be held in contempt and may be incarcerated until the contempt is purged by compliance with the order or the grand jury is discharged. When a witness is compelled to testify or produce specified records, papers and documents *or other tangible things* after expressly invoking his right not to incriminate himself, and the presiding judge has determined that the assertion of the right is bona fide, the compelled testimony, or any information directly or indirectly derived from such testimony or other information, shall not be used against the witness in any criminal proceeding except a prosecution for perjury.

Notwithstanding the provisions of this section, all provisions of this Code relative to immunity granted to witnesses who testify before a grand jury shall remain applicable.

The foreman shall administer the oath prescribed by law for witnesses, and any member of the special grand jury may examine a witness.