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## HOUSE BILL NO. 1384

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice  
on February 20, 2008)

(Patron Prior to Substitute—Delegate Janis)

A BILL to amend and reenact §§ 19.2-194, 19.2-207, 19.2-212, and 19.2-215.4 of the Code of Virginia, relating to grand juries.

**Be it enacted by the General Assembly of Virginia:****1. That §§ 19.2-194, 19.2-207, 19.2-212, and 19.2-215.4 of the Code of Virginia are amended and reenacted as follows:**

§ 19.2-194. When and how grand jurors to be selected and summoned; lists to be delivered to clerk.

The judge or judges regularly presiding in the circuit court of each county and city shall annually, in the month of June, July, or August, select from citizens of the county or city at least 60 persons and not more than 120 persons 18 years of age or over, of honesty, intelligence, *impartiality, disinterest in outcome*, and good demeanor and suitable in all respects to serve as grand jurors, who, except as hereinafter provided, shall be the grand jurors for the county or city from which they are selected for the next 12 months. The judge or judges making the selection shall at once furnish to the clerk of the circuit court a list of those selected for that county or city.

The clerk, not more than 20 days before the commencement of each term of his court at which a regular grand jury is required, shall issue a venire facias to the sheriff of his county or city, commanding him to summon not less than five nor more than nine of the persons selected as aforesaid (the number to be designated by the judge of the court by an order entered of record) to be named in the writ to appear on the first day of the court to serve as grand jurors. ~~No~~ *Those persons who are to be summoned shall be randomly selected but no* such person shall be required to appear more than once until all the others have been summoned once, nor more than twice until the others have been twice summoned, and so on. The Circuit Court of James City County, or the judge thereof in vacation, shall select the grand jurors for each court from such county and the City of Williamsburg in such proportion from each as he may think proper.

Any person who has legal custody of and is responsible for a child 16 years of age or younger or a person having a mental or physical impairment requiring continuous care during normal court hours shall be excused from jury service upon his request.

§ 19.2-207. Composition of a special grand jury.

Special grand juries shall consist of not less than seven and not more than ~~eleven~~ *11* members, and shall be summoned from a list prepared by the court. Members of a special grand jury shall possess the same qualifications as those prescribed for members of a regular grand jury, *including impartiality and disinterest in the subject matter and outcome of the investigation to be conducted by the special grand jury. In order to determine a potential juror's qualifications, the presiding judge shall examine each juror individually and under oath. He shall then certify in writing and not under seal that he has examined the members of the special grand jury and has found that they are qualified and are impartial and disinterested in the subject matter and outcome of the investigation. The examination shall be recorded by a court reporter and conducted pursuant to the requirements of secrecy provided for in this chapter.* The court shall appoint one of the members as foreman.

§ 19.2-212. Provision for court reporter; use and disposition of notes, tapes and transcriptions.

A. A court reporter shall be provided for a special grand jury to record, manually or electronically, and transcribe all oral testimony taken before a special grand jury, but such reporter shall not be present during any stage of its deliberations. The notes, tapes and transcriptions of the reporter are for the sole use of the special grand jury, and the contents thereof shall not be divulged by anyone except as hereinafter provided. After the special grand jury has completed its use of the notes, tapes and transcriptions, the foreman shall cause them to be sealed, the container dated, and delivered to the court.

The court shall cause the sealed container to be kept safely. If any witness testifying before the special grand jury is prosecuted subsequently for perjury, the court, on motion of either the attorney for the Commonwealth or the defendant, shall permit them both to have access to the testimony given by the defendant when a witness before the special grand jury, and the testimony shall be admissible in the perjury case.

If no prosecution for perjury is instituted within three years from the date of the report of the special grand jury, the court shall cause the sealed container to be destroyed; however, on motion of the attorney for the Commonwealth, the court may extend the time period for destruction if the grand jury was impanelled at the request of the attorney for the Commonwealth.

B. Upon motion to the presiding judge, the attorney for the Commonwealth shall be permitted to

60 review any evidence that was presented to the special grand jury, and shall be permitted to make notes  
61 and to duplicate portions of the evidence as he deems necessary for use in a criminal investigation or  
62 proceeding. The attorney for the Commonwealth shall maintain the secrecy of all information obtained  
63 from a review or duplication of the evidence presented to the special grand jury. Upon motion to the  
64 presiding judge by a person indicted ~~by~~ *after* a special grand jury *investigation*, similar permission to  
65 review, note or duplicate evidence shall be extended if it appears that the permission is consistent with  
66 the ends of justice and is necessary to reasonably inform such person of the nature of the evidence to be  
67 presented against him, or to adequately prepare his defense.

68 § 19.2-215.4. Number and qualifications of jurors; grand jury list; when convened; compensation of  
69 jurors.

70 A. A multi-jurisdiction grand jury shall consist of not less than seven nor more than ~~eleven~~ *11*  
71 members. Each member of a multi-jurisdiction grand jury shall be a citizen of this Commonwealth,  
72 ~~eighteen~~ *18* years of age or older, and a resident of this Commonwealth for one year and of one of the  
73 jurisdictions named in the application for six months.

74 B. The presiding judge shall determine the number of grand jurors to be drawn and shall draw them  
75 so that, to the extent practicable, each of the jurisdictions named in the application is represented by at  
76 least one juror residing in that jurisdiction, but in no event shall said panel have more than ~~eleven~~ *11*  
77 members. The grand jurors shall be summoned from a list prepared by the presiding judge. In the  
78 preparation of this list, the presiding judge shall select only persons who have been selected as regular  
79 grand jurors pursuant to the provisions of § 19.2-194 in the jurisdiction named in the application.  
80 *Members of a multijurisdiction grand jury shall possess the same qualifications as those prescribed for*  
81 *members of a regular grand jury, including impartiality and disinterest in outcome.*

82 C. The provisions of § 19.2-192 dealing with secrecy in grand jury proceedings are incorporated  
83 herein by reference.

84 D. The presiding judge shall determine the time, date and place within the designated jurisdiction  
85 where the multi-jurisdiction grand jury is to be convened. The presiding judge shall also appoint one of  
86 the grand jurors to serve as foreman. Members of the multi-jurisdiction grand jury shall be compensated  
87 according to the provisions of § 19.2-205. The expense of a multi-jurisdiction grand jury shall be borne  
88 by the Commonwealth.