

2020 SESSION

LEGISLATION NOT PREPARED BY DLS
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HB1618

20105966D

HOUSE BILL NO. 1618

Offered January 16, 2020

A BILL to amend and reenact §§ 19.2-215.1 and 19.2-215.9 of the Code of Virginia, relating to multi-jurisdiction grand jury investigations.

Patron—Mullin

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-215.1 and 19.2-215.9 of the Code of Virginia are amended and reenacted as follows:

§ 19.2-215.1. Functions of a multi-jurisdiction grand jury.

A. The functions of a ~~multijurisdiction~~ *multi-jurisdiction* grand jury are:

1. To investigate any condition that involves or tends to promote criminal violations of:

a. Title 10.1 for which punishment as a felony is authorized;

b. ~~§ 13.1-520~~;

c. ~~§§ 18.2-47 and 18.2-48~~;

d. ~~§§ 18.2-111 and 18.2-112~~;

e. Article 6 (~~§ 18.2-59 et seq.~~) of Chapter 4 of Title 18.2;

f. Article 7.1 (~~§ 18.2-152.1 et seq.~~) of Chapter 5 of Title 18.2;

g. Article 1 (~~§ 18.2-247 et seq.~~) and Article 1.1 (~~§ 18.2-265.1 et seq.~~) of Chapter 7 of Title 18.2;

h. Article 1 (~~§ 18.2-325 et seq.~~) and Article 1.1-1 (~~§ 18.2-340.15 et seq.~~) of Chapter 8 of Title 18.2, Chapter 29 (~~§ 59.1-364 et seq.~~) of Title 59.1 or any other provision prohibiting, limiting, regulating, or otherwise affecting gaming or gambling activity;

i. ~~§ 18.2-434~~, when violations occur before a *multijurisdiction* grand jury;

j. Article 2 (~~§ 18.2-438 et seq.~~) and Article 3 (~~§ 18.2-446 et seq.~~) of Chapter 10 of Title 18.2;

k. ~~§ 18.2-460~~ for which punishment as a felony is authorized;

l. Article 1.1 (~~§ 18.2-498.1 et seq.~~) of Chapter 12 of Title 18.2;

m. Article 1 (~~§ 32.1-310 et seq.~~) of Chapter 9 of Title 32.1;

n. Chapter 4.2 (~~§ 59.1-68.6 et seq.~~) of Title 59.1;

o. Article 9 (~~§ 3.2-6570 et seq.~~) of Chapter 65 of Title 3.2;

p. Article 1 (~~§ 18.2-30 et seq.~~) of Chapter 4 of Title 18.2;

q. Article 2.1 (~~§ 18.2-46.1 et seq.~~) and Article 2.2 (~~§ 18.2-46.4 et seq.~~) of Chapter 4 of Title 18.2;

r. Article 5 (~~§ 18.2-186 et seq.~~) and Article 6 (~~§ 18.2-191 et seq.~~) of Chapter 6 of Title 18.2;

s. Chapter 6.1 (~~§ 59.1-92.1 et seq.~~) of Title 59.1;

t. ~~§ 18.2-178~~ where the violation involves insurance fraud;

u. ~~§ 18.2-346~~ for which punishment as a felony is authorized or ~~§ 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1~~;

v. Article 9 (~~§ 18.2-246.1 et seq.~~) of Chapter 6 of Title 18.2;

w. Article 2 (~~§ 18.2-38 et seq.~~) of Chapter 4 of Title 18.2;

x. Malicious felonious assault and malicious bodily wounding under Article 4 (~~§ 18.2-51 et seq.~~) of Chapter 4 of Title 18.2;

y. Article 5 (~~§ 18.2-58 et seq.~~) of Chapter 4 of Title 18.2;

z. Felonious sexual assault under Article 7 (~~§ 18.2-61 et seq.~~) of Chapter 4 of Title 18.2;

aa. Arson in violation of ~~§ 18.2-77~~ when the structure burned was occupied or a Class 3 felony violation of ~~§ 18.2-79~~;

bb. Chapter 13 (~~§ 18.2-512 et seq.~~) of Title 18.2;

cc. ~~§ 18.2-246.14~~ and Chapter 10 (~~§ 58.1-1000 et seq.~~) of Title 58.1; and

dd. Any other provision of law when such condition is discovered in the course of an investigation that a *multijurisdiction* grand jury is otherwise authorized to undertake and to investigate any condition that involves or tends to promote any attempt, solicitation or conspiracy to violate the laws enumerated in this section. *any law of the Commonwealth*;

2. To report evidence of any criminal offense ~~enumerated in subdivision 1~~ and for which a court reporter has recorded all oral testimony as provided by § 19.2-215.9 to the attorney for the Commonwealth or United States attorney of any jurisdiction where such offense could be prosecuted or investigated, or to the chief law-enforcement officer of any jurisdiction where such offense could be prosecuted or investigated, or to a sworn investigator designated pursuant to § 19.2-215.6, or, when appropriate, to the Attorney General.; *and*

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59 3. To consider bills of indictment prepared by a special counsel to determine whether there is
60 sufficient probable cause to return each such indictment as a "true bill." ~~Only bills of indictment which~~
61 ~~allege an offense enumerated in subdivision 4 may be submitted to a multijurisdiction grand jury.~~

62 4. B. The provisions of this section shall not abrogate the authority of an attorney for the
63 Commonwealth in a particular jurisdiction to determine the course of a prosecution in that jurisdiction.

64 **§ 19.2-215.9. Court reporter provided; safekeeping of transcripts, notes, etc.; when disclosure**
65 **permitted; access to record of testimony and evidence.**

66 A. A court reporter shall be provided for a multi-jurisdiction grand jury to record, manually or
67 electronically, and transcribe all oral testimony taken before a multi-jurisdiction grand jury, but such a
68 reporter shall not be present during any stage of its deliberations. Such transcription shall include the
69 original or copies of all documents, reports, or other evidence presented to the multi-jurisdiction grand
70 jury. The notes, tapes, and transcriptions of the reporter are for the use of the multi-jurisdiction grand
71 jury, and the contents thereof shall not be used or divulged by anyone except as provided in this article.
72 After the multi-jurisdiction grand jury has completed its use of the notes, tapes, and transcriptions, the
73 foreman shall cause them to be delivered to the clerk of the circuit court in whose jurisdiction the
74 multi-jurisdiction grand jury sits, with copies provided to special counsel. Upon motion of special
75 counsel, the presiding judge may order that such notes, tapes, and transcriptions be destroyed at the
76 direction of special counsel by any means the presiding judge deems sufficient, provided that at least
77 seven years have passed from the date of the multi-jurisdiction grand jury proceeding where such notes,
78 tapes, and transcriptions were made.

79 B. The clerk shall cause the notes, tapes, and transcriptions or other evidence to be kept safely. Upon
80 motion to the presiding judge, special counsel or the attorney for the Commonwealth or United States
81 attorney of any jurisdiction where the offense could be prosecuted or investigated shall be permitted to
82 review any of the evidence which was presented to the multi-jurisdiction grand jury and shall be
83 permitted to make notes and to duplicate portions of the evidence as he deems necessary for use in a
84 criminal investigation or proceeding. Special counsel, the attorney for the Commonwealth, or the United
85 States attorney shall maintain the secrecy of all information obtained from a review or duplication of the
86 evidence presented to the multi-jurisdiction grand jury, except that this information may be disclosed
87 pursuant to the provisions of subdivision A 2 of § 19.2-215.1. A United States attorney satisfies his duty
88 to maintain secrecy of information obtained from a review or duplication of evidence presented to the
89 multi-jurisdiction grand jury if such information is maintained in accordance with the Federal Rules of
90 Criminal Procedure. Upon motion to the presiding judge by a person indicted by a multi-jurisdiction
91 grand jury or by a person being prosecuted with evidence presented to a multi-jurisdiction grand jury,
92 similar permission to review, note, or duplicate evidence shall be extended.

93 C. If any witness who testified or produced evidence before the multi-jurisdiction grand jury is
94 prosecuted on the basis of his testimony or the evidence he produced, or if any witness is prosecuted for
95 perjury on the basis of his testimony or the evidence he produced before the multi-jurisdiction grand
96 jury, the presiding judge, on motion of either special counsel or the defendant, shall permit the
97 defendant access to the testimony of or evidence produced by the defendant before the multi-jurisdiction
98 grand jury. The testimony and the evidence produced by the defendant before the multi-jurisdiction
99 grand jury shall then be admissible in the trial of the criminal offense with which the defendant is
100 charged (i) to establish a charge of perjury in the Commonwealth's case-in-chief on the basis of his
101 testimony before the multi-jurisdiction grand jury and (ii) for the purpose of impeaching the defendant
102 in the trial of any other criminal matter, provided the testimony or evidence being used for impeachment
103 was produced by the defendant voluntarily before the multi-jurisdiction grand jury.