

By Senator Polsky

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1 A bill to be entitled
2 An act relating to grand juries; amending s. 905.27,
3 F.S.; revising the list of persons prohibited from
4 disclosing the testimony of a witness examined before
5 a grand jury or other evidence it receives; creating
6 an exception for a request by the media or an
7 interested person to the prohibited publishing,
8 broadcasting, disclosing, divulging, or communicating
9 of any testimony of a witness examined before the
10 grand jury, or the content, gist, or import thereof;
11 providing criminal penalties; providing construction;
12 making technical changes; reenacting s. 905.17(1) and
13 (2), F.S., relating to who may be present during a
14 session of a grand jury, to incorporate the amendment
15 made to s. 905.27, F.S., in references thereto;
16 providing an effective date.

17
18 Be It Enacted by the Legislature of the State of Florida:

19
20 Section 1. Section 905.27, Florida Statutes, is amended to
21 read:

22 905.27 Testimony not to be disclosed; exceptions.—

23 (1) Persons present or appearing during a grand jury
24 proceeding, including a grand juror, a state attorney, an
25 assistant state attorney, a reporter, a stenographer, or an
26 interpreter, as well as the custodian of a grand jury record,
27 may not ~~or any other person appearing before the grand jury~~
28 ~~shall not~~ disclose the testimony of a witness examined before
29 the grand jury or other evidence received by it except when

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30 required by a court to disclose the testimony for the purpose
31 of:

32 (a) Ascertaining whether it is consistent with the
33 testimony given by the witness before the court;

34 (b) Determining whether the witness is guilty of perjury;
35 or

36 (c) Furthering justice, which can encompass furthering a
37 public interest when the disclosure is requested pursuant to
38 paragraph (2) (c).

39 (2) It is unlawful for any person knowingly to publish,
40 broadcast, disclose, divulge, or communicate to any other
41 person, or knowingly to cause or permit to be published,
42 broadcast, disclosed, divulged, or communicated to any other
43 person, in any manner whatsoever, any testimony of a witness
44 examined before the grand jury, or the content, gist, or import
45 thereof, except when such testimony is or has been disclosed in
46 a court proceeding in any of the following circumstances:-

47 (a) When a court orders the disclosure of such testimony
48 pursuant to subsection (1) for use in a criminal case, it may be
49 disclosed to the prosecuting attorney of the court in which such
50 criminal case is pending, and by the prosecuting attorney to his
51 or her assistants, legal associates, and employees, and to the
52 defendant and the defendant's attorney, and by the latter to his
53 or her legal associates and employees. However, the grand jury
54 testimony afforded such persons by the court can only be used in
55 the defense or prosecution of the criminal case and for no other
56 purpose.

57 (b) When a court orders the ~~such~~ disclosure of such
58 testimony ~~is ordered by a court~~ pursuant to subsection (1) for

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59 use in a civil case, it may be disclosed to all parties to the
60 case and to their attorneys and by the latter to their legal
61 associates and employees. However, the grand jury testimony
62 afforded such persons by the court can only be used in the
63 defense or prosecution of the civil ~~or criminal~~ case and for no
64 other purpose ~~whatsoever~~.

65 (c) When a court orders the disclosure of such testimony
66 pursuant to subsection (1) in response to a request by the media
67 or an interested person, regardless of whether that purpose is
68 for use in a criminal or civil case, it may be disclosed so long
69 as the subject of the grand jury inquiry is deceased, the grand
70 jury inquiry related to criminal or sexual activity between a
71 subject of the grand jury investigation and a person who at the
72 time was a minor, the testimony was previously disclosed by a
73 court order, and the state attorney is provided notice of the
74 request. This paragraph does not limit the court's ability to
75 limit the disclosure of testimony, including, but not limited
76 to, redaction.

77 (3) ~~Nothing in~~ This section does not ~~shall~~ affect the
78 attorney-client relationship. A client has ~~shall have~~ the right
79 to communicate to his or her attorney any testimony given by the
80 client to the grand jury, any matters involving the client
81 discussed in the client's presence before the grand jury, and
82 any evidence involving the client received by or proffered to
83 the grand jury in the client's presence.

84 (4) A person who violates ~~Persons convicted of violating~~
85 this section commits ~~shall be guilty of~~ a misdemeanor of the
86 first degree, punishable as provided in s. 775.083, or by fine
87 not exceeding \$5,000, or both.

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88 (5) A violation of this section constitutes ~~shall~~
89 ~~constitute~~ criminal contempt of court.

90 Section 2. For the purpose of incorporating the amendment
91 made by this act to section 905.27, Florida Statutes, in
92 references thereto, subsections (1) and (2) of section 905.17,
93 Florida Statutes, are reenacted to read:

94 905.17 Who may be present during session of grand jury.—

95 (1) No person shall be present at the sessions of the grand
96 jury except the witness under examination, one attorney
97 representing the witness for the sole purpose of advising and
98 consulting with the witness, the state attorney and her or his
99 assistant state attorneys, designated assistants as provided for
100 in s. 27.18, the court reporter or stenographer, and the
101 interpreter. The stenographic records, notes, and transcriptions
102 made by the court reporter or stenographer shall be filed with
103 the clerk who shall keep them in a sealed container not subject
104 to public inspection. The notes, records, and transcriptions are
105 confidential and exempt from the provisions of s. 119.07(1) and
106 s. 24(a), Art. I of the State Constitution and shall be released
107 by the clerk only on request by a grand jury for use by the
108 grand jury or on order of the court pursuant to s. 905.27.

109 (2) The witness may be represented before the grand jury by
110 one attorney. This provision is permissive only and does not
111 create a right to counsel for the grand jury witness. The
112 attorney for the witness shall not be permitted to address the
113 grand jurors, raise objections, make arguments, or otherwise
114 disrupt proceedings before the grand jury. The attorney for the
115 witness shall be permitted to advise and counsel the witness and
116 shall be subject to the provisions of s. 905.27 in the same

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117 manner as all who appear before the grand jury. An attorney or
118 law firm may not represent more than one person or entity in an
119 investigation before the same grand jury or successive grand
120 juries in the same investigation.

121 Section 3. This act shall take effect July 1, 2023.