

By the Committees on Rules; and Judiciary; and Senators Polsky and Martin

595-03104-24

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1 A bill to be entitled  
2 An act relating to disclosure of grand jury testimony;  
3 amending s. 905.27, F.S.; revising the list of persons  
4 prohibited from disclosing the testimony of a witness  
5 examined before, or the evidence received by, a grand  
6 jury; creating an exception for a request by the media  
7 or an 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 any of the following circumstances: ~~a court proceeding.~~

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 is related to criminal or sexual activity between  
71 the subject of the grand jury investigation and a person who was  
72 a minor at the time of the alleged criminal or sexual activity,  
73 the testimony was previously disclosed by a court order, and the  
74 state attorney is provided notice of the request. This paragraph  
75 does not limit the court's ability to limit the disclosure of  
76 testimony, including, but not limited 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, 2024.