

By Senator Harrell

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A bill to be entitled

An act relating to grand jury testimony and materials; amending s. 905.27, F.S.; defining terms; authorizing a court to disclose certain grand jury testimony and materials in certain circumstances to further justice; creating s. 905.275, F.S.; requiring the clerk of court to take possession of and preserve certain grand jury materials; prohibiting a person from disposing of or destroying such materials; defining the term "materials"; requiring the clerk of court to maintain a certain chain of custody list for such materials during a grand jury proceeding in a specified manner; providing that a redacted version of such list is a public record; requiring the clerk of court to store and provide access to such materials in a specified manner; requiring the clerk to prohibit certain persons from accessing or viewing such materials; requiring the clerk to retain the chain of custody list in a specified place and that such list document specified information; requiring the state attorney and his or her employees to preserve certain grand jury materials; requiring the preserved materials to be retained for a certain period of time; providing an exception; requiring the Office of the State Courts Administrator to adopt certain rules; authorizing the Office of the State Courts Administrator to perform inspections for certain purposes; requiring the disclosure of and provision of access to certain materials upon a court order; prohibiting a person

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from intentionally destroying or altering grand jury materials; providing criminal penalties; requiring the Department of Law Enforcement to investigate alleged violations of specified preservation requirements; providing an effective date.

WHEREAS, this state has a precedent for unsealing historic grand jury records in cases of injustice, including through the procedures described in chapter 2024-7, Laws of Florida, and

WHEREAS, survivors of sexual abuse exploitation, capital crimes, and other victimization are entitled to transparency, accountability, and protection, and

WHEREAS, the review of grand jury proceedings in cases pertaining to sexual abuse and capital crimes for potential investigative or prosecutorial failures or other injustices may improve the public's trust in the courts of this state, NOW, THEREFORE,

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

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

905.27 Testimony and materials not to be disclosed; exceptions.—

(1) As used in this section, the term:

(a) "Immediate family member" has the same meaning as in s. 252.515(3).

(b) "Sexual abuse" means an act of a sexual nature or sexual act that may be prosecuted under any law of this state.

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59 (c) "Survivor" means a victim of an alleged crime of sexual
60 abuse or a capital crime who provided testimony, evidence, or
61 statements in connection with a grand jury proceeding relating
62 to such alleged crime. The term includes a victim of an alleged
63 crime of sexual abuse or a capital crime who was interviewed by
64 an investigator or prosecutor in preparation for a grand jury
65 proceeding even if the victim was not called to testify in the
66 proceeding.

67 (2)(1) Persons present or appearing during a grand jury
68 proceeding, including a grand juror, a state attorney, an
69 assistant state attorney, a reporter, a stenographer, or an
70 interpreter, as well as the custodian of a grand jury record,
71 may not disclose the testimony of a witness examined before the
72 grand jury, ~~or~~ other evidence received by it, or materials
73 preserved pursuant to s. 905.275(2) except when required by a
74 court to disclose the testimony or materials for the purpose of:

75 (a) Ascertaining whether testimony ~~it~~ is consistent with
76 the testimony given by the witness before the court;

77 (b) Determining whether the witness is guilty of perjury;
78 or

79 (c) Furthering justice, which can encompass furthering a
80 public interest when the disclosure is requested pursuant to
81 paragraph (3)(c) or (d) ~~(2)(e)~~.

82 (3)(2) It is unlawful for any person knowingly to publish,
83 broadcast, disclose, divulge, or communicate to any other
84 person, or knowingly to cause or permit to be published,
85 broadcast, disclosed, divulged, or communicated to any other
86 person, in any manner whatsoever, any testimony of a witness
87 examined before the grand jury or any materials preserved

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88 pursuant to s. 905.275(2), or the content, gist, or import
89 thereof, except when such testimony or materials are or have ~~is~~
90 ~~or has~~ been disclosed in any of the following circumstances:

91 (a) When a court orders the disclosure of such testimony
92 pursuant to subsection (2) ~~(1)~~ for use in a criminal case, it
93 may be disclosed to the prosecuting attorney of the court in
94 which such criminal case is pending, and by the prosecuting
95 attorney to his or her assistants, legal associates, and
96 employees, and to the defendant and the defendant's attorney,
97 and by the latter to his or her legal associates and employees.
98 However, the grand jury testimony afforded such persons by the
99 court can only be used in the defense or prosecution of the
100 criminal case and for no other purpose.

101 (b) When a court orders the disclosure of such testimony
102 pursuant to subsection (2) ~~(1)~~ for use in a civil case, it may
103 be disclosed to all parties to the case and to their attorneys
104 and by the latter to their legal associates and employees.
105 However, the grand jury testimony afforded such persons by the
106 court can only be used in the defense or prosecution of the
107 civil case and for no other purpose.

108 (c) When a court orders the disclosure of such testimony or
109 materials pursuant to subsection (2) ~~(1)~~ in response to a
110 request by the media or an interested person, regardless of
111 whether that purpose is for use in a criminal or civil case, it
112 may be disclosed so long as the subject of the grand jury
113 inquiry is deceased, the grand jury inquiry related to criminal
114 or sexual activity between the subject of the grand jury
115 investigation and a person who was a minor at the time of the
116 alleged criminal or sexual activity, the testimony or materials

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117 ~~were~~ ~~was~~ previously disclosed by a court order, and the state
118 attorney is provided notice of the request. This paragraph does
119 not limit the court's ability to limit the disclosure of
120 testimony or materials, including, but not limited to,
121 redaction.

122 (d) When a court orders the disclosure of such testimony or
123 materials pursuant to subsection (2) in response to a request by
124 a survivor or an immediate family member of a survivor,
125 regardless of whether that purpose is for use in a criminal or
126 civil case, the testimony or materials may be disclosed so long
127 as the subject of the grand jury inquiry is deceased and the
128 state attorney is provided notice of the request. This paragraph
129 does not limit the court's ability to limit the disclosure of
130 testimony or materials, including, but not limited to,
131 redaction.

132 (4) ~~(3)~~ This section does not affect the attorney-client
133 relationship. A client has the right to communicate to his or
134 her attorney any testimony given by the client to the grand
135 jury, any matters involving the client discussed in the client's
136 presence before the grand jury, and any evidence involving the
137 client received by or proffered to the grand jury in the
138 client's presence.

139 (5) ~~(4)~~ A person who violates this section commits a
140 misdemeanor of the first degree, punishable as provided in s.
141 775.083, or by fine not exceeding \$5,000, or both.

142 (6) ~~(5)~~ A violation of this section constitutes criminal
143 contempt of court.

144 Section 2. Section 905.275, Florida Statutes, is created to
145 read:

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905.275 Preservation of grand jury materials.—

(1) The clerk of court shall take possession of and preserve all materials presented or created during a grand jury proceeding. A person may not dispose of or destroy such materials.

(2) For purposes of this section, the term "materials" includes all of the following:

(a) Digital recordings.

(b) Audio and video materials.

(c) Paper records produced by members of the grand jury, witnesses, and the court.

(d) Any computer; hard drive; electronic storage device or digital recording medium, including, but not limited to, outdated media such as compact discs, DVDs, and floppy discs; and electronic devices from which evidence is recovered during an investigation that leads to a grand jury proceeding.

(e) Subpoenas.

(f) Any other materials, documents, storage devices, media, and data associated with a grand jury proceeding.

The term "materials" does not include internal state attorney work product, legal memoranda, or investigative intelligence not presented to the grand jury or entered into the record.

(3) The clerk of court shall:

(a) Maintain a chain of custody list for grand jury materials during each grand jury proceeding and restrict access to such list. Such list must include the name of any person who accesses the materials, the materials the person accessed, and the time and date that the person accessed the materials. A

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redacted version of the chain of custody document is a public record.

(b) Store all grand jury related materials that are in his or her possession in secured, sealed containers and keep such containers in a secure location in the courthouse that is free from mold, water, dust, and other storage hazards.

(c) Prohibit unauthorized persons, such as maintenance personnel, visitors, and staff who are not employees of the clerk of court, from accessing or viewing the stored materials.

(d) Retain the chain of custody list outside the place in which grand jury materials are stored which documents all of the following:

1. The name of any person who accesses the materials.

2. The materials the person accessed.

3. The time and date the person accessed the materials.

(4) If the state attorney or any of his or her employees possesses any of the materials described in subsection (2) which were not presented to the grand jury or were not otherwise made part of the court record, he or she shall preserve such materials.

(5) All materials preserved pursuant to this section must be retained for 50 years after any criminal proceedings associated with such materials have concluded unless a court orders otherwise.

(6) The Office of the State Courts Administrator shall adopt uniform statewide rules for retention, management, and storage of grand jury materials to ensure consistency and reduce burdens on clerks of court. The Office of the State Courts Administrator may perform inspections to confirm that clerks of

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204 court are in compliance with this section.

205 (7) A person or entity who possesses or stores any grand
206 jury materials as described in this section shall disclose and
207 provide access to such materials upon a court order pursuant to
208 s. 905.27.

209 (8) Any person who intentionally destroys or alters any of
210 the materials described in subsection (2) commits a felony of
211 the third degree, as provided in s. 775.082, s. 775.083, or s.
212 775.084. The Department of Law Enforcement shall investigate
213 alleged violations of the preservation requirements in this
214 section.

215 Section 3. This act shall take effect July 1, 2026.