

No. 1979-50

AN ACT

HB 405

Amending the act of November 22, 1978 (P.L.1148, No.271), entitled "An act providing for investigating grand juries," providing for grand jury presentments.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 2, act of November 22, 1978 (P.L.1148, No.271), known as the "Investigating Grand Jury Act," is amended by adding a definition to read:

Section 2. Definitions.

The following words and phrases when used in this act shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

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"Investigating grand jury presentment." A written formal recommendation by an investigating grand jury that specific persons be charged with the specific crimes.

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Section 2. Subsection (b) of section 4, subsection (b) of section 5, subsections (b) and (c) of section 7 and section 10 of the act, are amended to read:

Section 4. Convening the multi-county investigating grand jury.

* * *

(b) An order issued under subsection (a) shall:

(1) convene a multi-county investigating grand jury having Statewide jurisdiction, or jurisdiction over all counties requested in the application by the Attorney General;

(2) designate a judge of a court of common pleas to be the supervising judge over such multi-county investigating grand jury and provide that such judge shall with respect to investigations, **[indictments] presentments**, reports, and all other proper activities of said investigating multi-county grand jury, have jurisdiction over all counties in the jurisdiction of said multi-county investigating grand jury;

(3) designate the counties which shall supply jurors and in what ratios;

(4) designate a location or locations for the multi-county investigating grand jury proceeding; and

(5) provide for such other incidental arrangements as may be necessary including the Commonwealth's share of costs.

All matters to be included in such order shall be determined by the justice issuing the order in any manner which he deems appropriate, except that the Supreme Court may adopt rules, consistent with the provisions of this

section, establishing standard procedures for the convening of multi-county investigating grand juries.

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Section 5. Composition of the investigating grand jury.

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(b) Fifteen members shall constitute a quorum and may conduct business for the investigating grand jury but a majority of the full investigating grand jury shall be required to adopt a report or **[present an indictment] issue a presentment.**

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Section 7. Powers of the investigating grand jury.

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(b) The investigating grand jury shall have the power to **[indict] issue a presentment with regard to** any person who appears to have committed within the county or counties in which such investigating grand jury is summoned an offense against the criminal laws of the Commonwealth. **[The power of an investigating grand jury to indict shall be exercised in the same manner, and upon the same standards and evidence, as in the case of other grand juries except as modified by section 10. An indictment by an investigating grand jury shall constitute the commencement of criminal proceedings against the defendant named therein; and the proceedings prior and subsequent to such indictment shall not include a complaint, preliminary hearing, information or presentment to another grand jury.]**

(c) **[The] Except for the power to indict, the** investigating grand jury shall have every power available to any other grand jury in the Commonwealth. The jurisdiction, powers and activities of an investigating grand jury shall not, if otherwise lawful, be limited in any way by the charge of the court.

Section 10. Investigating grand jury **[indictments] presentments.**

(a) Should the investigating grand jury determine that upon the basis of evidence presented to it a **[criminal indictment] presentment** should be returned against an individual, the grand jury shall direct the attorney for the Commonwealth to prepare a **[bill of indictment] presentment** which shall be submitted to the investigating grand jury for a vote. Should a majority of the full grand jury vote approval for the **[indictment] presentment** it shall then be **[presented] submitted** to the supervising judge. **The supervising judge shall examine the presentment, and if it is within the authority of the investigating grand jury and is otherwise in accordance with the provisions of the act, the supervising judge shall issue an order accepting the presentment. Otherwise, the supervising judge shall refuse to accept the presentment and shall order that the investigating grand jury take further appropriate action.**

(b) The supervising judge shall then schedule a probable cause hearing which may in the interests of justice be held in camera and at which the attorney for the Commonwealth shall present evidence from the grand jury record to demonstrate that the decision of the grand jury to return an

indictment was based upon evidence before it which constitutes probable cause that the indicted individual committed the offenses alleged. The person sought to be indicted shall have the right to be present at and participate in this hearing with the assistance of retained or appointed counsel and to contest the allegations of the attorney for the Commonwealth.

(c) If the supervising judge determines on the basis of the evidence submitted at the hearing that there is probable cause for the indictment he shall approve it and direct that it be filed with the court. No indictment approved by an investigating grand jury shall be filed until such a probable cause hearing shall be held.

(d) (b) The supervising judge [may seal the proposed indictment before or after the conducting of the hearing for cause shown.] *to whom a presentment is submitted may, on his own motion or at the request of the Commonwealth, direct that the presentment be kept secret until the defendant is in custody or has been released pending trial. In directing that the presentment be kept secret, the supervising judge shall enter an order requiring that the presentment be sealed and that no person shall disclose a return of the presentment except when necessary for issuance and execution of process.*

[(e)] (c) Whenever a multi-county investigating grand jury returns [an indictment] *a presentment* against any person or persons the Attorney General or his designee shall, with respect to the alleged criminal activities, be authorized to prosecute said person or persons on behalf of the Commonwealth by instituting criminal proceedings in the county of appropriate venue. The Attorney General or his designee shall take the oath of office required by law to be taken of district attorneys, and shall be clothed with all the powers and subject to all the liabilities imposed upon them by law.

[(f)] (d) In any case where a multi-county investigating grand jury returns [an indictment] *a presentment* the supervising judge shall select the county for conducting the trial from among those counties having jurisdiction.

Section 3. The act is amended by adding a section to read:

Section 10.1. Procedure following presentment.

When the attorney for the Commonwealth proceeds on the basis of a presentment, a complaint shall be filed and the defendant shall be entitled to a preliminary hearing as in other criminal cases.

Section 4. This act shall take effect immediately.

APPROVED—The 20th day of July, A. D. 1979.

DICK THORNBURGH