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CS/HB 117

2024 Legislature

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

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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
 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

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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
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 the
71 subject of the grand jury investigation and a person who was a
72 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

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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.

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
 96 grand 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

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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
110 by 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
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.