

SENATE BILL NO. 468

March 24, 1999, Introduced by Senators ROGERS, JOHNSON and
HAMMERSTROM and referred to the Committee on Judiciary.

A bill to amend 1968 PA 289, entitled

"An act to authorize circuit court judges to grant immunity to witnesses upon application of the prosecuting attorneys; to prescribe the procedures therefor; and to prescribe penalties for refusal to testify and for giving false testimony,"

by amending the title and sections 1, 2, and 3 (MCL 780.701, 780.702, and 780.703) and by adding section 2a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE

2 An act to authorize ~~circuit court~~ CERTAIN judges to grant
3 immunity to witnesses upon application of ~~the~~ prosecuting
4 attorneys; TO PERMIT GRANTS OF IMMUNITY TO WITNESSES ISSUED SUB-
5 POENAS OR COMPELLED TO TESTIFY OR PRODUCE EVIDENCE IN CERTAIN
6 INVESTIGATIONS AND PROCEEDINGS BY PUBLIC OFFICIALS OR AGENCIES;
7 to prescribe the procedures therefor; and to prescribe penalties
8 for refusal to testify and for giving false testimony.

1 Sec. 1. (1) ~~In any case of a felony or a circuit court~~
 2 ~~misdemeanor the~~ THE prosecuting attorney may apply ~~at the pre-~~
 3 ~~liminary examination to the circuit court for the county in which~~
 4 ~~the offense was committed or at the trial to the trial judge~~ TO
 5 THE FOLLOWING, AS APPLICABLE, for an order granting immunity to
 6 any person ~~within the state,~~ designated by name and address in
 7 the application ~~,~~ who might give testimony concerning the vio-
 8 lation charged in the complaint and warrant ~~—~~ OR ALLEGED IN THE
 9 PETITION:

10 (A) THE EXAMINING MAGISTRATE AT A PRELIMINARY EXAMINATION.

11 (B) THE TRIAL JUDGE AT A TRIAL FOR A FELONY OR MISDEMEANOR.

12 (C) THE JUDGE AT AN ADJUDICATION FOR A JUVENILE ALLEGED TO
 13 BE WITHIN THE COURT'S JURISDICTION UNDER SECTION 2(A)(i) OF CHAP-
 14 TER XIIIA OF THE PROBATE CODE OF 1939, 1939 PA 288, MCL 712A.2, OR
 15 A PROBABLE CAUSE HEARING OR TRIAL IN A CASE DESIGNATED AS A CASE
 16 IN WHICH THE JUVENILE IS TO BE TRIED IN THE SAME MANNER AS AN
 17 ADULT UNDER SECTION 2D OF CHAPTER XIIIA OF THE PROBATE CODE OF
 18 1939, 1939 PA 288, MCL 712A.2D.

19 (2) The application shall be accompanied by ~~a~~ THE PROSE-
 20 CUTING ATTORNEY'S verified ~~petition of the prosecuting attorney~~
 21 STATEMENT setting forth the facts upon which the application is
 22 based.

23 (3) If the judge ~~to whom the application is presented is~~
 24 ~~satisfied~~ DETERMINES that it is in the interest of justice that
 25 ~~such~~ immunity be granted, ~~he~~ THE JUDGE shall enter an order
 26 granting immunity to the witness if the witness appears before
 27 ~~any~~ THE court in ~~a criminal~~ THE proceeding and testifies

1 under oath concerning any matter or thing of which the witness
2 ~~has knowledge~~ KNOWS concerning matters charged in the complaint
3 and warrant OR ALLEGED IN THE PETITION, as set forth in the
4 ~~petition of the prosecuting attorney~~ PROSECUTING ATTORNEY'S
5 APPLICATION.

6 Sec. 2. (1) A true copy of the order granting immunity
7 shall be delivered to the witness before he OR SHE answers ~~such~~
8 ANY questions ~~as are thereafter put to him~~ SUBSEQUENTLY ASKED
9 at the ~~preliminary examination or trial~~ PROCEEDING. The order
10 granting immunity ~~shall extend to all related questions which~~
11 ~~may thereafter be put to the witness~~ APPLIES until the judge
12 ~~advises~~ INFORMS the witness that the immunity no longer
13 applies.

14 (2) All ~~such~~ questions OF THE WITNESS and HIS OR HER
15 answers ~~thereto~~ shall be ~~reduced to writing under~~ TRANSCRIBED
16 AT the JUDGE'S direction. ~~of the judge.~~ A true AND CERTIFIED
17 copy of the transcript ~~, duly certified by an officer authorized~~
18 ~~to administer oaths,~~ shall be delivered to the witness as soon
19 as practicable ~~thereafter~~ AFTER TRANSCRIPTION. ~~No person~~
20 ~~required to answer such questions shall thereafter be prosecuted~~
21 ~~for any offense concerning which such answers may have tended to~~
22 ~~incriminate him.~~

23 (3) TESTIMONY OR OTHER INFORMATION COMPELLED UNDER THE ORDER
24 GRANTING IMMUNITY AND ANY INFORMATION DERIVED DIRECTLY OR INDI-
25 RECTLY FROM THAT TESTIMONY OR OTHER INFORMATION SHALL NOT BE USED
26 AGAINST THE WITNESS IN A CRIMINAL CASE, EXCEPT FOR IMPEACHMENT

1 PURPOSES OR IN A PROSECUTION FOR PERJURY OR OTHERWISE FAILING TO
2 COMPLY WITH THE ORDER.

3 SEC. 2A. (1) A PUBLIC OFFICIAL OR AGENCY AUTHORIZED BY A
4 STATUTE OF THIS STATE TO ISSUE A SUBPOENA OR OTHERWISE COMPEL THE
5 TESTIMONY OF A WITNESS OR THE PRODUCTION OF EVIDENCE IN AN INVES-
6 TIGATION OR PROCEEDING AUTHORIZED BY THAT STATUTE, OR AUTHORIZED
7 TO SEEK A SUBPOENA OR COMPELLED TESTIMONY OR PRODUCTION OF EVI-
8 DENCE FROM A COURT, MAY APPLY TO THE COURT REQUIRED TO ISSUE THE
9 SUBPOENA OR COMPEL THE TESTIMONY OR PRODUCTION OF EVIDENCE OR
10 OTHERWISE TO THE CIRCUIT COURT OF THE COUNTY IN WHICH THE INVES-
11 TIGATION OR PROCEEDING IS CONDUCTED FOR AN ORDER GRANTING IMMU-
12 NITY TO A PERSON WHO MIGHT GIVE TESTIMONY OR PRODUCE EVIDENCE
13 CONCERNING THE INVESTIGATION OR SUBJECT OF THE PROCEEDING.

14 (2) THE APPLICATION SHALL DESIGNATE THE PERSON BY NAME AND
15 ADDRESS. THE PUBLIC OFFICIAL OR AGENCY SHALL INCLUDE A VERIFIED
16 STATEMENT SETTING FORTH THE FACTS UPON WHICH THE APPLICATION IS
17 BASED.

18 (3) IF THE COURT DETERMINES THAT IT IS IN THE INTERESTS OF
19 JUSTICE TO GRANT IMMUNITY, THE COURT SHALL ENTER AN ORDER GRANT-
20 ING IMMUNITY TO THE WITNESS IF THE WITNESS TESTIFIES OR PRODUCES
21 EVIDENCE IN THE INVESTIGATION OR PROCEEDING CONCERNING THE INVES-
22 TIGATION OR SUBJECT OF THE PROCEEDING.

23 (4) A TRUE COPY OF THE ORDER GRANTING IMMUNITY SHALL BE
24 DELIVERED TO THE WITNESS BEFORE HE OR SHE ANSWERS ANY QUESTIONS
25 SUBSEQUENTLY ASKED AT THE INVESTIGATION OR PROCEEDING OR IS
26 REQUIRED TO PRODUCE ANY EVIDENCE. THE ORDER GRANTING IMMUNITY

1 APPLIES UNTIL THE COURT INFORMS THE WITNESS THAT THE IMMUNITY NO
2 LONGER APPLIES.

3 (5) ALL QUESTIONS OF THE WITNESS AND HIS OR HER ANSWERS
4 SHALL BE TRANSCRIBED. A TRUE AND CERTIFIED COPY OF THE TRAN-
5 SCRIPT SHALL BE DELIVERED TO THE WITNESS AS SOON AS PRACTICABLE
6 AFTER TRANSCRIPTION.

7 (6) TESTIMONY, EVIDENCE, OR OTHER INFORMATION COMPELLED
8 UNDER THE ORDER GRANTING IMMUNITY AND ANY INFORMATION DERIVED
9 DIRECTLY OR INDIRECTLY FROM THAT TESTIMONY, EVIDENCE, OR OTHER
10 INFORMATION SHALL NOT BE USED AGAINST THE WITNESS IN A CRIMINAL
11 CASE, EXCEPT FOR IMPEACHMENT PURPOSES OR IN A PROSECUTION FOR
12 PERJURY OR OTHERWISE FAILING TO COMPLY WITH THE ORDER.

13 (7) IF A STATUTE DESCRIBED IN SUBSECTION (1) GRANTS OR PER-
14 MITS IMMUNITY TO A WITNESS COMPELLED TO TESTIFY OR PRODUCE EVI-
15 DENCE THAT IS DIFFERENT IN NATURE FROM THE IMMUNITY AUTHORIZED
16 UNDER THIS SECTION, THE PUBLIC OFFICIAL OR AGENCY MAY APPLY FOR
17 AN ORDER GRANTING IMMUNITY UNDER THIS SECTION AS AN ALTERNATIVE
18 TO THE IMMUNITY GRANTED OR PERMITTED UNDER THAT STATUTE.

19 Sec. 3. A witness who fails or refuses to testify at a
20 ~~preliminary examination or trial~~ PROCEEDING DESCRIBED IN THIS
21 ACT after service of a true copy of the order granting THE
22 WITNESS immunity ~~upon him~~ is guilty of contempt.