

2020 Regular Session

HOUSE BILL NO. 457

BY REPRESENTATIVE MARINO

CRIMINAL/PROCEDURE: Requires the recording of grand jury proceedings

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 433(A) and (C) and to enact
3 Code of Criminal Procedure Article 433(D), relative to grand jury proceedings; to
4 require the recording of grand jury proceedings; to provide for certain exceptions;
5 to provide relative to requests for transcripts of recordings of grand jury proceedings;
6 and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Criminal Procedure Article 433(A) and (C) are hereby amended
9 and reenacted and Code of Criminal Procedure Article 433(D) is hereby enacted to read as
10 follows:

11 Art. 433. Persons present during grand jury sessions; recording of proceedings

12 A.(1) Only the following persons may be present at the sessions of the grand
13 jury:

14 (a) The district attorney and assistant district attorneys or any one or more
15 of them;_

16 (b) The attorney general and assistant attorneys general or any one or more
17 of them;_

18 (c) The witness under examination;_

19 (d) A person sworn to record the proceedings of and the testimony given
20 before the grand jury; ~~and~~.

1 (e) An interpreter sworn to translate the testimony of a witness who is unable
2 to speak the English language.

3 (2) An attorney for a target of the grand jury's investigation may be present
4 during the testimony of ~~said~~ the target. The attorney shall be prohibited from
5 objecting, addressing, or arguing before the grand jury; however, ~~he~~ the attorney may
6 consult with his client at anytime. The court shall remove ~~such~~ the attorney for
7 violation of these conditions. If a witness becomes a target because of his testimony,
8 the legal advisor to the grand jury shall inform him of his right to counsel and cease
9 questioning until ~~such~~ the witness has obtained counsel or voluntarily and
10 intelligently waived his right to counsel. Any evidence or testimony obtained under
11 the provisions of this Subparagraph from a witness who later becomes a target shall
12 not be admissible in a proceeding against him.

13 * * *

14 C. A person who is intentionally present at a meeting of the grand jury,
15 except as authorized by Paragraph A of this ~~article~~ Article, shall be in constructive
16 contempt of court.

17 D. Except while the grand jury is deliberating or voting, all proceedings shall
18 be recorded by a court reporter or by a suitable recording device. The validity of a
19 prosecution shall not be affected by the unintentional failure to make a recording of
20 the proceedings. If a transcript of the recording is requested to be produced by any
21 party, the requesting party shall pay the cost of having the recording transcribed.
22 Unless the court orders otherwise, the attorney representing the state shall retain
23 control of the recording, the reporter's notes, and any transcript prepared from the
24 reporter's notes.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 457 Original

2020 Regular Session

Marino

Abstract: Requires the recording of grand jury proceedings except when the grand jury is deliberating or voting; and, unless otherwise ordered by the court, requires the attorney representing the state to retain control of the recording.

Present law provides that only certain persons may be present at the sessions of a grand jury including a person sworn to record the proceedings of and the testimony given before the grand jury.

Present law further provides that no person, other than a grand juror, shall be present while the grand jury is deliberating and voting.

Proposed law retains present law and requires all proceedings of the grand jury to be recorded except while the grand jury is deliberating or voting. Proposed law further provides that the validity of the prosecution shall not be affected by the unintentional failure to make a recording of the proceedings.

Proposed law provides that if a transcript of the recording is requested to be produced by any party, the requesting party shall pay the cost of having the recording transcribed.

Proposed law provides that, unless the court orders otherwise, the attorney representing the state shall retain control of the recording, the court reporter's notes, and any transcript prepared from the court reporter's notes.

(Amends C.Cr.P. Art. 433(A) and (C); Adds C.Cr.P. Art. 433(D))