

2010 -- S 2322

=====  
LC00804  
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

-----  
A N A C T

RELATING TO CRIMINAL PROCEDURE -- GRAND JURIES

Introduced By: Senator C Levesque

Date Introduced: February 11, 2010

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1           SECTION 1. Chapter 12-11 of the General Laws entitled "County Grand Juries" is  
2 hereby amended by adding thereto the following section:

3           **12-11-6. County grand jury proceedings.** -- (a) If the prosecutor is aware of exculpatory  
4 evidence as defined in subsection (b), the prosecutor shall inform the grand jury of its nature and  
5 existence. Once the prosecutor has informed the grand jury of the existence of exculpatory  
6 evidence pursuant to this section, the prosecutor shall inform the grand jury of its duties under  
7 subsection (c). If a failure to comply with the provisions of this section results in substantial  
8 prejudice, it shall be grounds for dismissal of the indictment without prejudice.

9           (b) For the purposes of subsection (a), the phrase "exculpatory evidence" shall be defined  
10 as any evidence which may directly negate the guilt of the subject of the investigation.

11           (c) The grand jury is not required to hear evidence for the defendant except as provided  
12 by these sections. The grand jury shall weigh all the evidence submitted to it, and when it has  
13 reason to believe that exculpatory evidence as defined in subsection (b) exists and is within its  
14 reach it may order that the evidence be produced, and for that purpose may require the issuance of  
15 compulsory process. The decision to hear or not hear evidence pursuant to this section remains  
16 with and shall at all times be at the sole discretion of the grand jury.

17           SECTION 2. Chapter 12-11.1 of the General Laws entitled "Statewide Grand Juries" is  
18 hereby amended by adding thereto the following section:

19           **12-11.1-6. Statewide grand jury proceedings.** -- (a) If the prosecutor is aware of

1 exculpatory evidence as defined in subsection (b), the prosecutor shall inform the grand jury of its  
2 nature and existence. Once the prosecutor has informed the grand jury of the existence of  
3 exculpatory evidence pursuant to this section, the prosecutor shall inform the grand jury of its  
4 duties under subsection (c). If a failure to comply with the provisions of this section results in  
5 substantial prejudice, it shall be grounds for dismissal of the indictment without prejudice.

6 (b) For the purposes of subsection (a), the phrase "exculpatory evidence" shall be defined  
7 as any evidence which may directly negate the guilt of the subject of the investigation.

8 (c) The grand jury is not required to hear evidence for the defendant except as provided  
9 by these sections. The grand jury shall weigh all the evidence submitted to it, and when it has  
10 reason to believe that exculpatory evidence as defined in subsection (b) exists and is within its  
11 reach it may order that the evidence be produced, and for that purpose may require the issuance of  
12 compulsory process. The decision to hear or not hear evidence pursuant to this section remains  
13 with and shall at all times be at the sole discretion of the grand jury.

14 SECTION 3. This act shall take effect upon passage.

=====  
LC00804  
=====

EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO CRIMINAL PROCEDURE -- GRAND JURIES

\*\*\*

- 1           This act would require the prosecutor in any grand jury proceeding to notify the grand
- 2 jury of any exculpatory evidence.
- 3           This act would take effect upon passage.

=====  
LC00804  
=====