

## HOUSE BILL 26-021

By Senator(s) Petty  
also Representative(s) McCall, Jennings, Watson

**AN ACT****CONCERNING ENDING THE USE OF GRAND -  
JURIES AND REQUIRING PROBABLE CAUSE-  
AFFIDAVITS IN ALL PROSECUTIONS.**

Be It Enacted by the General Assembly of the State of San Andreas:

**SECTION 1. SHORT TITLE.**

This act shall be known and cited as the “No Grand Juries Act.”

**SECTION 2. LEGISLATIVE FINDINGS AND INTENT.**

(a) The General Assembly finds and declares that:

- (I) Criminal prosecutions must be based upon clearly articulated probable cause supported by sworn statements and judicial review;
- (II) Charging decisions should be transparent and subject to adversarial scrutiny to ensure fairness and accountability;
- (III) Grand jury proceedings are conducted in secret and do not provide an opportunity for the accused to challenge evidence prior to indictment;
- (IV) Judicial determinations of probable cause based on sworn affidavits provide a consistent and constitutionally sufficient mechanism for initiating criminal charges;
- (V) It is the intent of the General Assembly to eliminate the use of grand juries within the State of San Andreas and require that criminal prosecutions proceed through judicially reviewed probable cause affidavits.

**SECTION 3. ABOLITION OF GRAND JURY PROCEEDINGS.**

(a) Grand juries shall not be convened for routine criminal indictments; however, a grand jury may be convened upon application to the Chief Judge of a judicial district where necessary for:

- (I) Complex multi-defendant investigations;
- (II) Organized criminal activity;
- (III) Public corruption investigations; or
- (IV) Matters requiring protection of confidential witnesses.

(b) No person shall be charged with a felony offense by indictment.

(c) Any statutory provision authorizing the use of a grand jury for purposes of indictment is repealed.

(d) Nothing in this Act shall prohibit use of investigative grand juries for purposes other than returning indictments, including subpoena authority authorized by law.

(e) Any investigative grand jury convened under this section shall operate under supervision of the chief judge of the judicial district and shall issue a written report summarizing its findings upon completion of the investigation, except where such disclosure would compromise ongoing prosecutions.

(f) Limited use of grand juries for official misconduct.

(I) Notwithstanding any other provision of this Act, a grand jury may be convened for the purpose of investigating and returning indictments relating to alleged criminal conduct by:

(A) Law enforcement officers;

(B) Public officials acting under color of law; or

(C) Matters involving public corruption or abuse of official authority.

(II) Grand juries convened pursuant to this subsection shall operate under supervision of the chief judge of the judicial district and shall be limited to the matters described herein.

(III) Nothing in this subsection shall authorize the use of grand juries for routine criminal prosecutions.

#### **SECTION 4. REQUIRED PROBABLE CAUSE AFFIDAVIT.**

(a) A felony prosecution shall be initiated only upon:

(I) The filing of a sworn probable cause affidavit; and

(II) A judicial determination that probable cause exists to believe that an offense has been committed and that the accused committed the offense.

(b) The affidavit shall:

(I) Be signed under oath or affirmation;

(II) Set forth specific facts supporting probable cause;

(III) Identify the sources of information relied upon; and

(IV) Be sufficient to permit independent judicial review.

(c) If probable cause cannot be established through a sworn affidavit, criminal charges shall not be filed.

(d) A judge shall review a submitted probable cause affidavit within forty-eight hours of filing unless extraordinary circumstances are shown.

(e) The prosecuting authority may supplement or amend a probable cause affidavit prior to arraignment upon approval of the reviewing court.

(f) Upon motion of the prosecution, a court may permit limited sealing or redaction of affidavit materials necessary to protect confidential informants, ongoing investigations, or witness safety.

(g) A sworn probable cause affidavit filed under this section shall include the name and title of the officer or prosecutor submitting the affidavit and shall certify that the information contained therein is true to the best of the affiant's knowledge and belief.

(h) A judge reviewing a probable cause affidavit may require additional documentation, testimony, or sworn statements where the information provided is insufficient to permit independent judicial review.

- (i) Any person who knowingly submits a materially false statement within a probable cause affidavit commits perjury and shall be subject to penalties under existing law.
- (j) Courts shall maintain a record of probable cause determinations made under this section, which may be reviewed for purposes of appellate review or judicial oversight.
- (k) Courts shall ensure that probable cause determinations are conducted in a manner consistent with constitutional protections for the accused while preserving the integrity of ongoing investigations.
- (l) Recording of probable cause hearings.
- (I) Any judicial proceeding conducted to determine probable cause pursuant to this section shall be recorded by audio or audiovisual means.
- (II) The recording shall be preserved as part of the official court record and may be reviewed for purposes of appeal or judicial oversight.
- (III) The court may order limited redactions where necessary to protect confidential informants, ongoing investigations, or witness safety.
- (m) Use of confidential informants.
- (I) Where a probable cause affidavit relies in whole or in part upon information provided by a confidential informant, the affidavit shall include information sufficient to allow the reviewing judge to evaluate the reliability and credibility of the informant.
- (II) Such information may include prior reliability, corroborating evidence, or other indicia supporting the credibility of the source.
- (III) The identity of a confidential informant may remain sealed where disclosure would pose a risk to the safety of the informant or compromise an ongoing investigation.
- (n) Prosecutor certification requirement.
- (I) Prior to filing a felony probable cause affidavit, the prosecuting authority shall review the affidavit and certify that the evidence presented establishes probable cause to believe that the offense charged has been committed and that the accused committed the offense.
- (II) Such certification shall be included within the affidavit or as a separate written statement submitted to the court.
- (o) Sanctions for unsupported charges.
- (I) Where a court determines that a prosecuting authority has repeatedly filed felony affidavits lacking sufficient probable cause, the court may refer the matter to the appropriate disciplinary authority.
- (II) The disciplinary authority may investigate whether professional misconduct occurred and impose sanctions consistent with applicable professional standards.
- (p) Presentation of evidence by the defense.
- (I) During a judicial proceeding to determine probable cause under this section, the defendant may present limited evidence or testimony relevant to the question of whether probable cause exists.

(II) The court may impose reasonable limitations on such evidence to ensure the proceeding remains focused on the probable cause determination and does not become a full evidentiary trial.

(III) Nothing in this subsection shall be construed to limit the defendant's right to a preliminary hearing or other procedural protections provided by law.

(q) Sealing of probable cause affidavits.

(I) Upon motion of the prosecuting authority, a court may order that a probable cause affidavit or portions thereof be filed under seal where disclosure would reasonably be expected to:

(A) Compromise an ongoing investigation involving organized criminal activity;

(B) Endanger the safety of a witness or confidential informant; or

(C) Result in witness intimidation or obstruction of justice.

(II) Any order sealing materials under this subsection shall be narrowly tailored and shall remain in effect only for the period necessary to protect the interests identified in subsection (I).

(III) The court shall review any sealed affidavit periodically and shall unseal the affidavit, in whole or in part, once the circumstances justifying the sealing no longer exist.

#### **SECTION 4.5. EMERGENCY CHARGING.**

(a) Where immediate detention is necessary to protect public safety, a defendant may be arrested based upon probable cause prior to judicial review, provided a sworn affidavit is submitted for judicial determination within seventy-two hours.

(b) When an arrest occurs pursuant to subsection (a) of this section, the accused shall be brought before a judicial officer for a probable cause determination without unnecessary delay and no later than seventy-two hours after arrest.

#### **SECTION 5. PRELIMINARY HEARING RIGHTS.**

(a) A defendant charged by probable cause affidavit shall retain the right to a preliminary hearing consistent with existing law.

(b) Nothing in this Act shall limit the ability of a court to dismiss charges where probable cause is not established.

(c) Following judicial determination of probable cause, defendants shall receive access to the probable cause affidavit and supporting materials subject to lawful protective orders.

(d) Upon request of the defendant, the court may order disclosure of additional materials relied upon in the probable cause affidavit where such materials are necessary to permit meaningful review of the probable cause determination.

(e) Nothing in this Act shall be construed to limit the authority of a court to dismiss charges where the probable cause affidavit fails to establish sufficient factual grounds to support the prosecution.

(f) Early challenge to probable cause affidavits.

(I) Upon motion of the defendant, defense counsel may challenge the sufficiency of a probable cause affidavit prior to the preliminary hearing.

(II) The court may dismiss or require amendment of the affidavit where the factual allegations fail to establish probable cause.

(III) Nothing in this subsection shall limit the defendant's right to a preliminary hearing or other procedural protections provided by law.

(g) Evidence presented by the defendant under Section 4(p) may include sworn statements, documentary evidence, or other materials relevant to the probable cause determination as permitted by the reviewing court.

(h) Where a probable cause affidavit has been sealed pursuant to Section 4(q), the defendant shall receive access to a redacted version of the affidavit sufficient to permit meaningful review of the probable cause determination, unless the court determines that such disclosure would pose a substantial risk to witness safety or an ongoing investigation.

#### **SECTION 6. TRANSITIONAL PROVISIONS.**

(a) Any indictment returned prior to the effective date of this Act shall remain valid.

(b) Pending grand jury proceedings may continue where termination would substantially prejudice an ongoing prosecution, as determined by the supervising court.

#### **SECTION 7. RULEMAKING AUTHORITY.**

The Judicial Branch and the Department of Law may promulgate rules necessary to implement this Act.

#### **SECTION 7.5. IMPLEMENTATION REVIEW.**

(a) The Judicial Branch shall report to the General Assembly within two years regarding:

(I) Charging timelines;

(II) Case dismissal rates;

(III) Effects on complex criminal prosecutions; and

(IV) Recommendations for statutory modification.

(b) The implementation review required under this section shall also evaluate the impact of this Act on case processing times, prosecutorial charging practices, and access to judicial review.