

**First Regular Session
Seventy-Seventh General Assembly
STATE OF SAN ANDREAS**

REENGROSSED

LLS NO. 26-0726.03 Amirah Vasquez x2851

HOUSE BILL 26-021

SENATE SPONSORSHIP

Petty

HOUSE SPONSORSHIP

McCall, Jennings, Watson

House Committees

Judiciary

Senate Committees

Not assigned

A BILL FOR AN ACT

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

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <https://saleg.uscgov.com>)

This bill eliminates the use of grand juries for criminal indictments in the State of San Andreas and requires that felony prosecutions be initiated through the filing of a sworn probable cause affidavit reviewed by a judge. The bill is intended to increase transparency and ensure that criminal charges are supported by clearly articulated factual evidence subject to judicial review.

Shading denotes HOUSE amendment. Underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

Under the bill, felony charges may only proceed when a prosecutor or law enforcement officer submits a sworn affidavit establishing probable cause that an offense has been committed and that the accused committed the offense. A judge must independently determine that probable cause exists before charges may move forward. If probable cause cannot be established through a sworn affidavit, charges may not be filed.

The legislation repeals statutory provisions authorizing grand jury indictments and provides that defendants retain existing rights to preliminary hearings and judicial review of probable cause. Indictments returned prior to the effective date of the Act remain valid, while pending grand jury matters must proceed through the affidavit-based charging process.

The purpose of the Act is to replace grand jury proceedings with a uniform, judicially supervised charging system intended to promote accountability, consistency, and transparency in criminal prosecutions.

1 *Be it enacted by the General Assembly of the State of San*
2 *Andreas:*
3 SECTION 1. SHORT TITLE. This act shall be known and cited
4 as the “No Grand Juries Act.” **SECTION 2. LEGISLATIVE**
5 FINDINGS AND INTENT. (a) The General Assembly finds and
6 declares that: (I) Criminal prosecutions must be based upon
7 clearly articulated probable cause supported by sworn statements
8 and judicial review; (II) Charging decisions should be transparent
9 and subject to adversarial scrutiny to ensure fairness and
10 accountability; (III) Grand jury proceedings are conducted in
11 secret and do not provide an opportunity for the accused to
12 challenge evidence prior to indictment; (IV) Judicial
13 determinations of probable cause based on sworn affidavits
14 provide a consistent and constitutionally sufficient mechanism for
15 initiating criminal charges; (V) It is the intent of the General
16 Assembly to eliminate the use of grand juries within the State of
17 San Andreas and require that criminal prosecutions proceed

1 through judicially reviewed probable cause affidavits. **SECTION**
2 **3. ABOLITION OF GRAND JURY PROCEEDINGS.** (a) Grand
3 juries shall not be convened for routine criminal indictments;
4 however, a grand jury may be convened upon application to the
5 Chief Judge of a judicial district where necessary for: (I) Complex
6 multi-defendant investigations; (II) Organized criminal activity;
7 (III) Public corruption investigations; or (IV) Matters requiring
8 protection of confidential witnesses. (b) No person shall be
9 charged with a felony offense by indictment. (c) Any statutory
10 provision authorizing the use of a grand jury for purposes of
11 indictment is repealed. (d) Nothing in this Act shall prohibit use
12 of investigative grand juries for purposes other than returning
13 indictments, including subpoena authority authorized by law. (e)
14 Any investigative grand jury convened under this section shall
15 operate under supervision of the chief judge of the judicial district
16 and shall issue a written report summarizing its findings upon
17 completion of the investigation, except where such disclosure
18 would compromise ongoing prosecutions. (f) Limited use of grand
19 juries for official misconduct. (I) Notwithstanding any other
20 provision of this Act, a grand jury may be convened for the
21 purpose of investigating and returning indictments relating to
22 alleged criminal conduct by: (A) Law enforcement officers; (B)
23 Public officials acting under color of law; or (C) Matters
24 involving public corruption or abuse of official authority. (II)
25 Grand juries convened pursuant to this subsection shall operate
26 under supervision of the chief judge of the judicial district and
27 shall be limited to the matters described herein. (III) Nothing in
28 this subsection shall authorize the use of grand juries for routine
29 criminal prosecutions. **SECTION 4. REQUIRED PROBABLE**
30 **CAUSE AFFIDAVIT.** (a) A felony prosecution shall be initiated
31 only upon: (I) The filing of a sworn probable cause affidavit; and
32 (II) A judicial determination that probable cause exists to believe
33 that an offense has been committed and that the accused

1 committed the offense. (b) The affidavit shall: (I) Be signed under
2 oath or affirmation; (II) Set forth specific facts supporting
3 probable cause; (III) Identify the sources of information relied
4 upon; and (IV) Be sufficient to permit independent judicial
5 review. (c) If probable cause cannot be established through a
6 sworn affidavit, criminal charges shall not be filed. (d) A judge
7 shall review a submitted probable cause affidavit within
8 forty-eight hours of filing unless extraordinary circumstances are
9 shown. (e) The prosecuting authority may supplement or amend a
10 probable cause affidavit prior to arraignment upon approval of the
11 reviewing court. (f) Upon motion of the prosecution, a court may
12 permit limited sealing or redaction of affidavit materials necessary
13 to protect confidential informants, ongoing investigations, or
14 witness safety. (g) A sworn probable cause affidavit filed under
15 this section shall include the name and title of the officer or
16 prosecutor submitting the affidavit and shall certify that the
17 information contained therein is true to the best of the affiant's
18 knowledge and belief. (h) A judge reviewing a probable cause
19 affidavit may require additional documentation, testimony, or
20 sworn statements where the information provided is insufficient to
21 permit independent judicial review. (i) Any person who
22 knowingly submits a materially false statement within a probable
23 cause affidavit commits perjury and shall be subject to penalties
24 under existing law. (j) Courts shall maintain a record of probable
25 cause determinations made under this section, which may be
26 reviewed for purposes of appellate review or judicial oversight.
27 (k) Courts shall ensure that probable cause determinations are
28 conducted in a manner consistent with constitutional protections
29 for the accused while preserving the integrity of ongoing
30 investigations. (l) Recording of probable cause hearings. (I) Any
31 judicial proceeding conducted to determine probable cause
32 pursuant to this section shall be recorded by audio or audiovisual
33 means. (II) The recording shall be preserved as part of the official

1 court record and may be reviewed for purposes of appeal or
2 judicial oversight. (III) The court may order limited redactions
3 where necessary to protect confidential informants, ongoing
4 investigations, or witness safety. (m) Use of confidential
5 informants. (I) Where a probable cause affidavit relies in whole or
6 in part upon information provided by a confidential informant, the
7 affidavit shall include information sufficient to allow the
8 reviewing judge to evaluate the reliability and credibility of the
9 informant. (II) Such information may include prior reliability,
10 corroborating evidence, or other indicia supporting the credibility
11 of the source. (III) The identity of a confidential informant may
12 remain sealed where disclosure would pose a risk to the safety of
13 the informant or compromise an ongoing investigation. (n)
14 Prosecutor certification requirement. (I) Prior to filing a felony
15 probable cause affidavit, the prosecuting authority shall review
16 the affidavit and certify that the evidence presented establishes
17 probable cause to believe that the offense charged has been
18 committed and that the accused committed the offense. (II) Such
19 certification shall be included within the affidavit or as a separate
20 written statement submitted to the court. (o) Sanctions for
21 unsupported charges. (I) Where a court determines that a
22 prosecuting authority has repeatedly filed felony affidavits lacking
23 sufficient probable cause, the court may refer the matter to the
24 appropriate disciplinary authority. (II) The disciplinary authority
25 may investigate whether professional misconduct occurred and
26 impose sanctions consistent with applicable professional
27 standards. (p) Presentation of evidence by the defense. (I) During
28 a judicial proceeding to determine probable cause under this
29 section, the defendant may present limited evidence or testimony
30 relevant to the question of whether probable cause exists. (II) The
31 court may impose reasonable limitations on such evidence to
32 ensure the proceeding remains focused on the probable cause
33 determination and does not become a full evidentiary trial. (III)

1 Nothing in this subsection shall be construed to limit the
2 defendant's right to a preliminary hearing or other procedural
3 protections provided by law. (q) Sealing of probable cause
4 affidavits. (I) Upon motion of the prosecuting authority, a court
5 may order that a probable cause affidavit or portions thereof be
6 filed under seal where disclosure would reasonably be expected
7 to: (A) Compromise an ongoing investigation involving organized
8 criminal activity; (B) Endanger the safety of a witness or
9 confidential informant; or (C) Result in witness intimidation or
10 obstruction of justice. (II) Any order sealing materials under this
11 subsection shall be narrowly tailored and shall remain in effect
12 only for the period necessary to protect the interests identified in
13 subsection (I). (III) The court shall review any sealed affidavit
14 periodically and shall unseal the affidavit, in whole or in part,
15 once the circumstances justifying the sealing no longer exist.

16 **SECTION 4.5. EMERGENCY CHARGING.** (a) Where
17 immediate detention is necessary to protect public safety, a
18 defendant may be arrested based upon probable cause prior to
19 judicial review, provided a sworn affidavit is submitted for
20 judicial determination within seventy-two hours. (b) When an
21 arrest occurs pursuant to subsection (a) of this section, the accused
22 shall be brought before a judicial officer for a probable cause
23 determination without unnecessary delay and no later than
24 seventy-two hours after arrest. **SECTION 5. PRELIMINARY**
25 **HEARING RIGHTS.** (a) A defendant charged by probable cause
26 affidavit shall retain the right to a preliminary hearing consistent
27 with existing law. (b) Nothing in this Act shall limit the ability of
28 a court to dismiss charges where probable cause is not established.
29 (c) Following judicial determination of probable cause,
30 defendants shall receive access to the probable cause affidavit and
31 supporting materials subject to lawful protective orders. (d) Upon
32 request of the defendant, the court may order disclosure of
33 additional materials relied upon in the probable cause affidavit

1 where such materials are necessary to permit meaningful review
2 of the probable cause determination. (e) Nothing in this Act shall
3 be construed to limit the authority of a court to dismiss charges
4 where the probable cause affidavit fails to establish sufficient
5 factual grounds to support the prosecution. (f) Early challenge to
6 probable cause affidavits. (I) Upon motion of the defendant,
7 defense counsel may challenge the sufficiency of a probable cause
8 affidavit prior to the preliminary hearing. (II) The court may
9 dismiss or require amendment of the affidavit where the factual
10 allegations fail to establish probable cause. (III) Nothing in this
11 subsection shall limit the defendant's right to a preliminary
12 hearing or other procedural protections provided by law. (g)
13 Evidence presented by the defendant under Section 4(p) may
14 include sworn statements, documentary evidence, or other
15 materials relevant to the probable cause determination as
16 permitted by the reviewing court. (h) Where a probable cause
17 affidavit has been sealed pursuant to Section 4(q), the defendant
18 shall receive access to a redacted version of the affidavit sufficient
19 to permit meaningful review of the probable cause determination,
20 unless the court determines that such disclosure would pose a
21 substantial risk to witness safety or an ongoing investigation.

22 **SECTION 6. TRANSITIONAL PROVISIONS.** (a) Any
23 indictment returned prior to the effective date of this Act shall
24 remain valid. (b) Pending grand jury proceedings may continue
25 where termination would substantially prejudice an ongoing
26 prosecution, as determined by the supervising court. **SECTION 7.**
27 **RULEMAKING AUTHORITY.** The Judicial Branch and the
28 Department of Law may promulgate rules necessary to implement
29 this Act. **SECTION 7.5. IMPLEMENTATION REVIEW.** (a) The
30 Judicial Branch shall report to the General Assembly within two
31 years regarding: (I) Charging timelines; (II) Case dismissal rates;
32 (III) Effects on complex criminal prosecutions; and (IV)
33 Recommendations for statutory modification. (b) The

1 implementation review required under this section shall also
2 evaluate the impact of this Act on case processing times,
3 prosecutorial charging practices, and access to judicial review.
4 **SECTION 8. EFFECTIVE DATE.** This Act shall take effect after
5 the 90 day period following the final adjournment of the
6 Seventy-Seventh general assembly.