

1979 Assembly Bill 792

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CHAPTER 291, Laws of 1979

AN ACT to amend 967.05 (2) and (3) and 971.05 (3); to repeal and recreate 968.06; and to create 756.145, 756.147 and 972.08 (3) of the statutes, relating to rights of witnesses and secrecy at grand juries.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 756.145 and 756.147 of the statutes are created to read:

756.145 Witnesses rights; transcripts. (1) Any witness appearing before a grand jury may have counsel present, but the counsel shall not be allowed to examine his or her client, cross-examine other witnesses or argue before the judge. Counsel may consult with his or her client while before a grand jury. If the prosecuting officer, attorney for a witness or a grand juror believes that a conflict of interest exists for an attorney or attorneys to represent more than one witness before a grand jury, the person so believing may make a motion before the presiding judge to disqualify the attorney from representing more than one witness before the grand jury. A hearing shall be held upon notice with the burden upon the moving party to establish the conflict.

(2) No grand jury transcript may be made public until the trial of anyone indicted by the grand jury and then only that portion of the transcript that is relevant and material to the case at hand. This subsection does not limit the defendant's rights to discovery under s. 971.23.

756.147 Secrecy. Notwithstanding s. 757.14, all motions, including but not limited to those for immunity or a privilege, brought by a prosecuting officer or witness appearing before a grand jury shall be made, heard and decided in complete secrecy and not in open court if the prosecuting officer or witness bringing the motion or exercising the immunity or privilege so requests.

SECTION 2. 967.05 (2) and (3) of the statutes are amended to read:

967.05 (2) The trial of a misdemeanor action shall be upon a complaint ~~or an indictment.~~

(3) The trial of a felony action shall be upon an information ~~or an indictment.~~

SECTION 3. 968.06 of the statutes is repealed and recreated to read:

968.06 Indictment by grand jury. Upon indictment by a grand jury a complaint shall be issued, as provided by s. 968.02, upon the person named in the indictment and the person shall be entitled to a preliminary hearing under s. 970.03, and all proceedings thereafter shall be the same as if the person had been initially charged under s. 968.02 and had not been indicted by a grand jury.

SECTION 4. 971.05 (3) of the statutes is amended to read:

971.05 (3) The district attorney shall deliver to the defendant a copy of the ~~indictment~~ ~~or~~ information in felony cases and in all cases shall read the ~~indictment,~~ information or complaint to the defendant unless the defendant waives such reading. Thereupon the court shall ask ~~him his~~ for the defendant's plea.

SECTION 5. 972.08 (3) of the statutes is created to read:

972.08 (3) Any witness appearing before a grand jury may be ordered confined under sub. (2) for not more than one separate failure or refusal before that grand jury.
