

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 325

Short Title: Special Prosecutor/Grand Juries/AB.

(Public)

Sponsors: Senators Rand, Perdue, Gulley, Cooper, Winner, Martin of Guilford, Warren, Dannelly, Albertson, Martin of Pitt, Hoyle, Kerr, Soles, Speed, Lucas, Simpson, Plyler, Ballance, Sherron, Parnell, Odom, Carrington, Hartsell, East, Webster, Conder, Plexico, Horton, Davis, Cochrane, Hobbs, Jordan, Edwards, Little, and Forrester.

Referred to: Judiciary II/Election Laws

March 8, 1995

A BILL TO BE ENTITLED

1 AN ACT TO ALLOW THE DISTRICT ATTORNEY'S DESIGNEE OR A SPECIAL
2 PROSECUTOR TO REQUEST THAT AN INVESTIGATIVE GRAND JURY BE
3 CONVENED TO CONSIDER CERTAIN ALLEGED VIOLATIONS OF THE
4 NORTH CAROLINA CONTROLLED SUBSTANCES ACT.
5

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 15A-622(h) reads as rewritten:

8 "(h) A written petition for convening of grand jury under this section may be filed
9 by the district attorney, the district attorney's designated assistant, or a special prosecutor
10 requested pursuant to G.S. 114-11.6, with the approval of a committee of at least three
11 members of the North Carolina Conference of District Attorneys, and with the
12 concurrence of the Attorney General, with the Clerk of the North Carolina Supreme
13 Court. The Chief Justice shall appoint a panel of three judges to determine whether to
14 order the grand jury convened. A grand jury under this section may be convened if the
15 three-judge panel determines that:

16 (1) The petition alleges the commission of or a conspiracy to commit a
17 violation of G.S. 90-95(h) or G.S. 90-95.1, any part of which violation

1 or conspiracy occurred in the county where the grand jury sits, and that
2 persons named in the petition have knowledge related to the identity of
3 the perpetrators of those crimes but will not divulge that knowledge
4 voluntarily or that such persons request that they be allowed to testify
5 before the grand jury; and

- 6 (2) The affidavit sets forth facts that establish probable cause to believe that
7 the crimes specified in the petition have been committed and reasonable
8 grounds to suspect that the persons named in the petition have
9 knowledge related to the identity of the perpetrators of those crimes.

10 The affidavit shall be based upon personal knowledge or, if the source of the
11 information and basis for the belief are stated, upon information and belief. The panel's
12 order convening the grand jury as an investigative grand jury shall direct the grand jury to
13 investigate the crimes and persons named in the petition, and shall be filed with the Clerk
14 of the North Carolina Supreme Court. A grand jury so convened retains all powers,
15 duties, and responsibilities of a grand jury under this Article. The contents of the petition
16 and the affidavit shall not be disclosed. Upon receiving a petition under this subsection,
17 the Chief Justice shall appoint a panel to determine whether the grand jury should be
18 convened as an investigative grand jury.

19 A grand jury authorized by this subsection may be convened from an existing grand
20 jury or grand juries authorized by subsection (b) of this section or may be convened as an
21 additional grand jury to an existing grand jury or grand juries. Notwithstanding
22 subsection (b) of this section, grand jurors impaneled pursuant to this subsection shall
23 serve for a period of 12 months, and, if an additional grand jury is convened, 18 persons
24 shall be selected to constitute that grand jury. At any time for cause shown, the presiding
25 superior court judge may excuse a juror temporarily or permanently, and in the latter
26 event the court may impanel another person in place of the juror excused."

27 Sec. 2. This act becomes effective December 1, 1995.