

SB 505 A STAFF MEASURE SUMMARY

Senate Committee On Judiciary

Action Date: 04/18/17

Action: Do pass with amendments. Refer to Ways and Means by prior reference. (Printed A-Eng).

Vote: 4-1-0-0

Yeas: 4 - Dembrow, Linthicum, Manning Jr, Prozanski

Nays: 1 - Thatcher

Fiscal: Fiscal impact issued

Revenue: No revenue impact

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WHAT THE MEASURE DOES:

Requires district attorney to ensure grand jury proceedings are recorded. Requires delegation of recording requirement to grand juror. Provides for phase-in of recording process based on population of judicial district. Specifies what matters may and may not be recorded. Creates procedures for release of these recordings. Allows certain persons to request protective order to redact certain information or deny, restrict or defer access to a recording. Specifies when recording may be used in court. Permits peace officer to present certain hearsay statements as evidence at grand jury proceeding. Prohibits release of grand jury recordings as public record. Makes conforming amendments.

ISSUES DISCUSSED:

- Impact on victim rights
- Other states use of hearsay at grand jury
- Disclosure of grand jury records when not a true bill concerning a public servant

EFFECT OF AMENDMENT:

Replaces measure.

BACKGROUND:

Senate Bill 505-A directs district attorneys to ensure that grand jury proceedings are recorded. It phases-in the recording requirement based on the judicial district's population. Judicial districts with a population between 150,000 and 300,000 or over 700,000 begin recording January 1, 2018. The remaining districts must begin recording July 1, 2018. SB 505-A requires the district attorney to delegate the recording requirement to a grand juror. The person recording the grand jury proceeding is not subject to subpoena and cannot disclose information regarding the proceeding without a court order.

SB 505-A specifies what matters before the grand jury must be recorded, such as statements made or questions asked by the prosecuting attorney. It specifies what matters must not be recorded, such as grand jury deliberations. SB 505-A also specifies the procedures for release of these recordings to the defense and prosecution and generally limits further disclosure. SB 505-A allows the prosecuting attorney, on behalf of a victim or witness, and others to file a motion for a protective order. It requires the prosecuting attorney to request a protective order, if the victim requests it. If only a specific portion of the recording is the subject of the protective order, the motion for the protective order must specify the portion of the recording to be redacted. SB 505-A specifies when these recordings may be used in subsequent court proceedings. It further allows a peace officer to present the hearsay

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statements of certain people, such as a minor victim. Finally, SB 505-A prohibits the release of these recordings as public records.