

**GRAND JURY EXPANSION AMENDMENTS**

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Marc K. Roberts**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill sets good cause requirements for a grand jury to be called in certain instances.

**Highlighted Provisions:**

This bill:

- ▶ provides that good cause exists to call a grand jury if the matter referred involves:
  - alleged criminal activity by a person holding public office; or
  - the use of deadly force by a law enforcement officer.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**77-10a-2**, as last amended by Laws of Utah 2010, Chapters 34 and 96

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **77-10a-2** is amended to read:

**77-10a-2. Panel of judges -- Appointment -- Membership -- Ordering of grand jury.**

(1) (a) The presiding officer of the Judicial Council shall appoint a panel of five judges



28 from the district courts of the state to hear in secret all persons claiming to have information  
29 that would justify the calling of a grand jury. The presiding officer may appoint senior status  
30 district court judges to the panel. The presiding officer shall designate one member of the  
31 panel as supervising judge to serve at the pleasure of the presiding officer. The panel has the  
32 authority of the district court.

33 (b) To ensure geographical diversity on the panel one judge shall be appointed from the  
34 first or second district for a five-year term, one judge shall be appointed from the third district  
35 for a four-year term, one judge shall be appointed from the fourth district for a three-year term,  
36 one judge shall be appointed from the fifth, sixth, seventh, or eighth districts for a two-year  
37 term, and one judge shall be appointed from the third district for a one-year term. Following  
38 the first term, all terms on the panel are for five years.

39 (c) The panel shall schedule hearings in each judicial district at least once every three  
40 years and may meet at any location within the state. Three members of the panel constitute a  
41 quorum for the transaction of panel business. The panel shall act by the concurrence of a  
42 majority of members present and may act through the supervising judge or managing judge.  
43 The schedule for the hearings shall be set by the panel and published by the Office of the Court  
44 Administrator. Persons who desire to appear before the panel shall schedule an appointment  
45 with the Office of the Court Administrator at least 10 days in advance. If no appointments are  
46 scheduled, the hearing may be canceled. Persons appearing before the panel shall be placed  
47 under oath and examined by the judges conducting the hearings. Hearsay evidence may be  
48 presented at the hearings only under the same provisions and limitations that apply to  
49 preliminary hearings.

50 (2) (a) If the panel finds good cause to believe a grand jury is necessary, the panel shall  
51 make its findings in writing and may order a grand jury to be summoned.

52 (b) The panel may refer a matter to the attorney general, county attorney, district  
53 attorney, or city attorney for investigation and prosecution. The referral shall contain as much  
54 of the information presented to the panel as the panel determines relevant. The attorney  
55 general, county attorney, district attorney, or city attorney shall report to the panel the results of  
56 any investigation and whether the matter will be prosecuted by a prosecutor's information. The  
57 report shall be filed with the panel within 120 days after the referral unless the panel provides  
58 for a different amount of time. If the panel is not satisfied with the action of the attorney

59 general, county attorney, district attorney, or city attorney, the panel may order a grand jury to  
60 be summoned.

61 (3) (a) When, in the judgment of the attorney general, a county attorney, a district  
62 attorney, a municipal attorney, or a special prosecutor appointed under Section 77-10a-12  
63 [certifies in writing to the supervising judge that in his judgment], a grand jury is necessary  
64 because of criminal activity in the state, the attorney general, county attorney, district attorney,  
65 municipal attorney, or special prosecutor shall certify in writing to the supervising judge the  
66 necessity for a grand jury. If the panel finds that good cause exists, the panel shall order a  
67 grand jury to be summoned [if the panel finds good cause exists].

68 (b) Good cause exists when the matter referred concerns:

69 (i) alleged criminal activity by a person holding a publicly elected office in this state;

70 or

71 (ii) the use or alleged use of deadly force by a law enforcement officer.

72 (c) For all other matters, the panel shall determine whether good cause exists.

73 (4) In determining whether good cause exists under Subsection (3), the panel shall  
74 consider, among other factors, whether a grand jury is needed to help maintain public  
75 confidence in the impartiality of the criminal justice process.

76 (5) A written certification under Subsection (3) shall contain a statement that in the  
77 prosecutor's judgement a grand jury is necessary, but the certification need not contain any  
78 information which if disclosed may create a risk of:

79 (a) destruction or tainting of evidence;

80 (b) flight or other conduct by the subject of the investigation to avoid prosecution;

81 (c) damage to a person's reputation or privacy;

82 (d) harm to any person; or

83 (e) a serious impediment to the investigation.

84 (6) A written certification under Subsection (3) shall be accompanied by a statement of  
85 facts in support of the need for a grand jury.

86 (7) The supervising judge shall seal any written statement of facts submitted under  
87 Subsection (6).

88 (8) The supervising judge may at the time the grand jury is summoned:

89 (a) order that it be drawn from the state at large as provided in this chapter or from any

90 district within the state; and

91 (b) retain authority to supervise the grand jury or delegate the supervision of the grand  
92 jury to any judge of any district court within the state.

93 (9) If after the certification under Subsection (3) the panel does not order the  
94 summoning of a grand jury or the grand jury does not return an indictment regarding the  
95 subject matter of the certification, the prosecuting attorney may release to the public a copy of  
96 the written certification if in the prosecutor's judgment the release does not create a risk as  
97 described in Subsection (5).

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**Legislative Review Note**  
as of 2-27-15 12:24 PM

**Office of Legislative Research and General Counsel**