

GRAND JURY AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John L. Valentine

House Sponsor: Kay L. McIff

LONG TITLE

General Description:

This bill amends the provision regarding written requests for a grand jury.

Highlighted Provisions:

This bill:

► provides that a written certification requesting a grand jury may be submitted to the supervising judge of a grand jury panel at any time; and

► provides that a grand jury panel shall consider a written certification requesting a grand jury within a reasonable time.

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

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.



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

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

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

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

53 (b) The panel may refer a matter to the attorney general, county attorney, district
54 attorney, or city attorney for investigation and prosecution. The referral shall contain as much
55 of the information presented to the panel as the panel determines relevant. The attorney
56 general, county attorney, district attorney, or city attorney shall report to the panel the results of
57 any investigation and whether the matter will be prosecuted by a prosecutor's information. The
58 report shall be filed with the panel within 120 days after the referral unless the panel provides

59 for a different amount of time. If the panel is not satisfied with the action of the attorney
60 general, county attorney, district attorney, or city attorney, the panel may order a grand jury to
61 be summoned.

62 (3) When the attorney general, a county attorney, a district attorney, municipal
63 attorney, or a special prosecutor appointed under Section 77-10a-12 certifies in writing to the
64 supervising judge that in his judgment a grand jury is necessary because of criminal activity in
65 the state, the panel shall order a grand jury to be summoned [~~if~~] unless the panel finds good
66 cause [~~exists~~] does not exist.

67 (4) In determining [~~whether~~] good cause [~~exists~~] under Subsection (3), the panel shall
68 consider, among other factors, whether a grand jury is needed to help maintain public
69 confidence in the impartiality of the criminal justice process. A written certification under
70 Subsection (3) may be submitted to the supervising judge at any time. The panel shall consider
71 the certification within a reasonable time.

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

- 75 (a) destruction or tainting of evidence;
76 (b) flight or other conduct by the subject of the investigation to avoid prosecution;
77 (c) damage to a person's reputation or privacy;
78 (d) harm to any person; or
79 (e) a serious impediment to the investigation.

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

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

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

85 (a) order that it be drawn from the state at large as provided in this chapter or from any
86 district within the state; and

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

89 (9) If after the certification under Subsection (3) the panel does not order the

90 summoning of a grand jury or the grand jury does not return an indictment regarding the
91 subject matter of the certification, the prosecuting attorney may release to the public a copy of
92 the written certification if in the prosecutor's judgment the release does not create a risk as
93 described in Subsection (5).

Legislative Review Note
as of 1-24-11 1:11 PM

Office of Legislative Research and General Counsel

FISCAL NOTE

S.B. 133

SHORT TITLE: **Grand Jury Amendments**

SPONSOR: **Valentine, J.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

To the extent that certain Courts caseloads increase, costs will be \$750/day for jurors and \$100/hour for judge time.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.