

SUBSTITUTE FOR  
SENATE BILL NO. 473

A bill to amend 1968 PA 289, entitled  
"An act to authorize circuit court judges to grant immunity to  
witnesses upon application of the prosecuting attorneys; to pre-  
scribe the procedures therefor; and to prescribe penalties for  
refusal to testify and for giving false testimony,"  
by amending the title and sections 1, 2, and 3 (MCL 780.701,  
780.702, and 780.703) and by adding section 2a.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1 TITLE  
2 An act to authorize ~~circuit court~~ CERTAIN judges to grant  
3 immunity to witnesses upon application of ~~the~~ prosecuting  
4 attorneys; TO PERMIT GRANTS OF IMMUNITY TO WITNESSES ISSUED SUB-  
5 POENAS OR COMPELLED TO TESTIFY OR PRODUCE EVIDENCE IN CERTAIN  
6 INVESTIGATIONS AND PROCEEDINGS BY PUBLIC OFFICIALS OR AGENCIES;  
7 to prescribe the procedures therefor; and to prescribe penalties  
8 for refusal to testify and for giving false testimony.

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1       Sec. 1. (1) ~~In any case of a felony or a circuit court~~  
2 ~~misdemeanor the~~ THE prosecuting attorney may apply ~~at the pre-~~  
3 ~~liminary examination to the circuit court for the county in which~~  
4 ~~the offense was committed or at the trial to the trial judge~~ AS  
5 FOLLOWS for an order granting immunity to any person ~~within the~~  
6 ~~state,~~ designated by name and address in the application ~~,~~ who  
7 might give testimony concerning the violation charged in the com-  
8 plaint and warrant ~~—~~ OR ALLEGED IN THE PETITION:

9       (A) TO THE EXAMINING MAGISTRATE AT A PRELIMINARY  
10 EXAMINATION.

11       (B) TO THE TRIAL JUDGE AT A TRIAL FOR A FELONY OR  
12 MISDEMEANOR.

13       (C) TO THE JUDGE AT AN ADJUDICATION FOR A JUVENILE ALLEGED  
14 TO BE WITHIN THE COURT'S JURISDICTION UNDER SECTION 2(A)(i) OF  
15 CHAPTER XIIIA OF 1939 PA 288, MCL 712A.2, OR A PROBABLE CAUSE  
16 HEARING OR TRIAL IN A CASE DESIGNATED AS A CASE IN WHICH THE  
17 JUVENILE IS TO BE TRIED IN THE SAME MANNER AS AN ADULT UNDER  
18 SECTION 2D OF CHAPTER XIIIA OF 1939 PA 288, MCL 712A.2D.

19       (2) The application shall be accompanied by ~~a~~ THE PROSE-  
20 CUTING ATTORNEY'S verified ~~petition of the prosecuting attorney~~  
21 STATEMENT setting forth the facts upon which the application is  
22 based.

23       (3) If the judge ~~to whom the application is presented is~~  
24 ~~satisfied~~ DETERMINES that it is in the interest of justice that  
25 ~~such~~ immunity be granted, ~~he~~ THE JUDGE shall enter an order  
26 granting immunity to the witness if the witness appears before  
27 ~~any~~ THE court in ~~a criminal~~ THE proceeding and testifies

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1 under oath concerning any matter or thing of which the witness  
2 ~~has knowledge~~ KNOWS concerning matters charged in the complaint  
3 and warrant OR ALLEGED IN THE PETITION, as set forth in the  
4 ~~petition of the prosecuting attorney~~ PROSECUTING ATTORNEY'S  
5 APPLICATION.

6       Sec. 2. (1) A true copy of the order granting immunity  
7 shall be delivered to the witness before he OR SHE answers ~~such~~  
8 ANY questions ~~as are thereafter put to him~~ SUBSEQUENTLY ASKED  
9 at the ~~preliminary examination or trial~~ PROCEEDING. The order  
10 granting immunity ~~shall extend to all related questions which~~  
11 ~~may thereafter be put to the witness~~ APPLIES until the judge  
12 ~~advises~~ INFORMS the witness that the immunity no longer  
13 applies.

14       (2) All ~~such~~ questions OF THE WITNESS and HIS OR HER  
15 answers ~~thereto~~ shall be ~~reduced to writing under~~ TRANSCRIBED  
16 AT the JUDGE'S direction. ~~of the judge.~~ A true AND CERTIFIED  
17 copy of the transcript ~~, duly certified by an officer authorized~~  
18 ~~to administer oaths,~~ shall be delivered to the witness as soon  
19 as practicable ~~thereafter~~ AFTER TRANSCRIPTION. ~~No person~~  
20 ~~required to answer such questions shall thereafter be prosecuted~~  
21 ~~for any offense concerning which such answers may have tended to~~  
22 ~~incriminate him.~~

23       (3) TESTIMONY OR OTHER INFORMATION COMPELLED UNDER THE ORDER  
24 GRANTING IMMUNITY AND ANY INFORMATION DERIVED DIRECTLY OR INDI-  
25 RECTLY FROM THAT TESTIMONY OR OTHER INFORMATION SHALL NOT BE USED  
26 AGAINST THE WITNESS IN A CRIMINAL CASE, EXCEPT FOR IMPEACHMENT

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1 PURPOSES OR IN A PROSECUTION FOR PERJURY OR OTHERWISE FAILING TO  
2 COMPLY WITH THE ORDER.

3           SEC. 2A. (1) A PUBLIC OFFICIAL OR AGENCY AUTHORIZED BY A  
4 STATUTE OF THIS STATE TO ISSUE A SUBPOENA OR OTHERWISE COMPEL THE  
5 TESTIMONY OF A WITNESS OR THE PRODUCTION OF EVIDENCE IN AN INVES-  
6 TIGATION OR PROCEEDING AUTHORIZED BY THE STATUTE, OR AUTHORIZED  
7 TO SEEK A SUBPOENA OR COMPELLED TESTIMONY OR PRODUCTION FROM A  
8 COURT, MAY APPLY TO THE COURT REQUIRED TO ISSUE THE SUBPOENA OR  
9 COMPEL THE TESTIMONY OR PRODUCTION OR OTHERWISE TO THE CIRCUIT  
10 COURT OF THE COUNTY IN WHICH THE INVESTIGATION OR PROCEEDING IS  
11 CONDUCTED FOR AN ORDER GRANTING IMMUNITY TO A PERSON WHO MIGHT  
12 GIVE TESTIMONY OR PRODUCE EVIDENCE CONCERNING THE INVESTIGATION  
13 OR SUBJECT OF THE PROCEEDING.

14           (2) THE APPLICATION SHALL DESIGNATE THE PERSON BY NAME AND  
15 ADDRESS. THE PUBLIC OFFICIAL OR AGENCY SHALL INCLUDE A VERIFIED  
16 STATEMENT SETTING FORTH THE FACTS UPON WHICH THE APPLICATION IS  
17 BASED.

18           (3) IF THE COURT DETERMINES THAT IT IS IN THE INTERESTS OF  
19 JUSTICE TO GRANT IMMUNITY, THE COURT SHALL ENTER AN ORDER GRANT-  
20 ING IMMUNITY TO THE WITNESS IF THE WITNESS TESTIFIES OR PRODUCES  
21 EVIDENCE IN THE INVESTIGATION OR PROCEEDING CONCERNING THE INVES-  
22 TIGATION OR SUBJECT OF THE PROCEEDING.

23           (4) A TRUE COPY OF THE ORDER GRANTING IMMUNITY SHALL BE  
24 DELIVERED TO THE WITNESS BEFORE HE OR SHE ANSWERS ANY QUESTIONS  
25 SUBSEQUENTLY ASKED AT THE INVESTIGATION OR PROCEEDING OR IS  
26 REQUIRED TO PRODUCE ANY EVIDENCE. THE ORDER GRANTING IMMUNITY

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1 APPLIES UNTIL THE COURT INFORMS THE WITNESS THAT THE IMMUNITY NO  
2 LONGER APPLIES.

3 (5) ALL QUESTIONS OF THE WITNESS AND HIS OR HER ANSWERS  
4 SHALL BE TRANSCRIBED. A TRUE AND CERTIFIED COPY OF THE TRAN-  
5 SCRIPT SHALL BE DELIVERED TO THE WITNESS AS SOON AS PRACTICABLE  
6 AFTER TRANSCRIPTION.

7 (6) TESTIMONY, EVIDENCE, OR OTHER INFORMATION COMPELLED  
8 UNDER THE ORDER GRANTING IMMUNITY AND ANY INFORMATION DERIVED  
9 DIRECTLY OR INDIRECTLY FROM THAT TESTIMONY, EVIDENCE, OR OTHER  
10 INFORMATION SHALL NOT BE USED AGAINST THE WITNESS IN A CRIMINAL  
11 CASE, EXCEPT FOR IMPEACHMENT PURPOSES OR IN A PROSECUTION FOR  
12 PERJURY OR OTHERWISE FAILING TO COMPLY WITH THE ORDER.

13 (7) IF A STATUTE DESCRIBED IN SUBSECTION (1) GRANTS OR PER-  
14 MITS IMMUNITY TO A WITNESS COMPELLED TO TESTIFY OR PRODUCE EVI-  
15 DENCE THAT IS DIFFERENT IN NATURE FROM THE IMMUNITY AUTHORIZED  
16 UNDER THIS SECTION, THE PUBLIC OFFICIAL OR AGENCY MAY APPLY FOR  
17 AN ORDER GRANTING IMMUNITY UNDER THIS SECTION AS AN ALTERNATIVE  
18 TO THE IMMUNITY GRANTED OR PERMITTED UNDER THAT STATUTE.

19 Sec. 3. A witness who fails or refuses to testify at a  
20 ~~preliminary examination or trial~~ PROCEEDING DESCRIBED IN THIS  
21 ACT after service of a true copy of the order granting THE  
22 WITNESS immunity ~~upon him~~ is guilty of contempt.

23 Enacting section 1. This amendatory act does not take  
24 effect unless all of the following bills of the 89th Legislature  
25 are enacted into law:

26 (a) Senate Bill No. 474.

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- 1 (b) Senate Bill No. 475.
- 2 (c) Senate Bill No. 476.