

REPEAL “ONE-MAN GRAND JURY” PROVISIONS

Phone: (517) 373-8080
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House Bill 4434 as introduced
Sponsor: Rep. Luke Meerman
House Committee: Judiciary
Complete to 5-20-25

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4434 would amend Chapter VII (Grand Juries, Indictments, Informations and Proceedings Before Trial) of the Code of Criminal Procedure to repeal several sections that establish Michigan’s “one-man grand jury” process, in which a judge serves as the sole juror. The sections that would be repealed (3, 4, 5, 6, 6a, and 6b) are described below.

Section 3 authorizes a judge to direct an inquiry to be made if they have probable cause to believe that a crime has been committed in their jurisdiction due to a filed complaint or upon the application of a prosecutor or the attorney general. The judge can call or subpoena witnesses, and all inquiry testimony must be in their presence. A witness has the right to have legal counsel present. If an inquiry lasts longer than 30 days, any judge, prosecutor, or attorney general who participated in it must be disqualified, for up to one year after the date the inquiry ends, from being appointed or elected to any office other than the one they held at the time of the inquiry.

Section 4 authorizes a judge conducting an inquiry to issue an arrest warrant if they are satisfied that a crime has been committed and that there is probable cause to suspect a person is guilty. The judge cannot conduct the preliminary examination in connection with the hearing on the complaint or indictment, preside at any trial arising from the inquiry, hear a motion to dismiss or quash a complaint or indictment, or generally hear a charge of contempt.

If the judge finds probable cause to believe that a public officer has engaged in misconduct that they can be removed from office for, the judge must serve a written finding on the officer and the board or body that has jurisdiction over the proceedings for removal.

If the judge, or a prosecutor or other person in the service of the judge, discloses certain information relating to the inquiry, they are guilty of a misdemeanor punishable by imprisonment for up to a year or a fine of \$100 to \$1,000, or both. However, the judge can file with the county clerk a report of “no finding of criminal guilt” for a person whose involvement with the inquiry became public but for whom no presentment of crime or wrongdoing is made. Such a report is at the judge’s discretion and must be made with the person’s consent.

An inquiry or proceeding under Chapter VII is limited to no more than six months unless extended by specific order of the judge for up to an additional six months.

Section 5 provides that a witness who neglects or refuses to appear in response to a summons in an inquiry, or who neglects or refuses to answer questions the judge considers material, is guilty of contempt punishable by imprisonment for up to one year or a fine of up to \$1,000, or both.

Section 6 allows the judge to issue an order granting immunity to witnesses in an inquiry in exchange for truthful testimony on questions whose answers might tend to incriminate the witness. Under the grant of immunity, the witness's truthful testimony on those and related questions cannot be used as evidence against them in a criminal case (except for impeachment purposes or in a prosecution for perjury or otherwise failing to comply with the order).

Section 6a requires the records of an inquiry that lasts 30 days or less to be sealed and filed with the clerk of the Michigan Supreme Court, where it is to be held secretly in a securely locked container. A person who violates the secrecy is guilty of a misdemeanor punishable by imprisonment for up to a year or a fine of \$100 to \$1,000, or both. The section also provides that the records that relate to a witness must be made available to them upon request for certain court proceedings, such as an appeal. The records must be kept for at least six years, but after that can be destroyed if it is determined by a circuit judge of the relevant county that there is no further need to keep them.

Section 6b requires the judge to file with the court clerk a public accounting of all money disbursed by the judge or at the judge's direction within 90 days after an inquiry ends.

MCL 767.3 et seq. (repealed)

FISCAL IMPACT:

House Bill 4434 would have an indeterminate fiscal impact on the state and on local units of government. It is not possible to determine with certainty either the prevalence of the one-man grand jury system across the state or the associated costs. In the court caseload reporting system, data is not compiled in a way that distinguishes between different case types filed in courts, which means there is no differentiation between a one-man grand jury case and a citizen grand jury case. Based on surveys conducted to try to determine use of one-man grand juries in counties across the state, it appears the one-man grand jury is rarely used and has been used only more recently (in the last five years or so) in a small number of counties for very specific case types. Because it is not possible to get data on the actual number of one-man grand juries that are convened on an annual basis, it is not possible to determine the fiscal impact of the bill.

Legislative Analyst: Aaron A. Meek
Fiscal Analyst: Robin Risko

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.