



www.lsc.ohio.gov

# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

**H.B. 527**  
**136<sup>th</sup> General Assembly**

## Bill Analysis

**Version:** As Introduced

**Primary Sponsor:** Rep. Williams [Click here for H.B. 527's Fiscal Note](#)

Ashley F. Dean, Attorney

### SUMMARY

- Specifies that a person charged with a felony is entitled to a preliminary hearing or an open grand jury.
- Establishes procedures for preliminary hearings and open grand juries.
- Requires waiver of a preliminary hearing or an open grand jury to be made in writing.
- Specifies that open grand jurors are selected in the same manner as secret grand jurors, except that an open grand jury may be impaneled for an individual case or for a specified term.
- Requires administration of an oath for both secret and open grand juries.
- Clarifies that use of the secret grand jury oath for an open grand jury prior to the bill's effective date does not invalidate or affect the validity of the impanelment of the grand jury, any proceeding, inquiry, or presentation of the grand jury, any indictment or other document found, returned, or issued by the grand jury, or any other action taken by the grand jury.
- Specifies between provisions applicable to a secret grand jury and which provisions apply to grand juries generally.

---

---

## DETAILED ANALYSIS

### Preliminary hearings

#### Current procedure

Under current law, after a person is arrested and charged with a felony offense, the court schedules a preliminary hearing.<sup>1</sup> The prosecutor can orally state the case for the state, as well as examine witnesses and introduce exhibits. The accused and the magistrate can cross-examine the prosecutor and the accused has the right to inspect exhibits prior to their introduction. The hearing is conducted pursuant to the Rules of Evidence.<sup>2</sup> After the state presents its case, the accused may move for discharge for failure of proof or may offer evidence on the accused's behalf.<sup>3</sup> Upon conclusion of all the evidence and the statement, if any, of the accused, the court must do either of the following:<sup>4</sup>

- Find that the crime alleged has been committed and that there is probable and reasonable cause to hold or recognize the defendant to appear before the court of common pleas of the county or any other county in which venue appears, for trial pursuant to indictment by grand jury;
- Find that there is probable cause to hold or recognize the defendant to appear before the court of common pleas for trial pursuant to indictment or information in such other charge, felony, or misdemeanor, as the evidence indicates was committed by the accused;
- Find that a misdemeanor was committed and there is probable cause to recognize the accused to appear before the court or some other court inferior to the court of common pleas for trial upon such charge;
- Order the accused discharged from custody.

#### Procedure under the bill

Under the bill, when a defendant first appears before a judge or magistrate, the judge or magistrate must allow the defendant or the defendant's counsel to read the complaint and must inform the defendant that the defendant has a right to a preliminary hearing or an open grand jury in a felony case when the defendant's initial appearance is not pursuant to indictment.<sup>5</sup>

In felony cases a defendant is entitled to a preliminary hearing or an open grand jury, unless waived in writing. If the defendant waives the preliminary hearing and open grand jury, the judge or magistrate must order the defendant bound over to the court of common pleas. If

---

<sup>1</sup> R.C. 2937.10.

<sup>2</sup> R.C. 2937.11(A)(3).

<sup>3</sup> R.C. 2937.12(A).

<sup>4</sup> R.C. 2937.12(B).

<sup>5</sup> R.C. 2937.111(A).

the defendant does not waive the preliminary hearing and the open grand jury, the judge or magistrate must schedule a preliminary hearing within a reasonable time, but not later than ten consecutive days following arrest or service of summons if the defendant is in custody and not later than 15 consecutive days following arrest or summons if the defendant is not in custody.<sup>6</sup>

If the charge is a felony and there is no written guilty plea, waiver of examination, or waiver of open grand jury, or the court refuses to receive a waiver of examination or open grand jury, the court or magistrate may set the matter for hearing with the consent of the prosecutor and the accused. Otherwise, the court or magistrate will set the matter for hearing at a fixed time in the future, and provide prompt notice to both the prosecutor and defendant.<sup>7</sup>

A defendant in a felony case who has not waived in writing the preliminary hearing and the open grand jury may elect to demand, through an open grand jury, that the state provide probable cause to believe the crime charged or another felony occurred. An open grand jury operates in the same manner as a secret grand jury except that the proceedings are open to the public and the defendant has the opportunity, at the conclusion of the presentation of the state's case, to move for discharge for failure of proof or to offer evidence on the defendant's own behalf.<sup>8</sup>

Unless the defendant is represented by counsel, prior to the offering of evidence on behalf of the defendant, the prosecutor must advise the defendant of all of the following:<sup>9</sup>

- That any testimony of witnesses offered by the defendant in the proceeding may, if unfavorable in any particular, be used against the defendant at later trial;
- That the defendant may make a statement, not under oath, regarding the charge, for the purpose of explaining the facts in evidence;
- That the defendant may refuse to make any statement and such refusal may not be used against the defendant at trial;
- That any statement the defendant makes may be used against the defendant at trial.

If a defendant demands an open grand jury, the judge or magistrate must refer the case to an open grand jury unless either of the following has occurred:<sup>10</sup>

- The state, upon objection to the referral, establishes that the case should proceed to a secret grand jury for indictment to prevent destruction of evidence, to address the defendant's flight risk, or to mitigate a risk that the defendant would cause harm to others upon release.

---

<sup>6</sup> R.C. 2937.111(B).

<sup>7</sup> R.C. 2937.10.

<sup>8</sup> R.C. 2937.111(C) and 2937.12(A).

<sup>9</sup> R.C. 2937.111(D) and 2937.12(A).

<sup>10</sup> R.C. 2937.111(E).

- A secret grand jury has already returned an indictment in the case.

If the state establishes either of the above, the case proceeds to a secret grand jury and the defendant may be held, pending indictment, for up to ten consecutive days following the arrest or service of summons.<sup>11</sup>

After the charge of the court of common pleas, a secret grand jury must retire with the officer appointed to attend it, and proceed to inquire of and present all offenses committed within the county, except for those offenses disposed of by an open grand jury.<sup>12</sup>

## Grand juries

A grand jury decides whether the state has good enough reason to bring felony charges against a person alleged to have committed a crime. The grand jury does not determine whether the accused person is guilty or innocent, only whether there is sufficient evidence for the prosecutor to bring criminal charges.

Under the bill, secret grand juries and open grand juries consist of 15 persons who satisfy the statutory requirements of a juror. Persons to serve as secret grand jurors in the court of common pleas of each county are selected from the persons whose names are contained in the annual jury list. Persons to serve as open grand jurors are selected in the same manner as secret grand jurors, except that an open grand jury may be impaneled for an individual case or for a specified term.<sup>13</sup>

When a secret grand jury is impaneled, the court of common pleas appoints one of the members of the secret grand jury as foreperson and administers an oath.<sup>14</sup> Similarly, under the bill when an open grand jury is impaneled, the court of common pleas appoints one of the members of the grand jury as foreperson, and administers an oath. The oaths are the same except that the oath for an open grand jury omits the requirement that jury members keep secret all proceedings of the grand jury unless required in a court of justice to make a disclosure, which is present in the oath of the secret grand jury.<sup>15</sup>

If a court impaneling an open grand jury uses the secret grand juror's oath that was in effect for secret grand jurors impaneled prior to the bill's effective date, the court's use of the former oath does not invalidate or affect the validity of the impanelment of the grand jury, any proceeding, inquiry, or presentation of the grand jury, any indictment or other document found, returned, or issued by the grand jury, or any other action taken by the grand jury.<sup>16</sup>

---

<sup>11</sup> R.C. 2937.111(F).

<sup>12</sup> R.C. 2939.08.

<sup>13</sup> R.C. 2939.02.

<sup>14</sup> R.C. 2939.06(A).

<sup>15</sup> R.C. 2939.06(A) and 2939.061(A).

<sup>16</sup> R.C. 2939.061(B).

Open grand jurors, after being sworn, are charged as to their duty by the judge of the court of common pleas, who explains to them the law applicable to the matters brought before them.<sup>17</sup>

The bill also specifies between provisions applicable to a secret grand jury or open grand juries, and which provisions apply to grand juries generally.<sup>18</sup>

---

---

## HISTORY

Action	Date
Introduced	10-15-25

---

ANHB0527IN-136/ts

---

<sup>17</sup> R.C. 2939.071.

<sup>18</sup> *Sections specifying a secret grand jury under the bill:* R.C. 109.83, 109.84, 109.85, 109.86, 121.22, 177.03, 701.03, 2152.13, 2930.09, 2933.62, 2933.63, 2939.06, 2939.07, 2939.09, 2939.10, 2939.11, 2939.14, 2939.15, 2939.17, 2939.19, 2939.24, 3515.13, 3701.14, 3701.17, 3701.24, and 4113.22. *Sections specifying an open grand jury under the bill:* R.C. 2151.43 and 2951.041. *Sections applicable to all grand juries under the bill:* R.C. 307.52, 325.07, 1901.21, 2301.25, 2335.08, 2935.36, 2937.09, 2939.03, 2939.12, 2939.13, 2939.16, 2939.23, 2941.06, 2941.58, and 2953.33.