

SENATE, No. 728

STATE OF NEW JERSEY

INTRODUCED MAY 6, 1968

By Senators FORSYTHE, McDERMOTT, WOODCOCK,
DICKINSON and SCHIAFFO

Referred to Committee on Law, Public Safety and Defense

AN ACT establishing a code of fair procedure to govern State investigating agencies and providing a penalty for certain violations thereof.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. As used in this act:

2 (a) "Agency" means any legislative committee or commission
3 having the powers set forth in Revised Statutes 52:13-1, the
4 Governor or a person appointed by him acting pursuant to P. L.
5 1941, chapter 16, section 1 (C. 52:15-7) and any temporary State
6 commission or duly authorized subcommittee thereof which has
7 the power to require testimony or the production of evidence by
8 subpoena.

9 (b) "Hearing" means any hearing in the course of an investi-
10 gatory proceeding (other than a preliminary conference or inter-
11 view at which no testimony is taken under oath) conducted before
12 an agency at which testimony or the production of other evidence
13 may be compelled by subpoena or other compulsory process.

14 (c) "Public hearing" means any hearing open to the public,
15 or any hearing, or such part thereof, as to which testimony or other
16 evidence is made available or disseminated to the public by
17 the agency.

18 (d) "Private hearing" means any hearing other than a public
19 hearing.

1 2. No person may be required to appear at a hearing or to
2 testify at a hearing unless there has been personally served upon
3 him prior to the time when he is required to appear, a copy of this
4 act, and a general statement of the subject of the investigation.
5 A copy of the resolution, statute, order or other provision of law
6 authorizing the investigation shall be furnished by the agency upon
7 request therefor by the person summoned.

1 3. A witness summoned to a hearing shall have the right to be
2 accompanied by counsel, who shall be permitted to advise the
3 witness of his rights, subject to reasonable limitations to prevent
4 obstruction of or interference with the orderly conduct of the
5 hearing. Counsel for any witness who testifies at a public hearing
6 may submit proposed questions to be asked of the witness relevant
7 to the matters upon which the witness has been questioned and the
8 agency shall ask the witness such of the questions as it may deem
9 appropriate to its inquiry.

1 4. A complete and accurate record shall be kept of each
1A public hearing and a witness shall be entitled to receive a
2 copy of his testimony at such hearing at his own expense. Where
3 testimony which a witness has given at a private hearing becomes
4 relevant in a criminal proceeding in which the witness is a defend-
5 ant, or in any subsequent hearing in which the witness is summonsd
6 to testify, the witness shall be entitled to a copy of such testimony,
7 at his own expense, provided the same is available, and provided
8 further that the furnishing of such copy will not prejudice the public
9 safety or security.

1 5. A witness who testifies at any hearing shall have the right
2 at the conclusion of his examination to file a brief sworn statement
3 relevant to his testimony for incorporation in the record of the
4 investigatory proceeding.

1 6. Any person whose name is mentioned or who is specifically
2 identified and who believes that testimony or other evidence given
3 at a public hearing or comment made by any member of the agency
4 or its counsel at such a hearing tends to defame him or otherwise
5 adversely affect his reputation shall have the right, either to appear
6 personally before the agency and testify in his own behalf as to
7 matters relevant to the testimony or other evidence complained of,
8 or in the alternative at the option of the agency, to file a statement
9 of facts under oath relating solely to matters relevant to the
10 testimony or other evidence complained of, which statement shall
11 be incorporated in the record of the investigatory proceeding.

1 7. Nothing in this act shall be construed to prevent an agency
2 from granting to witnesses appearing before it, or to persons who
3 claim to be adversely affected by testimony or other evidence
4 adduced before it, such further rights and privileges as it may
5 determine.

1 8. Except in the course of subsequent hearing which is open to
2 the public, no testimony or other evidence adduced at a private
3 hearing or preliminary conference or interview conducted before
4 a single-member agency in the course of its investigation shall be

5 disseminated or made available to the public by said agency, its
6 counsel or employees without the approval of the head of the
7 agency. Except in the course of a subsequent hearing open to the
8 public, no testimony or other evidence adduced at a private hearing
9 or preliminary conference or interview before a committee or other
10 multimember investigating agency shall be disseminated or made
11 available to the public by any member of the agency, its counsel or
12 employees, except with the approval of a majority of the members
13 of such agency. Any person who violates the provisions of this
14 subdivision shall be adjudged a disorderly person.

1 9. No temporary State commission having more than 2 members
2 shall have the power to take testimony at a public or private hearing
3 unless at least 2 of its members are present at such hearing.

1 10. Nothing in this act shall be construed to effect, diminish or
2 impair the right, under any other provision of law, rule or custom,
3 of any member or group of members of a committee or other
4 multimember investigating agency to file a statement or statements
5 of minority views to accompany and be released with or subsequent
6 to the report of the committee or agency.

1 11. This act shall take effect immediately.

STATEMENT

This bill is recommended by the Joint Legislative Committee to Study Crime and the System of Criminal Justice in New Jersey as a companion to its bill recommending a State Commission of Investigation.

SENATE COMMITTEE AMENDMENT TO
SENATE, No. 728

STATE OF NEW JERSEY

ADOPTED NOVEMBER 15, 1968

Amend page 1, section 1, lines 2 to 8, omit and insert:

“(a) ‘Agency’ means any of the following while engaged in an investigation or inquiry: (1) the Governor or any person or persons appointed by him acting pursuant to P. L. 1941, c. 16, s. 1 (C. 52:15-7), (2) any temporary State commission or duly authorized committee thereof having the power to require testimony or the production of evidence by subpoena, or (3) any legislative committee or commission having the powers set forth in Revised Statutes 52:13-1.”

CHAPTER 376 L. S. J. 1968

APPROVED 12/27/68
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7 the power to require testimony or the production of evidence by
8 subpoena.]*

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8B investigation or inquiry: (1) the Governor or any person or persons
2C appointed by him acting pursuant to P. L. 1941, c. 16, s. 1 (C.
8D 52:15-7), (2) any temporary State commission or duly authorized
8E committee thereof having the power to require testimony or the
8F production of evidence by subpoena, or (3) any legislative committee
8G or commission having the powers set forth in Revised Statutes
8H 52:13-1.*

9 (b) "Hearing" means any hearing in the course of an investi-
10 gatory proceeding (other than a preliminary conference or inter-
11 view at which no testimony is taken under oath) conducted before
12 an agency at which testimony or the production of other evidence
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14 (c) "Public hearing" means any hearing open to the public,
15 or any hearing, or such part thereof, as to which testimony or other
16 evidence is made available or disseminated to the public by
17 the agency.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

18 (d) "Private hearing" means any hearing other than a public
19 hearing.

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2 testify at a hearing unless there has been personally served upon
3 him prior to the time when he is required to appear, a copy of this
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5 A copy of the resolution, statute, order or other provision of law
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7 request therefor by the person summoned.

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