

October 14, 1968

copy no. 2

LEGISLATIVE NOTES ON R.S. 2A:81-17.3
(Compelling witness in criminal proceedings to testify; immunity)

Beginning in 1959, bills were introduced each year to compel witnesses to testify and to grant them immunity:

- 1959 - A7 - Passed Assembly; died in Senate Committee.
- 1960 - A126 - Died in Assembly Committee.
- 1960 - S40 - Died in Senate Committee.
- 1961 - A207 - Died in Assembly Committee.
- 1961 - S38 - Died in Senate Committee.
- 1962 - S105 - Died in Senate Committee.
- 1963 - S149 - Died in Senate Committee.
- 1964 - A629 - Died in Assembly Committee.
- 1965 - A357 - Lost vote on Assembly floor (copy enc.)
- 1966 - A31 - Died in Assembly Committee (copy enc.)
- 1966 - S231 - Died in Senate Committee (copy enc.)
- 1967 - A165 - Died in Assembly Committee (copy enc.)
- 1967 - S34 - Died in Senate Committee (copy enc.)

Two public hearings held on this bill Feb. 23 and May 9, 1967. Library has:

- 974.90 N.J. Legislature. Senate Committee
- C5815 Law and Public Safety.
- 1967a Public Hearing on Senate Bill #34 . . .
May 9, 1967
- 1968 - A588 - In Assembly Committee (copy enclosed)
- 1968 - S312 - in Senate Committee (copy enc.)

Bill which became law was:

L. 1968, Chapter 195 - S613

- Introduced April 1 by Maraziti [& 6 others].
- Bill had statement (copy of original bill with statement enc.)
- May 6 - Amended by Senate (copy enc.)
- June 13 - Passed Senate amended.
- June 17 - Amended by Assembly (copy enc.)
- June 24 - Passed Assembly amended.
- June 24 - Assembly amendment passed Senate.
- July 19 - Approved.

Enclosed See also: witness immunity called possible. NFN 1-2067
Seek witness immunity. NFN 1-20-68

RSL/PC

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NEW JERSEY STATE LIBRARY.

Now they'll talk. Bergen Record 9/30/68
Impetus for witness immunity DJ 7/8/67
185 W. State Street
Trenton, N. J.

We searched the following without success:
New Jersey Home Journal Index 1957-1968

DEPOSITORY COPY
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[SECOND OFFICIAL COPY REPRINT]

SENATE, No. 618

STATE OF NEW JERSEY

INTRODUCED APRIL 1, 1968

By Senators MARAZITI, WALDOR, TANZMAN
and CRABIEL

Referred to Committee on Judiciary

AN ACT providing for the compelling of evidence from certain persons in criminal proceedings and for the granting of immunity ***[from prosecution]*** to such persons **from the use of such evidence against them in certain cases**.

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

1 1. In any criminal proceeding before a court or grand jury, if
2 a person refuses to answer a question or produce evidence of any
3 other kind on the ground that he may be incriminated thereby and
4 if the ****[*Commissioner of Criminal Justice,*]**** Attorney General
5 or the county prosecutor with the approval of the ****[*Commis-**
6 **sioner of Criminal Justice or*]**** Attorney General, in writing,
7 requests the court to order that person to answer the question or
8 produce the evidence, the court shall so order and that person shall
9 comply with the order. After complying and if but for this section,
10 he would have been privileged to withhold the answer given or the
11 evidence produced by him, such ***[person shall not be prosecuted or**
12 **subjected to penalty or forfeiture for or on account of any transac-**
13 **tion, matter or thing concerning which, in accordance with the**
14 **order, he gave answer or produced evidence]*** **testimony or*
15 *evidence may not be used against the person in any proceeding or*
16 *prosecution for a crime or offense concerning which he gave answer*
17 *or produced evidence under court order**. However, he may never-
18 theless be prosecuted or subjected to penalty or forfeiture for any
19 perjury, false swearing or contempt committed in answering, or
20 failing to answer, or in producing, or failing to produce, evidence
21 in accordance with the order. If a person refuses to testify after
22 being granted immunity from prosecution and after being ordered

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

23 to testify as aforesaid, he may be adjudged in contempt and com-
24 mitted to the county jail until such time as he purges himself of
25 contempt by testifying as ordered without regard to the expiration
26 of the grand jury; provided, however, that if the grand jury before
27 which he was ordered to testify has been dissolved, he may then
28 purge himself by testifying before the court.

1 2. This act shall take effect immediately.

SENATE, No. 618

STATE OF NEW JERSEY

INTRODUCED APRIL 1, 1968

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and CRABIEL

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AN ACT providing for the compelling of evidence from certain persons in criminal proceedings and for the granting of immunity from prosecution to such persons.

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

1 1. In any criminal proceeding before a court or grand jury, if
2 a person refuses to answer a question or produce evidence of any
3 other kind on the ground that he may be incriminated thereby and
4 if the Attorney General or the county prosecutor with the approval
5 of the Attorney General, in writing, requests the court to order
6 that person to answer the question or produce the evidence, the
7 court shall so order and that person shall comply with the order.
8 After complying and if but for this section, he would have been
9 privileged to withhold the answer given or the evidence produced
10 by him, such person shall not be prosecuted or subjected to penalty
11 or forfeiture for or on account of any transaction, matter or thing
12 concerning which, in accordance with the order, he gave answer or
13 produced evidence. However, he may nevertheless be prosecuted
14 or subjected to penalty or forfeiture for any perjury, false swear-
15 ing or contempt committed in answering, or failing to answer, or
16 in producing, or failing to produce, evidence in accordance with
17 the order. If a person refuses to testify after being granted im-
18 munity from prosecution and after being ordered to testify as
19 aforesaid, he may be adjudged in contempt and committed to the
20 county jail until such time as he purges himself of contempt by
21 testifying as ordered without regard to the expiration of the grand
22 jury; provided, however, that if the grand jury before which he
23 was ordered to testify has been dissolved, he may then purge him-
24 self by testifying before the court.

1 2. This act shall take effect immediately.

STATEMENT

This bill is patterned after the Model State Witness Immunity Act drafted by the American Bar Association's Commission on Organized Crime and has been approved by the National Conference of Commissioners on Uniform State Laws. It implements a recommendation contained in the report of the President's Commission on Law Enforcement and Administration of Justice.

SENATE AMENDMENTS TO
SENATE, No. 618

—◆—
STATE OF NEW JERSEY
—◆—

ADOPTED MAY 6, 1968

Amend page 1, title, line 3, omit "from prosecution", after "persons", insert "from the use of such evidence against them in certain cases".

Amend page 1, section 1, line 4, before "Attorney", insert "Commissioner of Criminal Justice,".

Amend page 1, section 1, line 5, before "Attorney General", insert "Commissioner of Criminal Justice or ".

Amend page 1, section 1, lines 10 to 13, after "such", omit "person shall not be prosecuted or subjected to penalty or forfeiture for or on account of any transaction, matter or thing concerning which, in accordance with the order, he gave answer or produced evidence", insert "testimony or evidence may not be used against the person in any proceeding or prosecution for a crime or offense concerning which he gave answer or produced evidence under court order".

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SENATE, No. 618

STATE OF NEW JERSEY

INTRODUCED APRIL 1, 1968

By Senators MARAZITI, WALDOR, TANZMAN
and CRABIEL

Referred to Committee on Judiciary

AN ACT providing for the compelling of evidence from certain persons in criminal proceedings and for the granting of immunity ***[from prosecution]*** to such persons **from the use of such evidence against them in certain cases**.

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2 *of New Jersey:*

1 1. In any criminal proceeding before a court or grand jury, if
2 a person refuses to answer a question or produce evidence of any
3 other kind on the ground that he may be incriminated thereby and
4 if the **Commissioner of Criminal Justice,** Attorney General or the
5 county prosecutor with the approval of the **Commissioner of Crimi-*
5A *nal Justice or** Attorney General, in writing, requests the court to
6 order that person to answer the question or produce the evidence,
7 the court shall so order and that person shall comply with the order.
8 After complying and if but for this section, he would have been
9 privileged to withhold the answer given or the evidence produced by
10 him, such ***[person shall not be prosecuted or subjected to penalty**
11 **or forfeiture for or on account of any transaction, matter or thing**
12 **concerning which, in accordance with the order, he gave answer or**
13 **produced evidence]*** **testimony or evidence may not be used*
13A *against the person in any proceeding or prosecution for a crime or*
13B *offense concerning which he gave answer or produced evidence*
13C *under court order**. However, he may nevertheless be prosecuted or
14 subjected to penalty or forfeiture for any perjury, false swear-
15 ing or contempt committed in answering, or failing to answer, or
16 in producing, or failing to produce, evidence in accordance with
17 the order. If a person refuses to testify after being granted im-
18 munity from prosecution and after being ordered to testify as
19 aforesaid, he may be adjudged in contempt and committed to the
20 county jail until such time as he purges himself of contempt by

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

21 testifying as ordered without regard to the expiration of the grand
22 jury; provided, however, that if the grand jury before which he
23 was ordered to testify has been dissolved, he may then purge him-
24 self by testifying before the court.

1 2. This act shall take effect immediately.

ASSEMBLY AMENDMENTS TO

SENATE, No. 618

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STATE OF NEW JERSEY

ADOPTED JUNE 17, 1968

Amend page 1, section 1, line 4, after "the", delete "Commissioner of Criminal Justice,".

Amend page 1, section 1, line 5, following " of the", delete "Commissioner of Criminal Justice or".