

Assembly Bill No. 622

Passed the Assembly September 8, 2011

Chief Clerk of the Assembly

Passed the Senate September 7, 2011

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2011, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add and repeal Section 939.22 of the Penal Code, relating to grand juries.

LEGISLATIVE COUNSEL'S DIGEST

AB 622, Dickinson. Civil grand juries.

Under existing law, no person is permitted to be present during the criminal sessions of the grand jury except the members and witnesses actually under examination, and certain other specified persons, including, among others, the district attorney, an interpreter, and the officer having custody of a prisoner witness while the prisoner is testifying.

This bill would, until January 1, 2017, authorize any witness who is called to give testimony under oath before a civil grand jury to have counsel present on his or her behalf while he or she is testifying. The bill would impose restrictions on counsel in connection with the grand jury proceedings. The bill would provide that a violation of these provisions by counsel is a violation of the Rules of Professional Conduct.

The people of the State of California do enact as follows:

SECTION 1. Section 939.22 is added to the Penal Code, to read:

939.22. (a) Any witness who is called to give testimony under oath before a civil grand jury may have counsel present on his or her behalf while he or she is testifying. Any counsel present before the grand jury pursuant to this subdivision shall comply with all of the following:

(1) Counsel shall not object to any questions asked of the witness or otherwise speak to the grand jury, but may advise the witness during the course of the examination.

(2) Counsel shall not disclose or use anything heard in the grand jury room other than in the representation of the witness he or she represents.

(b) A violation of this section by counsel shall be a violation of the Rules of Professional Conduct and may be reported to the State Bar of California.

(c) Nothing in this section shall be construed to grant a witness a constitutional right to counsel under the United States or California Constitutions nor grant any right to discovery for the subpoenaed witness.

(d) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

Approved _____, 2011

Governor