

AMENDED IN SENATE MAY 25, 2012
AMENDED IN SENATE APRIL 11, 2012
AMENDED IN SENATE MARCH 29, 2012

SENATE BILL

No. 1474

**Introduced by Senator Hancock
(Coauthors: Senators DeSaulnier, Leno, and Pavley)**

February 24, 2012

An act to amend Sections 781 and 923 of the Penal Code, relating to grand jury proceedings.

LEGISLATIVE COUNSEL'S DIGEST

SB 1474, as amended, Hancock. Grand jury proceedings: Attorney General: powers and duties.

Existing law authorizes the Attorney General to convene the grand jury to investigate and consider certain criminal matters. The Attorney General is authorized to take full charge of the presentation of the matters to the grand jury, issue subpoenas, prepare indictments, and do all other things incident thereto to the same extent as the district attorney may do. Existing law authorizes the Attorney General to ~~empanel~~ *impanel* a special grand jury to investigate, consider, or issue indictments for specified activities relating to Medi-Cal fraud.

This bill also would authorize the Attorney General to convene a special grand jury, as prescribed, for cases involving fraud or theft that ~~occurs~~ *occur* in more than one county ~~and where all potential charges could not otherwise be brought in a single county~~ and were conducted by a single defendant or multiple defendants acting in concert. ~~The bill would establish the Attorney General's Special Grand Jury Fund in the State Treasury and would require each defendant convicted of charges~~

~~brought by a special grand jury to pay a fine of \$500 into that fund, to be deposited into the General Fund and used upon appropriation of the Legislature.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 781 of the Penal Code is amended to
2 read:

3 781. Except as provided in Section 923, when a public offense
4 is committed in part in one jurisdictional territory and in part in
5 another, or the acts or effects thereof constituting or requisite to
6 the consummation of the offense occur in two or more jurisdictional
7 territories, the jurisdiction of the offense is in any competent court
8 within either jurisdictional territory.

9 SEC. 2. Section 923 of the Penal Code is amended to read:

10 923. (a) Whenever the Attorney General considers that the
11 public interest requires, he or she may, with or without the
12 concurrence of the district attorney, direct the grand jury to convene
13 for the investigation and consideration of those matters of a
14 criminal nature that he or she desires to submit to it. He or she may
15 take full charge of the presentation of the matters to the grand jury,
16 issue subpoenas, prepare indictments, and do all other things
17 incident thereto to the same extent as the district attorney may do.

18 (b) Whenever the Attorney General considers that the public
19 interest requires, he or she may, with or without the concurrence
20 of the district attorney, petition the court to impanel a special grand
21 jury to investigate, consider, or issue indictments for any of the
22 activities subject to fine, imprisonment, or asset forfeiture under
23 Section 14107 of the Welfare and Institutions Code. He or she
24 may take full charge of the presentation of the matters to the grand
25 jury, issue subpoenas, prepare indictments, and do all other things
26 incident thereto to the same extent as the district attorney may do.
27 If the evidence presented to the grand jury shows the commission
28 of an offense or offenses for which jurisdiction would be in a
29 county other than the county where the grand jury is impaneled,
30 the Attorney General, with or without the concurrence of the
31 district attorney in the county with jurisdiction over the offense or
32 offenses, may petition the court to impanel a special grand jury in

1 that county. Notwithstanding any other ~~provision of~~ law, upon
2 request of the Attorney General, a grand jury convened by the
3 Attorney General pursuant to this subdivision may submit
4 confidential information obtained by that grand jury, including,
5 but not limited to, documents and testimony, to a second grand
6 jury that has been impaneled at the request of the Attorney General
7 pursuant to this subdivision in any other county where venue for
8 an offense or offenses shown by evidence presented to the first
9 grand jury is proper. All confidentiality provisions governing
10 information, testimony, and evidence presented to a grand jury
11 shall be applicable, except as expressly permitted by this
12 subdivision. The Attorney General shall inform the grand jury that
13 transmits confidential information and the grand jury that receives
14 confidential information of any exculpatory evidence, as required
15 by Section 939.71. The grand jury that transmits information to
16 another grand jury shall include the exculpatory evidence disclosed
17 by the Attorney General in the transmission of the confidential
18 information. The Attorney General shall inform both the grand
19 jury transmitting the confidential information and the grand jury
20 receiving that information of their duties under Section 939.7. A
21 special grand jury convened pursuant to this subdivision shall be
22 in addition to the other grand juries authorized by this chapter or
23 Chapter 2 (commencing with Section 893).

24 (c) Whenever the Attorney General considers that the public
25 interest requires, he or she may, with or without the concurrence
26 of the district attorney, impanel a special grand jury to investigate,
27 consider, or issue indictments in matters in which there are multiple
28 activities, in which fraud or theft is a material element, that have
29 occurred in more than one county and *were* conducted either by a
30 single defendant or multiple defendants acting in concert.

31 (1) This special grand jury may be impaneled in the Counties
32 of Fresno, Los Angeles, Sacramento, San Diego, or San Francisco,
33 at the Attorney General's discretion. ~~A special grand jury~~
34 ~~impaneled under this section shall serve for a term of 18 months~~
35 ~~unless dismissed earlier by the Attorney General. Upon notice by~~
36 ~~the Attorney General to the grand jury coordinator or presiding~~
37 ~~judge of the county where the special grand jury is impaneled, the~~
38 ~~special grand jury's term can be extended by up to six months.~~
39 ~~This special grand jury is subject to the requirements of Sections~~
40 ~~888.2, 893, and 940. When impaneling a special grand jury~~

1 *pursuant to this subdivision, the Attorney General shall use an*
2 *existing regularly impaneled grand jury to serve as the special*
3 *grand jury and make arrangements with the grand jury coordinator*
4 *in the applicable county, or with the presiding judge or whoever*
5 *is charged with scheduling the grand jury hearings, in order to*
6 *ensure orderly coordination and use of the grand jurors' time for*
7 *both regular grand jury duties and special grand jury duties.*
8 *Whenever the Attorney General impanels a special grand jury, the*
9 *prosecuting attorney representing the Attorney General shall*
10 *inform the special grand jury at the outset of the case that the*
11 *special grand jury is acting as a special grand jury with statewide*
12 *jurisdiction.*

13 (2) For special grand juries impaneled pursuant to this
14 subdivision, the Attorney General may issue subpoenas for
15 documents and witnesses located anywhere in the state in order to
16 obtain evidence to present to the special grand jury. The special
17 grand jury may hear all evidence in the form of testimony or
18 physical evidence presented to the special grand jury, irrespective
19 of the location of the witness or physical evidence prior to
20 subpoena. The special grand jury impaneled pursuant to this
21 subdivision may indict a person or persons with charges for crimes
22 that occurred in counties other than where the special grand jury
23 is impaneled. The indictment shall then be submitted to the
24 appropriate court in any of the counties where any of the charges
25 could otherwise have been properly brought. The court where the
26 indictment is filed under this subdivision shall have proper
27 jurisdiction over all counts in the indictment.

28 (3) Notwithstanding Section 944, an indictment found by a
29 special grand jury and endorsed as a true bill by the special grand
30 jury foreperson, may be presented to the appropriate court, as set
31 forth in paragraph (2), solely by the prosecutor and within five
32 court days of the endorsement of the indictment. For indictments
33 presented to the court in this manner, the prosecutor shall also file
34 with the court or court clerk, at the time of presenting the
35 indictment, an affidavit signed by the special grand jury foreperson
36 attesting that all the jurors who voted on the indictment heard all
37 of the evidence presented by the prosecutor, and that a proper
38 number of jurors voted for the indictment pursuant to Section 940.
39 The Attorney General's office shall be responsible for prosecuting
40 an indictment produced by the special grand jury.

1 (4) If a defendant makes a timely and successful challenge to
2 the Attorney General’s right to convene a special grand jury by
3 clearly demonstrating that the charges brought are not encompassed
4 by this subdivision, the court shall dismiss the indictment without
5 prejudice to the Attorney General, who may bring the same or
6 other charges against the defendant at a later date by way of another
7 special grand jury, properly convened, or a regular grand jury, or
8 by any other procedure available.

9 (5) The provisions of Section 939.71 shall apply to the special
10 grand jury.

11 (6) Unless otherwise set forth in this section, a law applying to
12 a regular grand jury impaneled pursuant to Section 23 of Article
13 I of the California Constitution shall apply to a special grand jury
14 unless the application of the law to a special grand jury would
15 substantially interfere with the execution of one or more of the
16 provisions of this section. If there is substantial interference, the
17 provision governing the special grand jury will govern.

18 (7) A special grand jury convened pursuant to this subdivision
19 shall be in addition to the other grand juries authorized by this
20 chapter or Chapter 2 (commencing with Section 893).

21 (d) ~~(4)~~ Upon certification by the Attorney General, a statement
22 of the costs directly related to the impanelment and activities of
23 the grand jury pursuant to subdivisions (b) and (c) from the
24 presiding judge of the superior court where the grand jury was
25 impaneled shall be submitted for state reimbursement of the costs
26 to the county. To be reimbursed, the costs shall be itemized, and
27 be no more than what would be charged to a regularly impaneled
28 grand jury convened by the county pursuant to Section 23 of Article
29 I of the California Constitution, unless an alternative payment
30 arrangement is agreed upon by the county and the Attorney
31 General.

32 ~~(2) A defendant convicted on charges brought by a special grand~~
33 ~~jury pursuant to this section shall pay a fine of five hundred dollars~~
34 ~~(\$500), which shall be assessed by the court and transmitted to the~~
35 ~~Attorney General’s Special Grand Jury Fund, which is hereby~~
36 ~~established in the State Treasury, to be used upon appropriation~~
37 ~~of the Legislature.~~

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