

AMENDED IN SENATE JUNE 17, 1996  
AMENDED IN SENATE FEBRUARY 13, 1996  
AMENDED IN ASSEMBLY JANUARY 4, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

**ASSEMBLY BILL**

**No. 988**

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**Introduced by Assembly Member Hawkins**

February 23, 1995

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An act to amend Section 1324 of, and to repeal Section 1324.1 of, the Penal Code, relating to criminal procedure.

LEGISLATIVE COUNSEL'S DIGEST

AB 988, as amended, Hawkins. Criminal procedure.

Existing law provides, with respect to specified proceedings or investigations regarding felony offenses, that if a person refuses to answer a question or produce evidence on the ground that he or she may be incriminated and if the person is ordered to comply but would have been privileged to withhold the answer given or the evidence produced except for the order, the person shall not be prosecuted or subjected to any penalty or forfeiture for, or on account of, any fact or act concerning which he or she was required to answer or produce evidence, except as specified.

Existing law provides, with respect to misdemeanor proceedings in which a person refuses to answer a question or produce evidence of any other kind on the ground that he or she may be incriminated, and if after court approval of an agreement between the district attorney and the defendant,

the defendant answers or produces the evidence that would have been privileged, that person shall not be prosecuted or subjected to penalty or forfeiture for or on account of any fact or act concerning which, in accordance with the agreement, the person answered or produced evidence.

This bill would ~~delete these separate provisions~~ *repeal the provision* governing immunity in misdemeanor proceedings ~~and would instead provide the same type of immunity for misdemeanor proceedings as is provided in felony proceedings.~~ *The bill* and would expressly provide that ~~these provisions do~~ *the provision governing felony proceedings does* not prohibit the district attorney *or any other prosecuting agency* from requesting an order granting use immunity or transactional immunity to a witness compelled to give testimony or produce evidence.

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

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

1 SECTION 1. Section 1324 of the Penal Code is  
2 amended to read:  
3 1324. In any felony ~~or misdemeanor~~ proceeding or in  
4 any investigation or proceeding before a grand jury for  
5 any felony ~~or misdemeanor~~ offense if a person refuses to  
6 answer a question or produce evidence of any other kind  
7 on the ground that he or she may be incriminated  
8 thereby, and if the district attorney of the county *or any*  
9 *other prosecuting agency* in writing requests the court, in  
10 and for that county, to order that person to answer the  
11 question or produce the evidence, a judge shall set a time  
12 for hearing and order the person to appear before the  
13 court and show cause, if any, why the question should not  
14 be answered or the evidence produced, and the court  
15 shall order the question answered or the evidence  
16 produced unless it finds that to do so would be clearly  
17 contrary to the public interest, or could subject the  
18 witness to a criminal prosecution in another jurisdiction,  
19 and that person shall comply with the order. After  
20 complying, and if, but for this section, he or she would



1 have been privileged to withhold the answer given or the  
2 evidence produced by him or her, no testimony or other  
3 information compelled under the order or any  
4 information directly or indirectly derived from the  
5 testimony or other information may be used against the  
6 witness in any criminal case. But he or she may  
7 nevertheless be prosecuted or subjected to penalty or  
8 forfeiture for any perjury, false swearing or contempt  
9 committed in answering, or failing to answer, or in  
10 producing, or failing to produce, evidence in accordance  
11 with the order. Nothing in this section shall prohibit the  
12 district attorney *or any other prosecuting agency* from  
13 requesting an order granting use immunity or  
14 transactional immunity to a witness compelled to give  
15 testimony or produce evidence.

16 SEC. 2. Section 1324.1 of the Penal Code is repealed.

