

## **SB 496 -1 STAFF MEASURE SUMMARY**

### **Senate Committee On Judiciary**

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**Prepared By:** Whitney Perez, Counsel

**Sub-Referral To:** Joint Committee On Ways and Means

**Meeting Dates:** 3/8

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#### **WHAT THE MEASURE DOES:**

Requires presiding judges of judicial districts to ensure grand jury proceedings are recorded. Provides for phase-in of recording process based on population of district. Authorizes Chief Justice of Supreme Court to establish policies and procedures to carry out recording requirement. Specifies what matters may and may not be recorded. Creates procedures for release of these recordings. Allows certain persons to request protective orders to redact certain information or deny, restrict or defer access to a recording. Specifies when recording may be used in court. Permits peace officer to present certain hearsay statements as evidence at grand jury proceeding. Prohibits release of grand jury recordings as public record. Makes conforming amendments. Declares emergency, effective on passage.

*REVENUE: May have revenue impact, but no statement yet issued*

*FISCAL: May have fiscal impact, but no statement yet issued*

#### **ISSUES DISCUSSED:**

#### **EFFECT OF AMENDMENT:**

-1 Directs court to appoint a certified shorthand reporter to take accurate notes of grand jury proceedings. Directs Chief Justice of the Supreme Court to establish policies and procedures to carry out these provisions. Allows disclosure of report of grand jury proceedings upon showing of particularized need for the report. Defines key terms, including particularized need. Prohibits release of grand jury proceeding report when indorsed not a true bill or not indorsed as either a true or not a true bill, except in certain circumstances. Prohibits use of grand jury report in unrelated proceedings. Allows peace officer to relate hearsay statements of victim or witness in grand jury proceedings subject to these reporting provisions.

#### **BACKGROUND:**

Senate Bill 496 directs presiding judges to ensure that grand jury proceedings are recorded. It phases-in the recording requirement based on the judicial district's population. Judicial districts with a population between 150,000 and 300,000 or over 700,000 begin recording October 1, 2017. The remaining districts must begin recording July 1, 2018. These proceedings must be electronically recorded by the court clerk or reported by a shorthand reporter. The Chief Justice of the Supreme Court is authorized to establish policies and procedures to carry out the recording requirement. The court may appoint a shorthand reporter upon request of the prosecuting or defense attorney. The shorthand reporter's services must be paid by the party requesting the reporter. The person recording the grand jury proceeding is not subject to subpoena and cannot disclose information regarding the proceeding without a court order.

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SB 496 specifies what matters before the grand jury must be recorded, such as statements made or questions asked by the prosecuting attorney. It specifies what matters must not be recorded, such as grand jury deliberations. SB 496 also specifies the procedures for release of these recordings to the defense and prosecution, and generally limits further disclosure. SB 496 allows the prosecuting attorney, on behalf of a victim or witness, and certain others to file a motion for a protective order. If only a specific portion of the recording is the subject of the protective order, the motion for the protective order must specify the portion of the recording to be redacted. SB 496 specifies when these recordings may be used in subsequent court proceedings, such as for use refreshing a witness' recollection. It further allows a peace officer to present the hearsay statements of certain people, such as a minor victim. Finally, SB 496 prohibits the release of these recordings as public records.