

State of South Dakota

EIGHTIETH
LEGISLATIVE ASSEMBLY, 2005

178L0307

HOUSE BILL NO. 1072

Introduced by: The Committee on Judiciary at the request of the Chief Justice

1 FOR AN ACT ENTITLED, An Act to permit magistrate judges to order a transcript of a grand
2 jury proceeding.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 23A-5-16 be amended to read as follows:

5 23A-5-16. Disclosure of matters occurring before a grand jury, other than its deliberations
6 and the vote of any juror, may be made to prosecuting attorneys for use in the performance of
7 their duties. Otherwise a juror, attorney, witness, interpreter, stenographer, operator of a
8 recording device, or any typist who transcribes recorded testimony may disclose matters
9 occurring before the grand jury only ~~when~~ if directed by the ~~circuit~~ court preliminary to, or in
10 connection with, a judicial proceeding or ~~when~~ if permitted by the ~~circuit~~ court at the request
11 of a defendant upon a showing that grounds may exist for a motion to dismiss an indictment
12 because of matters occurring before a grand jury. A grand juror cannot be questioned for
13 anything ~~he~~ that the grand juror may say or any vote ~~he~~ that the grand juror may give in the
14 grand jury proceedings relative to a matter legally pending before it, except for perjury of which
15 ~~he~~ the grand juror may have been guilty in making an accusation or giving testimony to his or
16 her fellow jurors. No obligation of secrecy may be imposed upon any person except in



1 accordance with this section. A court may direct that an indictment shall be kept secret until the
2 defendant is in custody or has given bail, ~~and in.~~ In that event the clerk shall seal the indictment,
3 and no person ~~shall~~ may disclose the finding of the indictment ~~except when~~ unless necessary for
4 the issuance and execution of a warrant or summons.