

104TH CONGRESS
2D SESSION

H. R. 4193

To amend title 18, United States Code, to provide that witnesses in grand jury proceedings have the presence and advice of counsel during that witness' testimony.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 26, 1996

Ms. GREENE of Utah introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to provide that witnesses in grand jury proceedings have the presence and advice of counsel during that witness' testimony.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Grand Jury Fairness
5 Reform Act of 1996".

1 **SEC. 2. RIGHT TO COUNSEL FOR WITNESSES AT GRAND**
2 **JURY PROCEEDINGS.**

3 (a) IN GENERAL.—Chapter 215 of title 18, United
4 States Code, is amended by adding at the end the follow-
5 ing new section:

6 **“§ 3323. Right to counsel**

7 “(a) RIGHT TO COUNSEL.—Each witness before any
8 grand jury impaneled before any district court shall have
9 the right to the presence and advice of counsel of the wit-
10 ness’ own procurement during that witness’ testimony.

11 “(b) DUTY OF THE GOVERNMENT TO ADVISE.—It
12 shall be the duty of attorneys representing the United
13 States to ensure that witnesses have been properly advised
14 in a timely fashion of their right to be accompanied by
15 counsel during their testimony.

16 “(c) LIMITATIONS ON THE PARTICIPATION OF COUN-
17 SEL.—Counsel for a witness shall be permitted to be
18 present and advise the witness during the witness’ testi-
19 mony, but such counsel shall not address the grand jury,
20 raise objections, make arguments, or in any way disrupt
21 the proceedings other than to give advice to that counsel’s
22 client.

23 “(d) DISCLOSURE OF PROCEEDINGS BY COUNSEL.—
24 A counsel who represents a witness before a grand jury
25 is restricted from disclosing matters that occur before the

1 grand jury to the same degree that the counsel's client
2 is so restricted.

3 “(e) REPRESENTATION OF MORE THAN ONE WIT-
4 NESS.—No counsel shall be permitted to represent more
5 than one witness before a grand jury if such representa-
6 tion would, in the court's determination, compromise the
7 counsel's independent judgment. For purposes of this sub-
8 section, each attorney in an association of attorneys affili-
9 ated in the practice of law shall be deemed to represent
10 each and every one of the association's clients.

11 “(f) SANCTIONS.—In the event the court finds a
12 counsel in violation of subsection (c), (d), or (e) of this
13 section, the court shall take such measures that are nec-
14 essary to assure compliance and obtain professional dis-
15 cipline, including excluding counsel from the grand jury
16 room or ordering the separate representation of a wit-
17 ness.”.

18 (b) CLERICAL AMENDMENT.—The table of sections
19 at the beginning of chapter 215 of title 18, United States
20 Code, is amended by adding at the end the following new
21 item:

“3323. Right to counsel.”.

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