

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 427

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO SPECIAL INQUIRY JUDGE PROCEEDINGS; AMENDING SECTION 19-1116,  
2 IDAHO CODE, TO REVISE A PROVISION REGARDING THE APPOINTMENT OF A SPECIAL  
3 INQUIRY JUDGE; AMENDING SECTION 19-1117, IDAHO CODE, TO REVISE PROVI-  
4 SIONS REGARDING A SPECIAL INQUIRY JUDGE PROCEEDING; AMENDING SECTION  
5 19-1120, IDAHO CODE, TO REVISE PROVISIONS REGARDING A SPECIAL INQUIRY  
6 JUDGE PROCEEDING; AMENDING SECTION 19-1122, IDAHO CODE, TO REVISE A  
7 PROVISION REGARDING A SPECIAL INQUIRY JUDGE PROCEEDING; AMENDING SEC-  
8 TION 19-1123, IDAHO CODE, TO REVISE A PROVISION REGARDING A SPECIAL  
9 INQUIRY JUDGE PROCEEDING; AND DECLARING AN EMERGENCY AND PROVIDING AN  
10 EFFECTIVE DATE.  
11

12 Be It Enacted by the Legislature of the State of Idaho:

13 SECTION 1. That Section 19-1116, Idaho Code, be, and the same is hereby  
14 amended to read as follows:

15 19-1116. SPECIAL INQUIRY JUDGE. Upon the petition by affidavit of a  
16 prosecuting attorney of any county or the attorney general of the state of  
17 Idaho for the appointment of a special inquiry judge to conduct an inquiry  
18 into the existence of suspected crime or corruption within his jurisdiction,  
19 the administrative district court judge of the judicial district wherein the  
20 county is situated or where the crime or corruption is suspected to have oc-  
21 curring, may designate a judge from the magistrate division of the district  
22 court to preside over said inquiry.

23 SECTION 2. That Section 19-1117, Idaho Code, be, and the same is hereby  
24 amended to read as follows:

25 19-1117. SPECIAL INQUIRY JUDGE -- PETITION FOR ORDER. (1) When the  
26 prosecuting attorney of any county or the attorney general of the state of  
27 Idaho has reason to suspect crime or corruption, within his jurisdiction,  
28 and there is reason to suspect that there are persons who may be able to give  
29 material testimony or provide material evidence concerning such suspected  
30 crime or corruption, such attorney may issue subpoenas directed to such per-  
31 sons commanding them to appear at a designated time and place ~~in said county~~  
32 before the special inquiry judge and to then and there answer such questions  
33 under oath concerning the suspected crime or corruption as may be asked by  
34 ~~the prosecuting~~ such attorney or special inquiry judge.

35 (2) At any time after service of such subpoenas and before the return  
36 date thereof, the prosecuting attorney or the attorney general may apply to  
37 the special inquiry judge for an order vacating or modifying the subpoena on  
38 the grounds that such is in the public interest. Upon such application, the  
39 court may in its discretion vacate the subpoena, extend its return date, at-

1     tach reasonable conditions to directions, or make such other qualification  
2     thereof as is appropriate.

3             (3) The proceedings to summon a person and compel him to testify or pro-  
4     vide evidence shall as far as possible be the same as proceedings to sum-  
5     mon witnesses and compel their attendance. Such persons shall receive only  
6     those fees paid witnesses in district court criminal trials.

7             SECTION 3. That Section 19-1120, Idaho Code, be, and the same is hereby  
8     amended to read as follows:

9             19-1120. WITNESSES -- ATTENDANCE. (1) A prosecuting attorney or the  
10     attorney general may call as a witness, in a special inquiry judge proceed-  
11     ing, any person suspected by him to possess information or knowledge rele-  
12     vant thereto and may issue legal process and subpoena to compel his atten-  
13     dance and the production of evidence.

14             (2) The special inquiry judge may cause to be called as a witness any  
15     person suspected by him to possess relevant information or knowledge. If the  
16     special inquiry judge desires to hear any such witness who was not called by a  
17     prosecuting attorney or the attorney general, it may direct the prosecuting  
18     attorney or the attorney general to issue and serve a subpoena upon such wit-  
19     ness and the prosecuting attorney or the attorney general must comply with  
20     such direction.

21             SECTION 4. That Section 19-1122, Idaho Code, be, and the same is hereby  
22     amended to read as follows:

23             19-1122. SELF-INCRIMINATION -- REFUSAL TO TESTIFY OR GIVE EVIDENCE --  
24     PROCEDURE. If in any ~~proceedings~~ proceeding before a special inquiry judge,  
25     a person refuses, or indicates in advance a refusal, to testify or provide  
26     evidence of any other kind on the ground that he may be incriminated thereby,  
27     and if a prosecuting attorney or the attorney general requests the court  
28     to order that person to testify or provide the evidence, the court shall  
29     then hold a hearing and shall so order unless it finds that to do so would be  
30     clearly contrary to the public interest, and that person shall comply with  
31     the order.

32             If, but for this section, he would have been privileged to withhold the  
33     answer given or the evidence produced by him, the witness may not refuse to  
34     comply with the order on the basis of his privilege against self-incrimina-  
35     tion; but none of the testimony nor evidence presented by the witness rela-  
36     tive to the issue under investigation before the special inquiry judge, nor  
37     any information directly or indirectly derived from his testimony, can be  
38     used against him in any further criminal proceeding. He may nevertheless be  
39     prosecuted for failing to comply with the order to answer, or for perjury or  
40     for offering false evidence to the special inquiry judge.

41             SECTION 5. That Section 19-1123, Idaho Code, be, and the same is hereby  
42     amended to read as follows:

43             19-1123. SECRECY ENJOINED -- EXCEPTIONS -- USE AND AVAILABILITY OF  
44     EVIDENCE. (1) No individual, who is present during a special inquiry judge  
45     proceeding or who shall gain information with regard to said inquiry, shall

1 disclose the testimony of a witness examined before the special inquiry  
2 judge or other evidence received by him, except such testimony or evidence  
3 may be disclosed in the following cases: when the district court requires  
4 disclosure of such testimony to determine whether it is consistent with tes-  
5 timony given by the witness before district court; by a prosecuting attorney  
6 when communicating with any law enforcement officer; upon a charge against  
7 the witness for perjury in giving his testimony in the special inquiry judge  
8 proceeding or upon trial therefor; or when permitted by the district court  
9 in the furtherance of justice.

10 (2) The prosecuting attorney or the attorney general, depending on who  
11 filed the petition to initiate the special inquiry, shall have access to all  
12 special inquiry judge evidence and may introduce such evidence before any  
13 grand jury or judicial proceeding in which the same may be relevant.

14 (3) Any witness testimony, given before a special inquiry judge and  
15 relevant to any subsequent proceeding against the witness, shall be made  
16 available to the witness upon proper application to the district court. The  
17 district court may also, upon proper application and upon a showing of good  
18 cause, make available to a defendant in a subsequent criminal proceeding  
19 other testimony or evidence when given or presented before a special inquiry  
20 judge, if the court finds that doing so is necessary to prevent an injustice  
21 and that there is no reason to believe that doing so would endanger the life  
22 or safety of any witness or his family. The cost of any such transcript made  
23 available shall be borne by the applicant.

24 SECTION 6. An emergency existing therefor, which emergency is hereby  
25 declared to exist, this act shall be in full force and effect on and after  
26 July 1, 2024.