

LEGISLATIVE BILL 13

Approved by the Governor February 14, 1995

Introduced by Executive Board: Hall, 7, Chairperson

AN ACT relating to evidence; to amend sections 86-708 and 86-711, Reissue Revised Statutes of Nebraska; to substitute references to sections that were repealed in 1975; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 86-708, Reissue Revised Statutes of Nebraska, is amended to read:

86-708. (1) If the Attorney General or any county attorney shall reasonably determine that the testimony of any witness or the production of books, papers, or other evidence by any witness is necessary to the public interest in any proceeding before the grand jury of the district court of the State of Nebraska involving any violation or conspiracy to violate the provisions of subsection (1) of section 86-702 or involving the offenses enumerated in section 86-703, the Attorney General or county attorney, upon the approval of the Attorney General, shall make application to the court that the witness be instructed to testify or produce evidence subject to the provisions of this section. Upon an order of the court, such witness shall not be excused from testifying or from producing books, papers, or other evidence on the grounds that the testimony or evidence required by him or her may incriminate him or her or subject him or her to a penalty or forfeiture. Nothing in this section shall be construed to suspend or otherwise interfere with the operation of the provisions of ~~sections 20-144 to 20-146 and 25-1204 to 25-1206~~ the Free Flow of Information Act or sections 27-503 to 27-506 and 27-605.

(2) Except as otherwise provided in this section, no such witness shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which ~~he~~ the witness is compelled, after having claimed ~~his~~ the privilege against self-incrimination, to testify or produce evidence, nor shall testimony so compelled be used as evidence in any criminal proceeding against ~~him~~ the witness in any court. No witness shall be exempt under this section from prosecution for perjury or contempt committed while giving testimony or producing evidence under compulsion pursuant to this section.

Sec. 2. Section 86-711, Reissue Revised Statutes of Nebraska, is amended to read:

86-711. (1) If any person shall refuse to obey a subpoena issued to such person, the Attorney General or a county attorney may invoke the aid of any court of the State of Nebraska within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, carries on business, or may otherwise be found, to compel compliance with such subpoena.

(2) The court may issue an order requiring the subpoenaed person to appear before the Attorney General or a county attorney to produce records, if so ordered, or to give testimony concerning the matter under investigation. Nothing in this section shall be construed to suspend or otherwise interfere with the operation of the provisions of ~~sections 20-144 to 20-146 and 25-1204 to 25-1206~~ the Free Flow of Information Act or sections 27-503 to 27-506 and 27-605.

(3) Any failure to obey the order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in the judicial district in which the subpoenaed person is an inhabitant or may otherwise be found.

Sec. 3. Original sections 86-708 and 86-711, Reissue Revised Statutes of Nebraska, are repealed.