

Guidance on the Continued Authority of Grand Juries Impaneled Prior to the Issuance of the Chief Justice’s Order Declaring Statewide Judicial Emergency

A question has arisen about whether a grand jury impaneled prior to the issuance of the Chief Justice’s Order of March 14, 2020, Declaring Statewide Judicial Emergency may continue to serve beyond the term of court for which it was summoned and impaneled. The question reflects a recognition that, although the ongoing COVID-19 outbreak may render the summoning and impaneling of a new grand jury imprudent and impractical, there may be essential business that requires the attention of a grand jury and that cannot reasonably be delayed until after public health considerations permit the resumption of regular jury proceedings.

Generally speaking, the authority of a grand jury is limited to the term of court for which it was summoned and impaneled, and when that term comes to an end—whether by adjournment or by operation of law upon the commencement of the next regular term—the authority of the grand jury is at an end. See State v. Grace, 263 Ga. 220, 221 n. 5 (430 SE2d 583) (1993). See also Durden v. State, 299 Ga. 273, 276 (2) (b) (787 SE2d 697) (2016). And in general, a grand jury at one term of court cannot hold over and continue to serve at the next term of court. See Braxley v. State, 143 Ga. 658, 658 (2) (85 SE 888) (1915). See also Tompkins v. State, 138 Ga. 465, 465 (2) (75 SE 594) (1912). For some counties, however, there may be local laws that specifically authorize grand juries to hold over from one regular term to another. See, e.g., Brown v. State, 242 Ga. 602, 602 (1) (250 SE2d 491) (1978); Long v. State, 160 Ga. 292, 292 (1) (127 SE 842) (1925). And in the absence of locally specific authorization for a grand jury to hold over to a subsequent term, OCGA § 15-6-20 authorizes the superior court to adjourn a regular term early and hold a special term, at which the grand jury for a prior regular term can be recalled. See Haden v. State, 176 Ga. 304, 304 (3) (168 SE 272) (1933). See also Braxley, 143 Ga. at 658 (2).

Accordingly, if the term of court for which a grand jury was last impaneled has come to an end, and if there is essential business for the grand jury that cannot await the summoning and impaneling of a new grand jury, the superior court should first consider whether any local law

specifically authorizes the grand jury to hold over to the next regular term. If no such locally specific authorization exists, the superior court should consider an early adjournment of its regular term and the holding of a special term, at which the prior grand jury may be recalled to attend to essential business that cannot be deferred until after public health considerations permit the resumption of regular jury proceedings.

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