

2015-16 NEW YORK STATE EXECUTIVE BUDGET

**LIMIT IMMUNITY FROM PROSECUTION FOR
TESTIMONY BEFORE A GRAND JURY
ARTICLE VII LEGISLATION**

MEMORANDUM IN SUPPORT

MEMORANDUM IN SUPPORT

A BUDGET BILL submitted by the Governor in
Accordance with Article VII of the Constitution

AN ACT to amend the criminal procedure law, in
relation to the definition of immunity and motions
to dismiss information or indictment based upon
a claim of immunity

Purpose:

The purpose of this bill is to bring New York State in line with the federal model in terms of the type of immunity that attaches when a witness testifies before a New York grand jury. Currently under New York law, a witness who testifies before a grand jury receives “transactional immunity” which is quite broad in that it provides a witness complete immunity from future prosecution for crimes related to his or her testimony made under oath.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

This bill would amend the Criminal Procedure Law to grant “use immunity,” not “transactional immunity,” for statements made by a witness under oath during a grand jury or other legal proceeding. Use immunity would only protect that witness from being prosecuted in the same criminal proceeding to which he or she was testifying or any other criminal proceeding based on his or her testimony or any evidence derived therefrom. However, use immunity allows for that witness, who may or may not also be part of the criminal transaction under investigation, to be prosecuted for his or her role if the People develop evidence independent of the evidence provided by the witness.

This would be an important tool in fighting crime in New York. Additionally, this would bring New York criminal practice in line with the federal model.

Budget Implications:

Enactment of this bill is necessary to implement the 2015-16 Executive Budget.

Effective Date:

This bill takes effect on the thirtieth day after it is signed into law.