

## Article 61.

### Granting of Immunity to Witnesses.

#### **§ 15A-1051. Immunity; general provisions.**

(a) A witness who asserts his privilege against self-incrimination in a hearing or proceeding in court or before a grand jury of North Carolina may be ordered to testify or produce other information as provided in this Article. He may not thereafter be excused from testifying or producing other information on the ground that his testimony or other information required of him may tend to incriminate him. Except as provided in G.S. 15A-623(h), no testimony or other information so compelled, or any information directly or indirectly derived from the testimony or other information, may be used against the witness in a criminal case, except a prosecution for perjury or contempt arising from a failure to comply with an order of the court. In the event of a prosecution of the witness he shall be entitled to a record of his testimony.

(b) An order to testify or produce other information authorized by this Article may be issued prior to the witness's assertion of his privilege against self-incrimination, but the order is not effective until the witness asserts his privilege against self-incrimination and the person presiding over the inquiry communicates the order to him.

(c) As used in this Article, "other information" includes any book, paper, document, record, recordation, tangible object, or other material. (1973, c. 1286, s. 1; 1985 (Reg. Sess., 1986), c. 843, s. 4; 1991, c. 636, s. 3.)

#### **§ 15A-1052. Grant of immunity in court proceedings.**

(a) When the testimony or other information is to be presented to a court of the trial division of the General Court of Justice, the order to the witness to testify or produce other information must be issued by a superior court judge, upon application of the district attorney:

- (1) Be in writing and filed with the permanent records of the case; or
- (2) If orally made in open court, recorded and transcribed and made a part of the permanent records of the case.

(b) The application may be made whenever, in the judgment of the district attorney, the witness has asserted or is likely to assert his privilege against self-incrimination and his testimony or other information is or will be necessary to the public interest. Before making application to the judge, the district attorney must inform the Attorney General, or a deputy or assistant attorney general designated by him, of the circumstances and his intent to make an application.

(c) In a jury trial the judge must inform the jury of the grant of immunity and the order to testify prior to the testimony of the witness under the grant of immunity. During the charge to the jury, the judge must instruct the jury as in the case of interested witnesses. (1973, c. 1286, s. 1; 1975, c. 166, s. 27.)

#### **§ 15A-1053. Grant of immunity before grand jury.**

(a) When the testimony or other information is to be presented to a grand jury, the order to the witness to testify or produce other information must be issued by the presiding or convening superior court judge, upon application of the district attorney. The order of a superior court judge under this section must be in writing and filed as a part of the permanent records of the court.

(b) The application may be made when the district attorney has been informed by the foreman of the grand jury that the witness has asserted his privilege against self-incrimination and

the district attorney determines that the testimony or other information is necessary to the public interest. Before making application to the judge, the district attorney must inform the Attorney General, or a deputy or assistant attorney general designated by him, of the circumstances and his intent to make an application. (1973, c. 1286, s. 1; 1975, c. 166, s. 27.)

**§ 15A-1054. Charge reductions or sentence concessions in consideration of truthful testimony.**

(a) Whether or not a grant of immunity is conferred under this Article, a prosecutor, when the interest of justice requires, may exercise his discretion not to try any suspect for offenses believed to have been committed within the prosecutorial district as defined in G.S. 7A-60, to agree to charge reductions, or to agree to recommend sentence concessions, upon the understanding or agreement that the suspect will provide truthful testimony in one or more criminal proceedings.

(b) Recommendations as to sentence concessions must be made to the trial judge by the prosecutor in accordance with the provisions of Article 58 of this Chapter, Procedure[s] Relating to Guilty Pleas in Superior Court.

(c) When a prosecutor enters into any arrangement authorized by this section, written notice fully disclosing the terms of the arrangement must be provided to defense counsel, or to the defendant if not represented by counsel, against whom such testimony is to be offered, a reasonable time prior to any proceeding in which the person with whom the arrangement is made is expected to testify. Upon motion of the defendant or his counsel on grounds of surprise or for other good cause or when the interests of justice require, the court must grant a recess. (1973, c. 1286, s. 1; 1975, c. 166, s. 27; 1987 (Reg. Sess., 1988), c. 1037, s. 65.)

**§ 15A-1055. Evidence of grant of immunity or testimonial arrangement may be fully developed; impact may be argued to the jury.**

(a) Notwithstanding any other rule of evidence to the contrary, any party may examine a witness testifying under a grant of immunity or pursuant to an arrangement under G.S. 15A-1054 with respect to that grant of immunity or arrangement. A party may also introduce evidence or examine other witnesses in corroboration or contradiction of testimony or evidence previously elicited by himself or another party concerning the grant of immunity or arrangement.

(b) A party may argue to the jury with respect to the impact of a grant of immunity or an arrangement under G.S. 15A-1054 upon the credibility of a witness. (1973, c. 1286, s. 1.)

**§§ 15A-1056 through 15A-1060. Reserved for future codification purposes.**