

## **BILL ANALYSIS**

C.S.H.B. 2796

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Criminal Jurisprudence

Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Article 35.261 of the Texas Code of Criminal Procedure was enacted in 1987 to codify the U.S. Supreme Court's decision in *Batson v. Kentucky*, 476 U.S. 79, 106 Ct. 1712, 90 L.Ed2d 69 (1986). *Batson* held that under the Equal Protection Clause of the U.S. Constitution, a prosecutor may not exercise a peremptory challenge to remove a potential juror solely on the basis of a juror's race.

Subsequent U.S. Supreme Court decisions have expanded *Batson* to provide that neither the prosecution nor the defense may exercise a peremptory challenge to remove a potential juror solely on the basis of the juror's gender, ethnic origin, or race. However, Texas law has not been amended to include these changes.

C.S.H.B. 2796 amends Article 35.261, Code of Criminal Procedure, to codify the U.S. Supreme Court's post *Batson* decisions which prevent any party from exercising a peremptory challenge to remove a potential juror solely on the basis of the juror's gender, ethnic origin, or race.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 2796 amends the Code of Criminal Procedure to require a court, in non-death penalty cases, to grant a motion for dismissal of the array if the opposing party exercised peremptory challenges against perspective jurors based on their gender. The bill also allows the prosecutor to request dismissal if the opposing party exercised peremptory challenges against perspective jurors based on race.

### **EFFECTIVE DATE**

September 1, 2003.

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

The substitute differs from the original by conforming to Texas Legislative Council style and format.