

BILL ANALYSIS

S.B. 251
By: West, Royce
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The voir dire is the period of questioning permissible during the jury selection process, questioning performed by both prosecution and defense attorneys, to qualify jurors for service. During voir dire, attorneys question potential jurors to determine if there is cause to excuse the juror and to acquire information about the jurors so that the parties can exercise their statutory peremptory challenges.

A 2001 Texas Court of Criminal Appeals case established a new standard for the line of questioning permissible during the jury selection process. A question is now impermissible unless that question requires a prospective juror to make a decision in a certain manner after learning a fact that may be pertinent to the case. This limits attorneys' ability to question a potential juror.

As proposed, S.B. 251 codifies the standard for voir dire questioning that was practiced in Texas prior to the 2001 decision limiting the questioning.

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

SECTION 1. Amends Article 35.17, Code of Criminal Procedure, by adding Sections 3 and 4, as follows:

3. Entitles the attorney representing the state and the attorney representing the defendant to conduct a meaningful voir dire examination (of prospective jurors). Provides that questions designed to elicit information necessary for both attorneys to intelligently exercise challenges for cause and for peremptory challenges shall be permitted. Gives an illustration of proper and improper questioning.
4. Provides that this article is not intended to restrict a judge's authority to limit the duration of a voir dire examination to a reasonable period.

SECTION 2. Effective date: September 1, 2005.

EFFECTIVE DATE

September 1, 2005.