

BILL ANALYSIS

Senate Research Center
81R8393 JRH-F

H.B. 1321
By: Hughes (Hegar)
Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Prior to the 80th Legislature, Regular Session, 2007, Texas law required an alternate juror to be discharged when a jury retired to the jury room to consider a verdict. However, problems arose when a juror was excused from deliberation, but no alternate juror was available because the alternate jurors had already been discharged. The court had to declare a mistrial.

H.B. 1086, enacted by the 80th Legislature, amended the Code of Criminal Procedure to delay the discharge of alternate jurors until the jury had reached a verdict. Some provisions relating to jury discharge were not amended, however, creating an inconsistency within the code.

H.B. 1321 requires a jury to be discharged if, after the charge is read, no alternate juror is available to replace a juror who is prevented from serving due to illness or accident.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 36.29(c), Code of Criminal Procedure, to require that the jury, after the charge of the court is read to the jury, if a juror becomes so sick as to prevent the continuance of the juror's duty and an alternate juror is not available, or if any accident of circumstance occurs to prevent the jury from being kept together under circumstances under which the law or the instructions of the court requires that the jury be kept together, rather than requiring that after the charge of the court is read to the jury, if any one of them becomes so sick as to prevent the continuance of his duty or any accident of circumstance occurs to prevent the jury from being kept together under circumstances under which the law or the instructions of the court requires that the jury be kept together, be discharged, except that on agreement on the record by the defendant, the defendant's counsel, and the attorney representing the state 11 members of a jury are authorized to render a verdict and, if punishment is to be assumed by the jury, assess punishment. Requires each member of the jury, if a verdict is rendered by less than the whole number of the jury, to sign the verdict.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2009.