

1-1 By: Wentworth S.B. No. 1070  
1-2 (In the Senate - Filed February 23, 2009; March 13, 2009,  
1-3 read first time and referred to Committee on Jurisprudence;  
1-4 April 6, 2009, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 5, Nays 0; April 6, 2009,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1070 By: Wentworth

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to jury assembly and administration.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. The heading to Section 62.001, Government Code,  
1-13 is amended to read as follows:

1-14 Sec. 62.001. JURY SOURCE; MASTER JURY LIST [~~RECONSTITUTION~~  
1-15 ~~OF JURY WHEEL~~].

1-16 SECTION 2. Section 62.001, Government Code, is amended by  
1-17 amending Subsections (a), (b), (c), (d), (e), (f), and (g) and  
1-18 adding Subsection (f-1) to read as follows:

1-19 (a) The secretary of state shall compile a master jury list  
1-20 for each county [~~wheel must be reconstituted by~~] using, as the  
1-21 source:

1-22 (1) the names of all persons on the current voter  
1-23 registration lists from all the precincts in the county; and

1-24 (2) all names on a current list to be furnished by the  
1-25 Department of Public Safety, subject to an agreement to use a  
1-26 different procedure as authorized by Subsection (f), showing the  
1-27 citizens of the county who:

1-28 (A) hold a valid Texas driver's license or a  
1-29 valid personal identification card or certificate issued by the  
1-30 department; and

1-31 (B) are not disqualified from jury service under  
1-32 Section 62.102(1), (2), or (7).

1-33 (b) Notwithstanding Subsection (a), the names of persons  
1-34 listed on a register of persons exempt from jury service may not be  
1-35 placed in the master jury list [~~wheel~~], as provided by Sections  
1-36 62.108 and 62.109.

1-37 (c) At the time [~~Each year not later than the third Tuesday~~  
1-38 ~~in November or the date provided by Section 16.032, Election Code,~~  
1-39 ~~for the cancellation of voter registrations, whichever is earlier,~~]  
1-40 the voter registrar of each county furnishes information to the  
1-41 secretary of state to maintain the statewide computerized voter  
1-42 registration list as required by Section 18.061, Election Code, the  
1-43 voter registrar shall also furnish to the secretary of state in an  
1-44 electronic, downloadable format the [a] current voter registration  
1-45 list from all the precincts in the county that, except as provided  
1-46 by Subsection (d), includes:

1-47 (1) the complete name, mailing address, date of birth,  
1-48 voter registration number, and precinct number for each voter;

1-49 (2) if available, the Texas driver's license number or  
1-50 personal identification card or certificate number and social  
1-51 security number for each voter; and

1-52 (3) any other information included on the voter  
1-53 registration list of the county.

1-54 (d) The current voter registration list from all the county  
1-55 precincts required by Subsection (c) may exclude, at the option of  
1-56 the voter registrar of each county, the names of persons on the  
1-57 suspense list maintained under Section 15.081, Election Code.

1-58 (e) The voter registrar shall send a list of the names of  
1-59 persons excluded to the secretary of state with the current voter  
1-60 registration list from all the county precincts required by  
1-61 Subsection (c).

1-62 (f) Unless the Department of Public Safety and secretary of  
1-63 state agree to a different procedure, the department [~~The~~

~~Department of Public Safety]~~ shall furnish a list to the secretary of state that shows the names required under Subsection (a)(2) and that contains any of the information enumerated in Subsection (c) that is available to the department, including citizenship status and county of residence. The list shall exclude the names of convicted felons, persons who are not citizens of the United States, persons residing outside the county, and the duplicate name of any registrant. The department shall furnish the list to the secretary of state on or before the first Monday in January, April, July, and October of each year.

(f-1) Each Monday, each county shall send to the secretary of state a list that includes the name of each person who has served as a petit juror in that county during the previous week and whose name should be removed from the master jury list. The secretary of state shall remove each name from the master jury list under this section. The secretary of state shall return the name to the list on the Monday following the second anniversary of the date the name was removed, except that the name shall be returned to the master jury list earlier or later than that date, as appropriate, if the supreme court has approved a county plan authorizing a different amount of time for exemption from service as a petit juror in that county by a person who has previously served on a jury. For purposes of this section, each county shall determine when a person is considered to have served on a jury.

(g) The secretary of state shall accept the lists furnished as provided by Subsections (c) through (f-1) [(f)]. The secretary of state shall combine the lists and update the master jury list by eliminating [eliminate] duplicate names, removing the names of convicted felons, deceased persons, and persons no longer residing in the county, removing and returning names as required by Subsection (f-1), and adding the names of persons qualified to serve as a petit juror that are not currently on the list. The secretary of state shall make [and send] the combined list available to each county in an electronic, downloadable format not later than the second Monday in January, April, July, and October [on or before December 31] of each year [or as may be required under a plan developed in accordance with Section 62.011. The district clerk of a county that has adopted a plan under Section 62.011 shall give the secretary of state notice not later than the 90th day before the date the list is required]. The master jury list [furnished the county must be in a format, electronic or printed copy, as requested by the county and] must be certified by the secretary of state stating that the list contains the names required by Subsections (c) through (f-1) [(f), eliminating duplications]. The secretary of state shall furnish the list free of charge.

SECTION 3. Subchapter A, Chapter 62, Government Code, is amended by adding Section 62.0011 to read as follows:

Sec. 62.0011. SUPREME COURT RULES. (a) The supreme court shall adopt rules to govern the use of the master jury list and the administration of jury panels, including procedures for:

(1) obtaining the master jury list from the secretary of state;

(2) the drawing of names for jury lists;

(3) the issuance of juror summonses;

(4) answering a juror summons;

(5) the scheduling and rescheduling of jurors; and

(6) the selection of a jury panel.

(b) The supreme court may adopt rules that allow the adoption of a written jury plan for a county. The rules must specify which procedures specified by rules adopted under Subsection (a) must be uniform throughout this state, and which procedures may vary between counties based on a county's jury plan. The rules may provide:

(1) a timeline for approving county jury plans; and

(2) that a county jury plan is approved if not rejected by the supreme court within a specified number of days.

(c) A jury plan may not be adopted by a county until the plan has been approved by the supreme court either explicitly or in

accordance with rules adopted under Subsection (b)(2). The jury plan may address, subject to Subsection (a):

(1) the timing and frequency of the issuance of juror summonses;

(2) the number of jurors that may be summoned;

(3) the manner by which a juror may be rescheduled;

(4) the manner by which the name of a rescheduled juror is mixed into a jury list;

(5) the process by which panels are formed and assigned to courts;

(6) whether jurors may be summoned to one central location or to individual courts;

(7) the identity and number of persons responsible for juror orientation;

(8) the procedure for juror orientation;

(9) the identity and number of persons responsible for decisions on qualifications, exemptions, and rescheduling;

(10) the procedure for making decisions on juror qualifications, exemptions, and rescheduling;

(11) the procedure for enhancing the accuracy of the list of persons available for assignment to a jury list;

(12) whether a juror may be assigned for more than one day or one trial, and the process for making that assignment;

(13) whether a juror may be immediately reassigned to another trial after the juror has been eliminated due to a for-cause or peremptory challenge, and the process for making the assignment;

(14) the manner in which the Internet may be used for juror communications and rescheduling;

(15) special procedures for death-qualified capital cases;

(16) whether justice of the peace or municipal courts may use jurors that have been summoned by the county;

(17) when litigants or attorneys may be informed of who has been summoned for jury duty; and

(18) any other matter the supreme court determines needs to be addressed by a county for the efficient administration of the jury assembly process.

SECTION 4. Subsection (d), Section 62.019, Government Code, is amended to read as follows:

(d) The bailiffs and assistant and deputy bailiffs appointed by the district judges shall take care of the general panel and perform the duties in connection with the supervision of the central jury room and the general panel that are required by the district judges. They may notify prospective jurors whose names are drawn from the master jury list ~~[wheel]~~ or selected by other means provided by law to appear for jury service and may serve notices on absent jurors as directed by the district judge having control of the general jury panel.

SECTION 5. Section 62.106, Government Code, is amended to read as follows:

Sec. 62.106. EXEMPTION FROM JURY SERVICE. ~~[(a)]~~ A person qualified to serve as a petit juror may establish an exemption from jury service if the person:

(1) is over 70 years of age;

(2) has legal custody of a child younger than 10 years of age and the person's service on the jury requires leaving the child without adequate supervision;

(3) is a student of a public or private secondary school;

(4) is a person enrolled and in actual attendance at an institution of higher education;

(5) is an officer or an employee of the senate, the house of representatives, or any department, commission, board, office, or other agency in the legislative branch of state government;

(6) ~~[is summoned for service in a county with a population of at least 200,000, unless that county uses a jury plan under Section 62.011 and the period authorized under Section 62.011(b)(5) exceeds two years, and the person has served as a petit~~

~~juror in the county during the 24-month period preceding the date the person is to appear for jury service,~~

~~[(7)] is the primary caretaker of a person who is an invalid unable to care for himself; or~~

~~(7) [(8) except as provided by Subsection (b), is summoned for service in a county with a population of at least 250,000 and the person has served as a petit juror in the county during the three-year period preceding the date the person is to appear for jury service, or~~

~~[(9)] is a member of the United States military forces serving on active duty and deployed to a location away from the person's home station and out of the person's county of residence.~~

~~[(b) Subsection (a)(8) does not apply if the jury wheel in the county has been reconstituted after the date the person served as a petit juror.]~~

SECTION 6. Subsection (b), Section 62.107, Government Code, is amended to read as follows:

(b) A person may also claim an exemption from jury service under Section 62.106 by filing with the sheriff, tax assessor-collector, or district or county clerk of the county of the person's ~~[his]~~ residence a sworn statement that sets forth the ground of and claims the exemption. The name of a person who claims an ~~[his]~~ exemption by filing the sworn statement may not be placed on ~~[in]~~ the master jury list ~~[wheel]~~ for the ensuing year.

SECTION 7. Subsection (d), Section 62.108, Government Code, is amended to read as follows:

(d) The name of a person on the register of persons permanently exempt from jury service may not be placed on ~~[in]~~ the master jury list ~~[wheel]~~ or otherwise used in preparing the record of names from which a jury is selected.

SECTION 8. Subsection (d), Section 62.109, Government Code, is amended to read as follows:

(d) A person listed on the register may not be summoned for jury service during the period for which the person is exempt. The name of a person listed on the register may not be placed on ~~[in]~~ the master jury list ~~[wheel]~~ or otherwise used in preparing the record of names from which a jury list is selected during the period for which the person is exempt.

SECTION 9. Subsection (b), Section 62.110, Government Code, is amended to read as follows:

(b) Pursuant to a plan approved by the commissioners court of the county ~~[in the same manner as a plan is approved for jury selection under Section 62.011]~~, the court's designee may:

(1) hear any reasonable excuse of a prospective juror, including any claim of an exemption or a lack of qualification; and

(2) discharge the juror or release the juror ~~[him]~~ from jury service until a specified day of the term, as appropriate, if:

(A) the excuse is considered sufficient; and

(B) the juror submits to the court's designee a statement of the ground of the exemption or lack of qualification or other excuse.

SECTION 10. Subsections (a) and (c), Section 62.302, Government Code, are amended to read as follows:

(a) The county judge or a judge of a county court at law may order the drawing of names from the master jury list ~~[wheel]~~ if the judge considers the number of prospective jurors already drawn to be insufficient or if an interchangeable general jury panel is not drawn as provided by rules adopted by the supreme court or a jury plan approved by the supreme court [Section 62.016, 62.017, or 62.0175].

(c) The county judge and a judge of a county court at law concurrently have the same power to determine and remedy a deficiency in the number of prospective jurors as the district judge designated to control a general jury panel as provided by rules adopted by the supreme court or a jury plan approved by the supreme court [Section 62.016, 62.017, or 62.0175. Except as otherwise provided by this section, the applicable general provisions in Subchapter A that govern the drawing of names of

~~prospective jurors by the district judge govern the drawing of names under this section].~~

SECTION 11. Subsections (a) and (c), Section 62.412, Government Code, are amended to read as follows:

(a) A county that uses interchangeable juries ~~[under Section 62.016]~~ may summon a prospective juror to report directly to a justice court in the precinct in which that person resides.

(c) A justice of the peace may command the sheriff or constable to immediately summon additional persons for jury service in the justice court if the number of qualified jurors ~~[, including persons summoned under Section 62.016,]~~ is less than the number necessary for the justice court to conduct its proceedings.

SECTION 12. Articles 34.02 and 34.03, Code of Criminal Procedure, are amended to read as follows:

Art. 34.02. ADDITIONAL NAMES DRAWN. In any criminal case in which the court deems that the veniremen theretofore drawn will be insufficient for the trial of the case, or in any criminal case in which the venire has been exhausted by challenge or otherwise, the court shall order additional veniremen in such numbers as the court may deem advisable, to be summoned as follows:

(a) In a master jury list ~~[wheel]~~ county, the names of those to be summoned shall be drawn from the master jury list ~~[wheel]~~.

(b) In counties not using the master jury list ~~[wheel]~~, the veniremen shall be summoned by the sheriff.

Art. 34.03. INSTRUCTIONS TO SHERIFF. When the sheriff is ordered by the court to summon persons upon a special venire whose names have not been selected under the master jury list ~~[Jury Wheel Law]~~, the court shall, in every case, caution and direct the sheriff to summon such persons as have legal qualifications to serve on juries, informing him of what those qualifications are, and shall direct him, as far as he may be able to summon persons of good character who can read and write, and such as are not prejudiced against the defendant or biased in his favor, if he knows of such bias or prejudice.

SECTION 13. (a) The following provisions of the Government Code are repealed:

- (1) Subsection (k), Section 25.2422;
- (2) Subsections (h), (i), (j), and (k), Section 62.001;
- (3) Section 62.002;
- (4) Section 62.003;
- (5) Section 62.004;
- (6) Section 62.005;
- (7) Section 62.006;
- (8) Section 62.007;
- (9) Section 62.008;
- (10) Section 62.009;
- (11) Section 62.010;
- (12) Section 62.011;
- (13) Section 62.0111;
- (14) Section 62.012;
- (15) Section 62.013;
- (16) Section 62.014;
- (17) Section 62.0142;
- (18) Section 62.0143;
- (19) Section 62.0144;
- (20) Section 62.0145;
- (21) Section 62.0146;
- (22) Section 62.015;
- (23) Section 62.016;
- (24) Section 62.017;
- (25) Section 62.0175;
- (26) Section 62.018; and
- (27) Section 62.021.

(b) The following articles of the Code of Criminal Procedure are repealed:

- (1) Article 35.03;
- (2) Article 35.04;
- (3) Article 35.05;
- (4) Article 35.11; and

(5) Article 35.12.

SECTION 14. Not later than December 1, 2009, the Texas Supreme Court shall adopt rules as required by Section 62.0011, Government Code, as added by this Act, to take effect January 1, 2010.

SECTION 15. The change in law made by this Act applies only to a person summoned to appear for jury service who is required to appear on or after January 1, 2010. A person summoned to appear for jury service who is required to appear before January 1, 2010, is governed by the law in effect on the date the person is required to appear, and the former law is continued in effect for that purpose.

SECTION 16. A master jury list in use on the effective date of this Act continues in effect until the earlier of:

(1) March 31, 2010; or

(2) the date a master jury list is compiled and made available to a county using procedures implemented as required by this Act.

SECTION 17. (a) Except as provided by Subsection (b) of this section, this Act takes effect January 1, 2010.

(b) Sections 3 and 14 of this Act and this section take effect September 1, 2009.

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