

By: Bonnen

H.B. No. 1633

A BILL TO BE ENTITLED

AN ACT

relating to a person's ability to read and write in English as a qualification for service as a petit juror.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 35.16(a), Code of Criminal Procedure, is amended to read as follows:

(a) A challenge for cause is an objection made to a particular juror, alleging some fact which renders the juror incapable or unfit to serve on the jury. A challenge for cause may be made by either the state or the defense for any one of the following reasons:

1. That the juror is not a qualified voter in the state and county under the Constitution and laws of the state; provided, however, the failure to register to vote shall not be a disqualification;

2. That the juror has been convicted of misdemeanor theft or a felony;

3. That the juror is under indictment or other legal accusation for misdemeanor theft or a felony;

4. That the juror is insane;

5. That the juror has such defect in the organs of feeling or hearing, or such bodily or mental defect or disease as to render the juror unfit for jury service, or that the juror is legally blind and the court in its discretion is not satisfied that

1 the juror is fit for jury service in that particular case;

2 6. That the juror is a witness in the case;

3 7. That the juror served on the grand jury which found
4 the indictment;

5 8. That the juror served on a petit jury in a former
6 trial of the same case;

7 9. That the juror has a bias or prejudice in favor of
8 or against the defendant;

9 10. That from hearsay, or otherwise, there is
10 established in the mind of the juror such a conclusion as to the
11 guilt or innocence of the defendant as would influence the juror in
12 finding a verdict. To ascertain whether this cause of challenge
13 exists, the juror shall first be asked whether, in the juror's
14 opinion, the conclusion so established will influence the juror's
15 verdict. If the juror answers in the affirmative, the juror shall
16 be discharged without further interrogation by either party or the
17 court. If the juror answers in the negative, the juror shall be
18 further examined as to how the juror's conclusion was formed, and
19 the extent to which it will affect the juror's action; and, if it
20 appears to have been formed from reading newspaper accounts,
21 communications, statements or reports or mere rumor or hearsay, and
22 if the juror states that the juror feels able, notwithstanding such
23 opinion, to render an impartial verdict upon the law and the
24 evidence, the court, if satisfied that the juror is impartial and
25 will render such verdict, may, in its discretion, admit the juror as
26 competent to serve in such case. If the court, in its discretion,
27 is not satisfied that the juror is impartial, the juror shall be

1 discharged;

2 11. That the juror cannot read or write English.

3 No juror shall be impaneled when it appears that the juror is
4 subject to the second, third or fourth grounds of challenge for
5 cause set forth above, although both parties may consent. All other
6 grounds for challenge may be waived by the party or parties in whose
7 favor such grounds of challenge exist.

8 In this subsection "legally blind" shall mean having not more
9 than 20/200 of visual acuity in the better eye with correcting
10 lenses, or visual acuity greater than 20/200 but with a limitation
11 in the field of vision such that the widest diameter of the visual
12 field subtends an angle no greater than 20 degrees.

13 SECTION 2. Section 62.102, Government Code, is amended to
14 read as follows:

15 Sec. 62.102. GENERAL QUALIFICATIONS FOR JURY SERVICE. A
16 person is disqualified to serve as a petit juror unless the person:

- 17 (1) is at least 18 years of age;
- 18 (2) is a citizen of this state and of the county in
19 which the person is to serve as a juror;
- 20 (3) is qualified under the constitution and laws to
21 vote in the county in which the person is to serve as a juror;
- 22 (4) is of sound mind and good moral character;
- 23 (5) is able to read and write English;
- 24 (6) has not served as a petit juror for six days during
25 the preceding three months in the county court or during the
26 preceding six months in the district court;
- 27 (7) has not been convicted of misdemeanor theft or a

1 felony; and

2 (8) is not under indictment or other legal accusation
3 for misdemeanor theft or a felony.

4 SECTION 3. Section 62.103(a), Government Code, is amended
5 to read as follows:

6 (a) A court may suspend the qualification for jury service
7 that requires a person to be able to read and write English if it
8 appears to the court that the requisite number of jurors able to
9 read and write English cannot be found in the county.

10 SECTION 4. The heading to Section 62.109, Government Code,
11 is amended to read as follows:

12 Sec. 62.109. EXEMPTION FOR PHYSICAL OR MENTAL IMPAIRMENT
13 [~~OR INABILITY TO COMPREHEND ENGLISH~~].

14 SECTION 5. Sections 62.109(a), (b), and (f), Government
15 Code, are amended to read as follows:

16 (a) The judge of a district court by order may permanently
17 or for a specified period exempt from service as a juror in all the
18 county and district courts in the county a person with a physical or
19 mental impairment [~~or with an inability to comprehend or~~
20 ~~communicate in the English language~~] that makes it impossible or
21 very difficult for the person to serve on a jury.

22 (b) At the time the person is summoned for jury service or at
23 any other time, a [A] person requesting an exemption under this
24 section must:

25 (1) submit to the court an affidavit stating the
26 person's name and address and the reason for and the duration of the
27 requested exemption; and

1 (2) [~~. A person requesting an exemption due to a~~
2 ~~physical or mental impairment must~~] attach to the affidavit a
3 statement from a physician. [~~The affidavit and physician's~~
4 ~~statement may be submitted to the court at the time the person is~~
5 ~~summoned for jury service or at any other time.~~]

6 (f) An affidavit accompanying a request for an exemption
7 from jury service under this section [~~because of a physical or~~
8 ~~mental impairment~~] may be presented by the affiant or by a friend or
9 relative of the affiant. The affidavit must state:

10 (1) the name and address of the physician whose
11 statement accompanies the affidavit;

12 (2) whether the request is for a permanent or
13 temporary exemption;

14 (3) the period of time for which a temporary exemption
15 is requested; and

16 (4) that as a direct result of the physical or mental
17 impairment it is impossible or very difficult for the affiant to
18 serve on a jury.

19 SECTION 6. Section 62.109(g), Government Code, is repealed.

20 SECTION 7. The change in law made by this Act applies only
21 to a juror who is impaneled on or after the effective date of this
22 Act. A juror who is impaneled before the effective date of this Act
23 is governed by the law in effect on the date the juror is impaneled,
24 and the former law is continued in effect for that purpose.

25 SECTION 8. This Act takes effect September 1, 2011.