

1-1 By: Bonnen, et al. (Senate Sponsor - Huffman) H.B. No. 1633
1-2 (In the Senate - Received from the House April 26, 2011;
1-3 April 29, 2011, read first time and referred to Committee on
1-4 Jurisprudence; May 12, 2011, reported favorably by the following
1-5 vote: Yeas 4, Nays 3; May 12, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to a person's ability to read and write in English as a
1-9 qualification for service as a petit juror.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Article 35.16(a), Code of Criminal Procedure, is
1-12 amended to read as follows:

1-13 (a) A challenge for cause is an objection made to a
1-14 particular juror, alleging some fact which renders the juror
1-15 incapable or unfit to serve on the jury. A challenge for cause may
1-16 be made by either the state or the defense for any one of the
1-17 following reasons:

1-18 1. That the juror is not a qualified voter in the state
1-19 and county under the Constitution and laws of the state; provided,
1-20 however, the failure to register to vote shall not be a
1-21 disqualification;

1-22 2. That the juror has been convicted of misdemeanor
1-23 theft or a felony;

1-24 3. That the juror is under indictment or other legal
1-25 accusation for misdemeanor theft or a felony;

1-26 4. That the juror is insane;

1-27 5. That the juror has such defect in the organs of
1-28 feeling or hearing, or such bodily or mental defect or disease as to
1-29 render the juror unfit for jury service, or that the juror is
1-30 legally blind and the court in its discretion is not satisfied that
1-31 the juror is fit for jury service in that particular case;

1-32 6. That the juror is a witness in the case;

1-33 7. That the juror served on the grand jury which found
1-34 the indictment;

1-35 8. That the juror served on a petit jury in a former
1-36 trial of the same case;

1-37 9. That the juror has a bias or prejudice in favor of
1-38 or against the defendant;

1-39 10. That from hearsay, or otherwise, there is
1-40 established in the mind of the juror such a conclusion as to the
1-41 guilt or innocence of the defendant as would influence the juror in
1-42 finding a verdict. To ascertain whether this cause of challenge
1-43 exists, the juror shall first be asked whether, in the juror's
1-44 opinion, the conclusion so established will influence the juror's
1-45 verdict. If the juror answers in the affirmative, the juror shall
1-46 be discharged without further interrogation by either party or the
1-47 court. If the juror answers in the negative, the juror shall be
1-48 further examined as to how the juror's conclusion was formed, and
1-49 the extent to which it will affect the juror's action; and, if it
1-50 appears to have been formed from reading newspaper accounts,
1-51 communications, statements or reports or mere rumor or hearsay, and
1-52 if the juror states that the juror feels able, notwithstanding such
1-53 opinion, to render an impartial verdict upon the law and the
1-54 evidence, the court, if satisfied that the juror is impartial and
1-55 will render such verdict, may, in its discretion, admit the juror as
1-56 competent to serve in such case. If the court, in its discretion,
1-57 is not satisfied that the juror is impartial, the juror shall be
1-58 discharged;

1-59 11. That the juror cannot read or write English.

1-60 No juror shall be impaneled when it appears that the juror is
1-61 subject to the second, third or fourth grounds of challenge for
1-62 cause set forth above, although both parties may consent. All other
1-63 grounds for challenge may be waived by the party or parties in whose
1-64 favor such grounds of challenge exist.

2-1 In this subsection "legally blind" shall mean having not more
2-2 than 20/200 of visual acuity in the better eye with correcting
2-3 lenses, or visual acuity greater than 20/200 but with a limitation
2-4 in the field of vision such that the widest diameter of the visual
2-5 field subtends an angle no greater than 20 degrees.

2-6 SECTION 2. Section 62.102, Government Code, is amended to
2-7 read as follows:

2-8 Sec. 62.102. GENERAL QUALIFICATIONS FOR JURY SERVICE. A
2-9 person is disqualified to serve as a petit juror unless the person:

- 2-10 (1) is at least 18 years of age;
2-11 (2) is a citizen of this state and of the county in
2-12 which the person is to serve as a juror;
2-13 (3) is qualified under the constitution and laws to
2-14 vote in the county in which the person is to serve as a juror;
2-15 (4) is of sound mind and good moral character;
2-16 (5) is able to read and write English;
2-17 (6) has not served as a petit juror for six days during
2-18 the preceding three months in the county court or during the
2-19 preceding six months in the district court;
2-20 (7) has not been convicted of misdemeanor theft or a
2-21 felony; and
2-22 (8) is not under indictment or other legal accusation
2-23 for misdemeanor theft or a felony.

2-24 SECTION 3. Section 62.103(a), Government Code, is amended
2-25 to read as follows:

2-26 (a) A court may suspend the qualification for jury service
2-27 that requires a person to be able to read and write English if it
2-28 appears to the court that the requisite number of jurors able to
2-29 read and write English cannot be found in the county.

2-30 SECTION 4. The heading to Section 62.109, Government Code,
2-31 is amended to read as follows:

2-32 Sec. 62.109. EXEMPTION FOR PHYSICAL OR MENTAL IMPAIRMENT
2-33 [~~OR INABILITY TO COMPREHEND ENGLISH~~].

2-34 SECTION 5. Sections 62.109(a), (b), and (f), Government
2-35 Code, are amended to read as follows:

2-36 (a) The judge of a district court by order may permanently
2-37 or for a specified period exempt from service as a juror in all the
2-38 county and district courts in the county a person with a physical or
2-39 mental impairment [~~or with an inability to comprehend or~~
2-40 ~~communicate in the English language~~] that makes it impossible or
2-41 very difficult for the person to serve on a jury.

2-42 (b) At the time the person is summoned for jury service or at
2-43 any other time, a [A] person requesting an exemption under this
2-44 section must:

2-45 (1) submit to the court an affidavit stating the
2-46 person's name and address and the reason for and the duration of the
2-47 requested exemption; and

2-48 (2) [~~A person requesting an exemption due to a~~
2-49 ~~physical or mental impairment must~~] attach to the affidavit a
2-50 statement from a physician. [~~The affidavit and physician's~~
2-51 ~~statement may be submitted to the court at the time the person is~~
2-52 ~~summoned for jury service or at any other time.~~]

2-53 (f) An affidavit accompanying a request for an exemption
2-54 from jury service under this section [~~because of a physical or~~
2-55 ~~mental impairment~~] may be presented by the affiant or by a friend or
2-56 relative of the affiant. The affidavit must state:

2-57 (1) the name and address of the physician whose
2-58 statement accompanies the affidavit;

2-59 (2) whether the request is for a permanent or
2-60 temporary exemption;

2-61 (3) the period of time for which a temporary exemption
2-62 is requested; and

2-63 (4) that as a direct result of the physical or mental
2-64 impairment it is impossible or very difficult for the affiant to
2-65 serve on a jury.

2-66 SECTION 6. Section 62.109(g), Government Code, is repealed.

2-67 SECTION 7. The change in law made by this Act applies only
2-68 to a juror who is impaneled on or after the effective date of this
2-69 Act. A juror who is impaneled before the effective date of this Act

3-1 is governed by the law in effect on the date the juror is impaneled,
3-2 and the former law is continued in effect for that purpose.
3-3 SECTION 8. This Act takes effect September 1, 2011.

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