

BILL ANALYSIS

C.S.H.B. 282
By: Dutton
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that grand jurors may be empaneled using a system that relies on jury commissioners to select prospective grand jurors from the community at large. A recent federal court case ruled that such a system of empaneling grand juries is highly subjective, archaic, and inefficient. Nevertheless, the court concluded that the facial constitutionality of the system was acceptable but susceptible to abuse. The parties agree and assert that the system is detrimental to the justice process and in need of restructuring. C.S.H.B. 282 seeks to address this issue.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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

C.S.H.B. 282 amends the Code of Criminal Procedure to remove selection by jury commissioners appointed by the district judge as a method for organizing a grand jury and to make mandatory a district judge's authorization to direct that 20 to 125 prospective grand jurors be selected and summoned in the same manner as for the selection and summons of panels for the trial of civil cases in the district courts. The bill removes statutory provisions relating to the appointment and qualifications of jury commissioners and relating to the selection of grand jurors by such commissioners. The bill repeals certain provisions relating to the organization of the grand jury.

C.S.H.B. 282 requires, in trying the qualifications of any person to serve as a grand juror, the questions of whether the person has ever been convicted of misdemeanor theft or whether the person is under indictment or other legal accusation for misdemeanor theft to be asked. The bill requires the court to select twelve fair and impartial persons to serve as grand jurors and two additional persons to serve as alternate grand jurors. The bill conditions such selection on the finding that fourteen qualified jurors are present and specifies that fourteen is the minimum number of qualified jurors required to be present for selection. The bill includes among the reasons for which a juror is considered unavailable to serve on a grand jury any reason that the court determines constitutes good cause for dismissing the juror.

C.S.H.B. 282 amends the Government Code to make conforming changes.

C.S.H.B. 282 repeals the following provisions:

- Articles 19.02, 19.03, 19.04, 19.05, 19.06, 19.09, 19.10, 19.11, 19.12, 19.13, 19.14,

19.15, and 19.17, Code of Criminal Procedure

- Section 24.014(c), Government Code

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 282 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Article 19.01, Code of Criminal Procedure, is amended.	SECTION 1. Substantially the same as introduced version.
SECTION 2. Article 19.07, Code of Criminal Procedure, is amended.	SECTION 2. Same as introduced version.
SECTION 3. Article 19.08, Code of Criminal Procedure, is amended.	SECTION 3. Same as introduced version.
SECTION 4. Article 19.19, Code of Criminal Procedure, is amended.	SECTION 4. Same as introduced version.
SECTION 5. Article 19.20, Code of Criminal Procedure, is amended.	SECTION 5. Same as introduced version.
No equivalent provision.	SECTION 6. Article 19.23, Code of Criminal Procedure, is amended to read as follows: Art. 19.23. MODE OF TEST. In trying the qualifications of any person to serve as a grand juror, he shall be asked: 1. Are you a citizen of this state and county, and qualified to vote in this county, under the Constitution and laws of this state? 2. Are you able to read and write? 3. Have you ever been convicted of <u>misdemeanor theft or any [a] felony</u> ? 4. Are you under indictment or other legal accusation for <u>misdemeanor</u> theft or for any felony?

No equivalent provision.

SECTION 7. Article 19.26, Code of Criminal Procedure, is amended to read as follows:

Art. 19.26. JURY IMPANELED. (a) When at least fourteen qualified jurors are found to be present, the court shall select twelve fair and impartial persons to serve as grand jurors and two additional persons to serve as alternate grand jurors.

(b) The court shall proceed to impanel the grand jury, unless a challenge is made, which may be to the array or to any particular person presented to serve as a grand juror or an alternate.

~~[(b) The grand jury is composed of not more than twelve qualified jurors.]~~ In addition, the court shall ~~[qualify and]~~ impanel ~~[not more than]~~ two alternates to serve on disqualification or unavailability of a juror during the term of the grand jury. On learning that a grand juror has become disqualified or unavailable during the term of the grand jury, the attorney representing the state shall prepare an order for the court identifying the disqualified or unavailable juror, stating the basis for the disqualification or unavailability, dismissing the disqualified or unavailable juror from the grand jury, and naming one of the alternates as a member of the grand jury. The procedure established by this subsection may be used on disqualification or unavailability of a second grand juror during the term of the grand jury. For purposes of this subsection, a juror is unavailable if the juror is unable to participate fully in the duties of the grand jury because of the death of the juror, ~~[or]~~ a physical or mental illness of the juror, or any other reason the court determines constitutes good cause for dismissing the juror.

SECTION 6. Article 19.30, Code of Criminal Procedure, is amended.

SECTION 8. Same as introduced version.

SECTION 7. Section 24.014(b), Government Code, is amended.

SECTION 9. Same as introduced version.

SECTION 8. Section 24.135(c), Government Code, is amended.

SECTION 10. Same as introduced version.

SECTION 9. Section 24.377(b), Government Code, is amended.

SECTION 11. Same as introduced version.

SECTION 10. Section 24.396(b), Government Code, is amended.

SECTION 12. Same as introduced version.

SECTION 11. Section 24.487(b), Government Code, is amended.

SECTION 13. Same as introduced version.

SECTION 12. Section 24.568(d), Government Code, is amended.

SECTION 14. Same as introduced version.

SECTION 13. Section 24.596(b), Government Code, is amended.

SECTION 15. Same as introduced version.

SECTION 14. The heading to Section 402.024, Government Code, is amended.

SECTION 16. Same as introduced version.

SECTION 15. Section 402.024(b), Government Code, is amended.

SECTION 17. Same as introduced version.

SECTION 16. The following provisions are repealed:

SECTION 18. Same as introduced version.

- (1) Articles 19.02, 19.03, 19.04, 19.05, 19.06, 19.09, 19.10, 19.11, 19.12, 19.13, 19.14, 19.15, and 19.17, Code of Criminal Procedure; and
- (2) Section 24.014(c), Government Code.

SECTION 17. Section 402.024(b), Government Code, as amended by this Act, applies only to a court action arising from an act of a person that occurs on or after the effective date of this Act. A court action arising from an act of a person that occurred before the effective date of this Act is governed by the law in effect on the date the act occurred, and the former law is continued in effect for that purpose.

SECTION 19. Same as introduced version.

SECTION 18. This Act takes effect September 1, 2015.

SECTION 20. Same as introduced version.