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H.B. No. 2150

A BILL TO BE ENTITLED

AN ACT

relating to the organization of a grand jury and qualifications for service as a grand juror.

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

SECTION 1. Article 19.01, Code of Criminal Procedure, is amended to read as follows:

Art. 19.01. APPOINTMENT OF GRAND JURY [~~COMMISSIONERS, SELECTION WITHOUT JURY COMMISSION~~]. [~~(a)~~] The [~~district judge, at or during any term of court, shall appoint not less than three, nor more than five persons to perform the duties of jury commissioners, and shall cause the sheriff to notify them of their appointment, and when and where they are to appear. The district judge shall, in the order appointing such commissioners, designate whether such commissioners shall serve during the term at which selected or for the next succeeding term. Such commissioners shall receive as compensation for each day or part thereof they may serve the sum of Ten Dollars, and they shall possess the following qualifications:~~

[~~1. Be intelligent citizens of the county and able to read and write the English language,~~

[~~2. Be qualified jurors in the county,~~

[~~3. Have no suit in said court which requires intervention of a jury,~~

[~~4. Be residents of different portions of the county, and~~

[~~5. The same person shall not act as jury commissioner more~~

1 ~~than once in any 12-month period.~~

2 ~~[(b) In lieu of the selection of prospective jurors by means~~
3 ~~of a jury commission, the]~~ district judge shall ~~[may]~~ direct that 20
4 to 125 prospective grand jurors be selected and summoned, with
5 return on summons, in the same manner as for the selection and
6 summons of panels for the trial of civil cases in the district
7 courts. The judge shall try the qualifications for and excuses from
8 service as a grand juror and impanel the completed grand jury ~~[in~~
9 ~~the same manner]~~ as provided by this chapter ~~[for grand jurors~~
10 ~~selected by a jury commission].~~

11 SECTION 2. Article 19.07, Code of Criminal Procedure, is
12 amended to read as follows:

13 Art. 19.07. EXTENSION BEYOND TERM OF PERIOD FOR WHICH GRAND
14 JURORS SHALL SIT. If prior to the expiration of the term for which
15 the grand jury was impaneled, it is made to appear by a declaration
16 of the foreman or of a majority of the grand jurors in open court,
17 that the investigation by the grand jury of the matters before it
18 cannot be concluded before the expiration of the term, the judge of
19 the district court in which said grand jury was impaneled may, by
20 the entry of an order on the minutes of said court, extend, from
21 time to time, for the purpose of concluding the investigation of
22 matters then before it, the period during which said grand jury
23 shall sit, for not to exceed a total of ninety days after the
24 expiration of the term for which it was impaneled, and all
25 indictments pertaining thereto returned by the grand jury within
26 said extended period shall be as valid as if returned before the
27 expiration of the term. ~~[The extension of the term of a grand jury~~

1 ~~under this article does not affect the provisions of Article 19.06~~
2 ~~relating to the selection and summoning of grand jurors for each~~
3 ~~regularly scheduled term.]~~

4 SECTION 3. Article 19.08, Code of Criminal Procedure, is
5 amended to read as follows:

6 Art. 19.08. QUALIFICATIONS. No person shall be selected or
7 serve as a grand juror who does not possess the following
8 qualifications:

9 1. The person must be a citizen of the state, and of
10 the county in which the person is to serve, and be qualified under
11 the Constitution and laws to vote in said county, provided that the
12 person's failure to register to vote shall not be held to disqualify
13 the person in this instance;

14 2. The person must be of sound mind and good moral
15 character;

16 3. The person must be able to read and write;

17 4. The person must not have been convicted of
18 misdemeanor theft or a felony;

19 5. The person must not be under indictment or other
20 legal accusation for misdemeanor theft or a felony;

21 6. The person must not be related within the third
22 degree of consanguinity or second degree of affinity, as determined
23 under Chapter 573, Government Code, to any person selected to serve
24 or serving on the same grand jury;

25 7. The person must not have served as grand juror [~~or~~
26 ~~jury commissioner~~] in the year before the date on which the term of
27 court for which the person has been selected as grand juror begins;

1 and

2 8. The person must not be a complainant in any matter
3 to be heard by the grand jury during the term of court for which the
4 person has been selected as a grand juror.

5 SECTION 4. Article 19.19, Code of Criminal Procedure, is
6 amended to read as follows:

7 Art. 19.19. JURORS TO ATTEND FORTHWITH. The jurors
8 provided for in Article 19.18 [~~the two preceding Articles~~] shall be
9 summoned in person to attend before the court forthwith.

10 SECTION 5. Article 19.20, Code of Criminal Procedure, is
11 amended to read as follows:

12 Art. 19.20. TO SUMMON QUALIFIED PERSONS. On [~~Upon~~]
13 directing the sheriff to summon grand jurors [~~not selected by the~~
14 ~~jury commissioners~~], the court shall instruct the sheriff [~~him~~]
15 that the sheriff [~~he~~] must not summon any [~~no~~] person to serve as a
16 grand juror who does not possess the qualifications prescribed by
17 law.

18 SECTION 6. Article 19.26(b), Code of Criminal Procedure, is
19 amended to read as follows:

20 (b) The grand jury is composed of not more than twelve
21 qualified jurors. In addition, the court shall qualify and impanel
22 not more than four [~~two~~] alternates to serve on disqualification or
23 unavailability of a juror during the term of the grand jury. On
24 learning that a grand juror has become disqualified or unavailable
25 during the term of the grand jury, the attorney representing the
26 state shall prepare an order for the court identifying the
27 disqualified or unavailable juror, stating the basis for the

1 disqualification or unavailability, dismissing the disqualified or
2 unavailable juror from the grand jury, and naming one of the
3 alternates as a member of the grand jury. The procedure established
4 by this subsection may be used on disqualification or
5 unavailability of a second or subsequent grand juror during the
6 term of the grand jury. For purposes of this subsection, a juror is
7 unavailable if the juror is unable to participate fully in the
8 duties of the grand jury because the juror is unwilling to serve on
9 the grand jury or is otherwise neglecting the juror's duty to serve,
10 or because of the death of the juror or a physical or mental illness
11 of the juror.

12 SECTION 7. Article 19.30, Code of Criminal Procedure, is
13 amended to read as follows:

14 Art. 19.30. CHALLENGE TO "ARRAY". A challenge to the
15 "array" shall be made in writing for these causes only:

16 1. That those summoned as grand jurors are not in fact
17 those selected by the method provided by Article 19.01 [~~19.01(b) of~~
18 ~~this chapter or by the jury commissioners~~]; and

19 2. That [~~In case of grand jurors summoned by order of~~
20 ~~the court, that~~] the officer who summoned the grand jurors [~~them~~
21 ~~had~~] acted corruptly in summoning any one or more of them.

22 SECTION 8. Article 19.31, Code of Criminal Procedure, is
23 amended to read as follows:

24 Art. 19.31. CHALLENGE TO JUROR. (a) A challenge to a
25 particular grand juror may be made orally for any of the following
26 causes [~~only~~]:

27 1. That the juror is insane;

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

6 3. That the juror is a witness or a target in an
7 investigation by a grand jury;

8 4. That the juror served on a petit jury in a former
9 trial of the same alleged conduct or offense that the grand jury is
10 investigating;

11 5. That the juror has a bias or prejudice in favor of
12 or against the person accused or suspected of committing an offense
13 that the grand jury is investigating;

14 6. That from hearsay, or otherwise, there is
15 established in the mind of the juror such a conclusion as to the
16 guilt or innocence of the person accused or suspected of committing
17 an offense that the grand jury is investigating as would influence
18 the juror's vote on the presentment of an indictment;

19 7. That the juror is related within the third degree by
20 consanguinity or affinity, as determined under Chapter 573,
21 Government Code, to a person accused or suspected of committing an
22 offense that the grand jury is investigating or to a person who is a
23 victim of an offense that the grand jury is investigating;

24 8. That the juror has a bias or prejudice against any
25 phase of the law upon which the state is entitled to rely for an
26 indictment;

27 9. That the juror [~~he~~] is not a qualified juror; and

1 10. [2.] That the juror [~~he~~] is the prosecutor upon an
2 accusation against the person making the challenge.

3 (a-1) A challenge under Subdivision (a)(3) may be made ex
4 parte and shall be reviewed and ruled upon in camera. Any record of
5 the challenge shall be placed under seal by the court.

6 (b) In this article, "legally blind" has the meaning
7 assigned by Article 35.16(a).

8 SECTION 9. Chapter 19, Code of Criminal Procedure, is
9 amended by adding Article 19.315 to read as follows:

10 Art. 19.315. RECUSAL OF JUROR. (a) If, during the course of
11 a juror's service on the grand jury, the juror determines that the
12 juror could be subject to a valid challenge for cause under Article
13 19.31, the juror shall recuse himself or herself from grand jury
14 service until the cause no longer exists. A person who knowingly
15 fails to recuse himself or herself under this subsection may be held
16 in contempt of court. A person authorized to be present in the grand
17 jury room shall report a known violation of this subsection to the
18 court.

19 (b) The court shall instruct the grand jury as to the duty
20 imposed by Subsection (a).

21 SECTION 10. Section 24.014(b), Government Code, is amended
22 to read as follows:

23 (b) The judge may impanel [~~appoint jury commissioners who~~
24 ~~select and draw~~] grand and petit jurors as provided by law. The
25 jurors may be summoned to appear before the court at the time
26 designated by the judge.

27 SECTION 11. Section 24.135(c), Government Code, is amended

1 to read as follows:

2 (c) The judge of the 33rd District Court may [~~select jury~~
3 ~~commissioners and~~] impanel grand juries in each county. The judge
4 of the 33rd District Court may alternate the drawing of grand juries
5 with the judge of any other district court in each county within the
6 33rd Judicial District and may order grand and petit juries to be
7 drawn for any term of the court as the judge determines is
8 necessary, by an order entered in the minutes of the court.
9 Indictments within each county may be returned to either court
10 within that county.

11 SECTION 12. Section 24.377(b), Government Code, is amended
12 to read as follows:

13 (b) The judge of the 198th District Court may [~~select jury~~
14 ~~commissioners and~~] impanel grand juries in each county. The judge
15 of the 198th District Court may alternate the drawing of grand
16 juries with the judge of any other district court in each county
17 within the judge's district and may order grand and petit juries to
18 be drawn for any term of the judge's court as in the judge's judgment
19 is necessary, by an order entered in the minutes of the court.
20 Indictments within each county may be returned to either court
21 within that county.

22 SECTION 13. Section 24.396(b), Government Code, is amended
23 to read as follows:

24 (b) The judge of the 218th District Court may [~~select grand~~
25 ~~jury commissioners and~~] impanel grand juries in each county in the
26 district but is not required to impanel a grand jury in any county
27 except when the judge [~~he~~] considers it necessary. The judge may

1 alternate the impaneling of grand juries in each county with the
2 judge of any other district court in that county, or the judges may
3 by agreement determine which one of the courts will impanel the
4 grand juries. Indictments within each county may be returned to any
5 district court within that county. All grand and petit juries drawn
6 for one district court in each county are interchangeable with any
7 other district court in that county as if the jury had been drawn
8 for the court in which it is used.

9 SECTION 14. Section 24.487(b), Government Code, is amended
10 to read as follows:

11 (b) The judge of the 341st District Court may [~~select jury~~
12 ~~commissioners and~~] impanel grand juries in Webb County. The judge
13 of the 341st District Court may alternate the drawing of grand
14 juries with the judge of any other district court in the county. By
15 order entered on the minutes, for any term that the judge considers
16 it necessary, the judge may order grand and petit juries to be
17 drawn.

18 SECTION 15. Section 24.568(d), Government Code, is amended
19 to read as follows:

20 (d) The judge of the 424th District Court may [~~select jury~~
21 ~~commissioners and~~] impanel grand juries in each county. The judge
22 of the 424th District Court may alternate the drawing of grand
23 juries with the judge of any other district court in each county
24 within the 424th Judicial District and may order grand and petit
25 juries to be drawn for any term of the court as the judge determines
26 is necessary, by an order entered in the minutes of the court.
27 Indictments within each county may be returned to either court

1 within that county.

2 SECTION 16. Section 24.596(b), Government Code, is amended
3 to read as follows:

4 (b) The judge of the 452nd District Court may [~~select jury~~
5 ~~commissioners and~~] impanel grand juries in each county. The judge
6 of the 452nd District Court may order grand and petit juries to be
7 drawn for any term of the judge's court as in the judge's judgment is
8 necessary, by an order entered in the minutes of the court.

9 SECTION 17. The heading to Section 402.024, Government
10 Code, is amended to read as follows:

11 Sec. 402.024. DEFENSE OF DISTRICT ATTORNEY [~~, GRAND JURY~~
12 ~~COMMISSIONER,~~] OR GRAND JUROR.

13 SECTION 18. Section 402.024(b), Government Code, is amended
14 to read as follows:

15 (b) The attorney general shall defend a state [~~grand jury~~
16 ~~commissioner or~~] grand juror who is a defendant in an action in any
17 court if:

18 (1) the suit involves an act of the person while in the
19 performance of duties as a [~~grand jury commissioner or~~] grand
20 juror; and

21 (2) the person requests the attorney general's
22 assistance in the defense.

23 SECTION 19. The following provisions are repealed:

24 (1) Articles 19.02, 19.03, 19.04, 19.05, 19.06, 19.09,
25 19.10, 19.11, 19.12, 19.13, 19.14, 19.15, and 19.17, Code of
26 Criminal Procedure; and

27 (2) Section 24.014(c), Government Code.

1 SECTION 20. The changes in law made by this Act do not apply
2 to a county with a population of 500,000 or less.

3 SECTION 21. Section 402.024(b), Government Code, as amended
4 by this Act, applies only to a court action arising from an act of a
5 person that occurs on or after the effective date of this Act. A
6 court action arising from an act of a person that occurred before
7 the effective date of this Act is governed by the law in effect on
8 the date the act occurred, and the former law is continued in effect
9 for that purpose.

10 SECTION 22. The changes in law made by this Act apply to a
11 grand jury impaneled on or after the effective date of this Act. A
12 grand jury impaneled before the effective date of this Act is
13 governed by the law in effect on the date the grand jury was
14 impaneled, and the former law is continued in effect for that
15 purpose.

16 SECTION 23. This Act takes effect September 1, 2015.