

By: Whitmire, et al.  
(Dutton)

S.B. No. 135

A BILL TO BE ENTITLED

AN ACT

relating to the organization of a grand jury.

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. SELECTION AND SUMMONS OF PROSPECTIVE GRAND JURORS [~~APPOINTMENT OF 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 19.23, Code of Criminal Procedure, is  
19 amended to read as follows:

20          Art. 19.23. MODE OF TEST. In trying the qualifications of  
21 any person to serve as a grand juror, he shall be asked:

22           1. Are you a citizen of this state and county, and qualified  
23 to vote in this county, under the Constitution and laws of this  
24 state?

25           2. Are you able to read and write?

26           3. Have you ever been convicted of misdemeanor theft or any  
27 [~~a~~] felony?

1           4. Are you under indictment or other legal accusation for  
2 misdemeanor theft or for any felony?

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

5           Art. 19.26. JURY IMPANELED. (a) When at least fourteen  
6 qualified jurors are found to be present, the court shall select  
7 twelve fair and impartial persons to serve as grand jurors and two  
8 additional persons to serve as alternate grand jurors. In  
9 selecting the grand jurors and the alternate grand jurors, the  
10 court shall consider the county's demographics related to race,  
11 ethnicity, sex, and age.

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

16           ~~[(b) The grand jury is composed of not more than twelve~~  
17 ~~qualified jurors.]~~ In addition, the court shall ~~[qualify and]~~  
18 impanel ~~[not more than]~~ two alternates to serve on disqualification  
19 or unavailability of a juror during the term of the grand jury. On  
20 learning that a grand juror has become disqualified or unavailable  
21 during the term of the grand jury, the attorney representing the  
22 state shall prepare an order for the court identifying the  
23 disqualified or unavailable juror, stating the basis for the  
24 disqualification or unavailability, dismissing the disqualified or  
25 unavailable juror from the grand jury, and naming one of the  
26 alternates as a member of the grand jury. The procedure established  
27 by this subsection may be used on disqualification or

1 unavailability of a second grand juror during the term of the grand  
2 jury. For purposes of this subsection, a juror is unavailable if  
3 the juror is unable to participate fully in the duties of the grand  
4 jury because of the death of the juror, ~~or~~ a physical or mental  
5 illness of the juror, or any other reason the court determines  
6 constitutes good cause for dismissing the juror.

7 SECTION 8. Article 19.30, Code of Criminal Procedure, is  
8 amended to read as follows:

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

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

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

17 SECTION 9. Section 24.014(b), Government Code, is amended  
18 to read as follows:

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

23 SECTION 10. Section 24.135(c), Government Code, is amended  
24 to read as follows:

25 (c) The judge of the 33rd District Court may [~~select jury~~  
26 ~~commissioners and~~] impanel grand juries in each county. The judge  
27 of the 33rd District Court may alternate the drawing of grand juries

1 with the judge of any other district court in each county within the  
2 33rd Judicial District and may order grand and petit juries to be  
3 drawn for any term of the court as the judge determines is  
4 necessary, by an order entered in the minutes of the court.  
5 Indictments within each county may be returned to either court  
6 within that county.

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

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

18 SECTION 12. Section 24.396(b), Government Code, is amended  
19 to read as follows:

20 (b) The judge of the 218th District Court may [~~select grand~~  
21 ~~jury commissioners and~~] impanel grand juries in each county in the  
22 district but is not required to impanel a grand jury in any county  
23 except when the judge [~~he~~] considers it necessary. The judge may  
24 alternate the impaneling of grand juries in each county with the  
25 judge of any other district court in that county, or the judges may  
26 by agreement determine which one of the courts will impanel the  
27 grand juries. Indictments within each county may be returned to any

1 district court within that county. All grand and petit juries drawn  
2 for one district court in each county are interchangeable with any  
3 other district court in that county as if the jury had been drawn  
4 for the court in which it is used.

5 SECTION 13. Section 24.487(b), Government Code, is amended  
6 to read as follows:

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

14 SECTION 14. Section 24.568(d), Government Code, is amended  
15 to read as follows:

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

25 SECTION 15. Section 24.596(b), Government Code, is amended  
26 to read as follows:

27 (b) The judge of the 452nd District Court may [~~select jury~~



1 ~~commissioners and~~] impanel grand juries in each county. The judge  
2 of the 452nd District Court may order grand and petit juries to be  
3 drawn for any term of the judge's court as in the judge's judgment is  
4 necessary, by an order entered in the minutes of the court.

5 SECTION 16. The heading to Section 402.024, Government  
6 Code, is amended to read as follows:

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

9 SECTION 17. Section 402.024(b), Government Code, is amended  
10 to read as follows:

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

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

17 (2) the person requests the attorney general's  
18 assistance in the defense.

19 SECTION 18. The following provisions are repealed:

20 (1) Articles 19.02, 19.03, 19.04, 19.05, 19.06, 19.09,  
21 19.10, 19.11, 19.12, 19.13, 19.14, 19.15, and 19.17, Code of  
22 Criminal Procedure; and

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

24 SECTION 19. Section 402.024(b), Government Code, as amended  
25 by this Act, applies only to a court action arising from an act of a  
26 person that occurs on or after the effective date of this Act. A  
27 court action arising from an act of a person that occurred before

1 the effective date of this Act is governed by the law in effect on  
2 the date the act occurred, and the former law is continued in effect  
3 for that purpose.

4 SECTION 20. This Act takes effect September 1, 2015.