

House Bill 2150
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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 than once in any 12 month period.~~

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

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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 than once in any 12 month period.~~

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

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~~chapter [for grand jurors selected by a jury commission].~~

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

Art. 19.07. EXTENSION BEYOND TERM OF PERIOD FOR WHICH GRAND JURORS SHALL SIT. If prior to the expiration of the term for which the grand jury was impaneled, it is made to appear by a declaration of the foreman or of a majority of the grand jurors in open court, that the investigation by the grand jury of the matters before it cannot be concluded before the expiration of the term, the judge of the district court in which said grand jury was impaneled may, by the entry of an order on the minutes of said court, extend, from time to time, for the purpose of concluding the investigation of matters then before it, the period during which said grand jury shall sit, for not to exceed a total of ninety days after the expiration of the term for which it was impaneled, and all indictments pertaining thereto returned by the grand jury within said extended period shall be as valid as if returned before the expiration of the term. ~~[The extension of the term of a grand jury under this article does not affect the provisions of Article 19.06 relating to the selection and summoning of grand jurors for each regularly scheduled term.]~~

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

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

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~~chapter [for grand jurors selected by a jury commission].~~

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SECTION 3. Same as House version.

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1. The person must be a citizen of the state, and of the county in which the person is to serve, and be qualified under the Constitution and laws to vote in said county, provided that the person's failure to register to vote shall not be held to disqualify the person in this instance;
2. The person must be of sound mind and good moral character;
3. The person must be able to read and write;
4. The person must not have been convicted of misdemeanor theft or a felony;
5. The person must not be under indictment or other legal accusation for misdemeanor theft or a felony;
6. The person must not be related within the third degree of consanguinity or second degree of affinity, as determined under Chapter 573, Government Code, to any person selected to serve or serving on the same grand jury;
7. The person must not have served as grand juror [~~or jury commissioner~~] in the year before the date on which the term of court for which the person has been selected as grand juror begins; and
8. The person must not be a complainant in any matter to be heard by the grand jury during the term of court for which the person has been selected as a grand juror.

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

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

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SECTION 4. Same as House version.

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

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

No equivalent provision.

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

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SECTION 5. Same as House version.

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, that person [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 misdemeanor theft or any ~~a~~ felony?
4. Are you under indictment or other legal accusation for misdemeanor theft or for any felony?

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. In selecting the grand jurors and the

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(b) The grand jury is composed of not more than twelve qualified jurors. In addition, the court shall qualify and impanel not more than four ~~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 or subsequent 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 the juror is unwilling to serve on the grand jury or is otherwise neglecting the juror's duty to serve, or because of the death of the juror or a physical or mental illness of the juror.

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

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

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alternate grand jurors, the court shall consider the county's demographics related to race, ethnicity, sex, and age.

(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 8. Same as House version.

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1. That those summoned as grand jurors are not in fact those selected by the method provided by Article 19.01 ~~[19.01(b) of this chapter or by the jury commissioners]~~; and
2. ~~That [In case of grand jurors summoned by order of the court, that]~~ the officer who summoned the grand jurors ~~[them had]~~ acted corruptly in summoning any one or more of them.

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

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

1. That the juror is insane;
2. 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 the juror is fit for jury service in that particular case;
3. That the juror is a witness or a target in an investigation by a grand jury;
4. That the juror served on a petit jury in a former trial of the same alleged conduct or offense that the grand jury is investigating;
5. That the juror has a bias or prejudice in favor of or against the person accused or suspected of committing an offense that the grand jury is investigating;
6. That from hearsay, or otherwise, there is established in the mind of the juror such a conclusion as to the guilt or innocence of the person accused or suspected of committing an offense that the grand jury is investigating as would influence the juror's vote on the presentment of an indictment;

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SECTION 9. Article 19.31, Code of Criminal Procedure, is amended to read as follows:

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

1. That the juror is insane;
2. 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 the juror is fit for jury service in that particular case;
3. That the juror is a witness in or a target of an investigation of a grand jury;
4. That the juror served on a petit jury in a former trial of the same alleged conduct or offense that the grand jury is investigating;
5. That the juror has a bias or prejudice in favor of or against the person accused or suspected of committing an offense that the grand jury is investigating;
6. That from hearsay, or otherwise, there is established in the mind of the juror such a conclusion as to the guilt or innocence of the person accused or suspected of committing an offense that the grand jury is investigating as would influence the juror's vote on the presentment of an indictment;

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) A challenge under Subsection (a)(3) may be made ex parte and shall be reviewed and ruled on in an in camera proceeding. The court shall seal any record of the challenge.

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

No equivalent provision.

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

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

SECTION 10. Same as House version.

SECTION 11. Section 24.135(c), Government Code, is amended to read as follows:

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

SECTION 11. Same as House version.

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

(b) The judge of the 198th District Court may [~~select jury commissioners and~~] impanel grand juries in each county. The judge of the 198th District Court may alternate the drawing of grand juries with the judge of any other district court in each county within the judge's district and may order grand and petit juries to be drawn for any term of the judge's court as in the judge's judgment is necessary, by an order entered in the

SECTION 12. Same as House version.

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minutes of the court. Indictments within each county may be returned to either court within that county.

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

(b) The judge of the 218th District Court may [~~select grand jury commissioners and~~] impanel grand juries in each county in the district but is not required to impanel a grand jury in any county except when the judge [~~he~~] considers it necessary. The judge may alternate the impaneling of grand juries in each county with the judge of any other district court in that county, or the judges may by agreement determine which one of the courts will impanel the grand juries. Indictments within each county may be returned to any district court within that county. All grand and petit juries drawn for one district court in each county are interchangeable with any other district court in that county as if the jury had been drawn for the court in which it is used.

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

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

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SECTION 13. Same as House version.

SECTION 14. Same as House version.

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

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

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

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

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

Sec. 402.024. DEFENSE OF DISTRICT ATTORNEY[~~;~~
~~GRAND JURY COMMISSIONER.~~] OR GRAND JUROR.

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

(b) The attorney general shall defend a state [~~grand jury~~

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SECTION 15. Same as House version.

SECTION 16. Same as House version.

SECTION 17. Same as House version.

SECTION 18. Same as House version.

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~~commissioner or]~~ grand juror who is a defendant in an action in any court if:

- (1) the suit involves an act of the person while in the performance of duties as a ~~grand jury commissioner or]~~ grand juror; and
- (2) the person requests the attorney general's assistance in the defense.

SECTION 19. The following provisions are repealed:

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

SECTION 21. 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 22. The changes in law made by this Act apply to a grand jury impaneled on or after the effective date of this Act. A grand jury impaneled before the effective date of this

SECTION 19. Same as House version.

No equivalent provision.

SECTION 20. Same as House version.

No equivalent provision.

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Act is governed by the law in effect on the date the grand jury was impaneled, and the former law is continued in effect for that purpose.

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

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SECTION 21. Same as House version.

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