

By: Flores

H.B. No. 4946

A BILL TO BE ENTITLED

AN ACT

relating to prohibited disqualification of and peremptory challenges to certain prospective jurors.

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

SECTION 1. Chapter 30, Civil Practice and Remedies Code, is amended by adding Section 30.023 to read as follows:

Sec. 30.023. PROHIBITED PEREMPTORY JURY CHALLENGES. (a) After the parties to a case deliver jury lists to the court clerk and before the court impanels the jury, either party may request the court to dismiss the array of jurors and call a new array in the case.

(b) The court shall grant the motion of a complaining party for dismissal of the array of jurors if the court finds:

(1) the attorney representing the opposing party exercised peremptory challenges for the purpose of excluding prospective jurors from the jury based on their actual or perceived race, ethnicity, sex, gender identity, sexual orientation, disability status, national origin, economic status, or religious affiliation; and

(2) the complaining party has offered evidence of relevant facts that tend to show the attorney representing the opposing party made peremptory challenges for a reason described by Subdivision (1).

(c) If the complaining party establishes a prima facie case

1 under Subsection (b), the burden shifts to the attorney  
2 representing the opposing party to provide an explanation for the  
3 peremptory challenges that is neutral to the classes described by  
4 Subsection (b)(1).

5 (d) If the court finds that either attorney challenged  
6 prospective jurors for a reason described by Subsection (b)(1), the  
7 court shall call a new array in the case.

8 SECTION 2. Article 35.261, Code of Criminal Procedure, is  
9 amended to read as follows:

10 Art. 35.261. PROHIBITED PEREMPTORY CHALLENGES BASED ON  
11 CERTAIN CLASSES [RACE PROHIBITED]. (a) After the parties to a case  
12 deliver [have delivered] their lists to the clerk under Article  
13 35.26 of this code and before the court impanels [has impanelled]  
14 the jury, either party [the defendant] may request the court to  
15 dismiss the array and call a new array in the case.

16 (b) The court shall grant the motion of a party [defendant]  
17 for dismissal of the array if the court finds:

18 (1) [determines that the defendant is a member of an  
19 identifiable racial group, that] the attorney representing the  
20 opposing party [state] exercised peremptory challenges for the  
21 purpose of excluding persons from the jury based on [the basis of]  
22 their actual or perceived race, ethnicity, sex, gender identity,  
23 sexual orientation, disability status, national origin, economic  
24 status, or religious affiliation; and

25 (2) [that] the complaining party [defendant] has  
26 offered evidence of relevant facts that tend to show that  
27 challenges made by the attorney representing the opposing party

1 ~~[state]~~ were made for a reason described by Subdivision (1)  
2 ~~[reasons based on race]~~.

3       (c) If the complaining party ~~[defendant]~~ establishes a  
4 prima facie case under Subsection (b), the burden ~~[then]~~ shifts to  
5 the attorney representing the opposing party ~~[state]~~ to give an ~~[a~~  
6 ~~racially neutral]~~ explanation for the challenges that is neutral to  
7 the classes described by Subsection (b)(1). ~~[The burden of~~  
8 ~~persuasion remains with the defendant to establish purposeful~~  
9 ~~discrimination.]~~

10       (d) ~~[(b)]~~ If the court finds ~~[determines]~~ that either ~~[the]~~  
11 attorney ~~[representing the state]~~ challenged prospective jurors  
12 for a reason described by Subsection (b)(1) ~~[on the basis of race]~~,  
13 the court shall call a new array in the case.

14       SECTION 3. Chapter 61, Government Code, is amended by  
15 adding Section 61.004 to read as follows:

16       Sec. 61.004. PROHIBITED JUROR DISQUALIFICATIONS. Subject  
17 to Sections 62.104 and 62.1041, a person may not be disqualified to  
18 serve as a juror based on the person's actual or perceived race,  
19 ethnicity, sex, gender identity, sexual orientation, disability  
20 status, national origin, economic status, or religious  
21 affiliation.

22       SECTION 4. This Act takes effect September 1, 2023.