

1-1 By: Alvarado, et al. (Senate Sponsor - Whitmire) H.B. No. 2150
1-2 (In the Senate - Received from the House May 18, 2015;
1-3 May 18, 2015, read first time and referred to Committee on Criminal
1-4 Justice; May 21, 2015, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 7, Nays 0;
1-6 May 21, 2015, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8 Whitmire	X			
1-9 Huffman	X			
1-10 Burton	X			
1-11 Creighton	X			
1-12 Hinojosa	X			
1-13 Menéndez	X			
1-14 Perry	X			
1-15				

1-16 COMMITTEE SUBSTITUTE FOR H.B. No. 2150 By: Huffman

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to the organization of a grand jury.

1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-21 SECTION 1. Article 19.01, Code of Criminal Procedure, is
1-22 amended to read as follows:

1-23 Art. 19.01. SELECTION AND SUMMONS OF PROSPECTIVE GRAND
1-24 JURORS [APPOINTMENT OF JURY COMMISSIONERS; SELECTION WITHOUT JURY
1-25 COMMISSION]. [(a)] The district judge, at or during any term of
1-26 court, shall appoint not less than three, nor more than five persons
1-27 to perform the duties of jury commissioners, and shall cause the
1-28 sheriff to notify them of their appointment, and when and where they
1-29 are to appear. The district judge shall, in the order appointing
1-30 such commissioners, designate whether such commissioners shall
1-31 serve during the term at which selected or for the next succeeding
1-32 term. Such commissioners shall receive as compensation for each
1-33 day or part thereof they may serve the sum of Ten Dollars, and they
1-34 shall possess the following qualifications:

1-35 [1. Be intelligent citizens of the county and able to read
1-36 and write the English language;

1-37 [2. Be qualified jurors in the county;
1-38 [3. Have no suit in said court which requires intervention

1-39 of a jury;
1-40 [4. Be residents of different portions of the county, and
1-41 [5. The same person shall not act as jury commissioner more

1-42 than once in any 12-month period.
1-43 [(b)] In lieu of the selection of prospective jurors by means

1-44 of a jury commission, the] district judge shall [may] direct that 20
1-45 to 125 prospective grand jurors be selected and summoned, with
1-46 return on summons, in the same manner as for the selection and
1-47 summons of panels for the trial of civil cases in the district
1-48 courts. The judge shall try the qualifications for and excuses from
1-49 service as a grand juror and impanel the completed grand jury [in
1-50 the same manner] as provided by this chapter [for grand jurors

1-51 selected by a jury commission].

1-52 SECTION 2. Article 19.07, Code of Criminal Procedure, is
1-53 amended to read as follows:

1-54 Art. 19.07. EXTENSION BEYOND TERM OF PERIOD FOR WHICH GRAND
1-55 JURORS SHALL SIT. If prior to the expiration of the term for which
1-56 the grand jury was impaneled, it is made to appear by a declaration
1-57 of the foreman or of a majority of the grand jurors in open court,
1-58 that the investigation by the grand jury of the matters before it
1-59 cannot be concluded before the expiration of the term, the judge of
1-60 the district court in which said grand jury was impaneled may, by

2-1 the entry of an order on the minutes of said court, extend, from
 2-2 time to time, for the purpose of concluding the investigation of
 2-3 matters then before it, the period during which said grand jury
 2-4 shall sit, for not to exceed a total of ninety days after the
 2-5 expiration of the term for which it was impaneled, and all
 2-6 indictments pertaining thereto returned by the grand jury within
 2-7 said extended period shall be as valid as if returned before the
 2-8 expiration of the term. ~~[The extension of the term of a grand jury
 2-9 under this article does not affect the provisions of Article 19.06
 2-10 relating to the selection and summoning of grand jurors for each
 2-11 regularly scheduled term.]~~

2-12 SECTION 3. Article 19.08, Code of Criminal Procedure, is
 2-13 amended to read as follows:

2-14 Art. 19.08. QUALIFICATIONS. No person shall be selected or
 2-15 serve as a grand juror who does not possess the following
 2-16 qualifications:

2-17 1. The person must be a citizen of the state, and of
 2-18 the county in which the person is to serve, and be qualified under
 2-19 the Constitution and laws to vote in said county, provided that the
 2-20 person's failure to register to vote shall not be held to disqualify
 2-21 the person in this instance;

2-22 2. The person must be of sound mind and good moral
 2-23 character;

2-24 3. The person must be able to read and write;
 2-25 4. The person must not have been convicted of
 2-26 misdemeanor theft or a felony;

2-27 5. The person must not be under indictment or other
 2-28 legal accusation for misdemeanor theft or a felony;

2-29 6. The person must not be related within the third
 2-30 degree of consanguinity or second degree of affinity, as determined
 2-31 under Chapter 573, Government Code, to any person selected to serve
 2-32 or serving on the same grand jury;

2-33 7. The person must not have served as grand juror ~~[or
 2-34 jury commissioner]~~ in the year before the date on which the term of
 2-35 court for which the person has been selected as grand juror begins;
 2-36 and

2-37 8. The person must not be a complainant in any matter
 2-38 to be heard by the grand jury during the term of court for which the
 2-39 person has been selected as a grand juror.

2-40 SECTION 4. Article 19.19, Code of Criminal Procedure, is
 2-41 amended to read as follows:

2-42 Art. 19.19. JURORS TO ATTEND FORTHWITH. The jurors
 2-43 provided for in Article 19.18 ~~[the two preceding Articles]~~ shall be
 2-44 summoned in person to attend before the court forthwith.

2-45 SECTION 5. Article 19.20, Code of Criminal Procedure, is
 2-46 amended to read as follows:

2-47 Art. 19.20. TO SUMMON QUALIFIED PERSONS. On ~~[Upon]~~
 2-48 directing the sheriff to summon grand jurors ~~[not selected by the~~
 2-49 ~~jury commissioners]~~, the court shall instruct ~~the sheriff~~ ~~[him]~~
 2-50 that ~~the sheriff~~ ~~[he]~~ must not summon any ~~[no]~~ person to serve as a
 2-51 grand juror who does not possess the qualifications prescribed by
 2-52 law.

2-53 SECTION 6. Article 19.23, Code of Criminal Procedure, is
 2-54 amended to read as follows:

2-55 Art. 19.23. MODE OF TEST. In trying the qualifications of
 2-56 any person to serve as a grand juror, that person ~~[he]~~ shall be
 2-57 asked:

2-58 1. Are you a citizen of this state and county, and qualified
 2-59 to vote in this county, under the Constitution and laws of this
 2-60 state?

2-61 2. Are you able to read and write?
 2-62 3. Have you ever been convicted of misdemeanor theft or any
 2-63 ~~[a]~~ felony?

2-64 4. Are you under indictment or other legal accusation for
 2-65 misdemeanor theft or for any felony?

2-66 SECTION 7. Article 19.26, Code of Criminal Procedure, is
 2-67 amended to read as follows:

2-68 Art. 19.26. JURY IMPANELED. (a) When at least fourteen
 2-69 qualified jurors are found to be present, the court shall select

3-1 twelve fair and impartial persons to serve as grand jurors and two
 3-2 additional persons to serve as alternate grand jurors. In selecting
 3-3 the grand jurors and the alternate grand jurors, the court shall
 3-4 consider the county's demographics related to race, ethnicity, sex,
 3-5 and age.

3-6 (b) The court shall proceed to impanel the grand jury,
 3-7 unless a challenge is made, which may be to the array or to any
 3-8 particular person presented to serve as a grand juror or an
 3-9 alternate.

3-10 ~~[(b) The grand jury is composed of not more than twelve
 3-11 qualified jurors.]~~ In addition, the court shall ~~[qualify and]~~
 3-12 impanel ~~[not more than]~~ two alternates to serve on disqualification
 3-13 or unavailability of a juror during the term of the grand jury. On
 3-14 learning that a grand juror has become disqualified or unavailable
 3-15 during the term of the grand jury, the attorney representing the
 3-16 state shall prepare an order for the court identifying the
 3-17 disqualified or unavailable juror, stating the basis for the
 3-18 disqualification or unavailability, dismissing the disqualified or
 3-19 unavailable juror from the grand jury, and naming one of the
 3-20 alternates as a member of the grand jury. The procedure established
 3-21 by this subsection may be used on disqualification or
 3-22 unavailability of a second grand juror during the term of the grand
 3-23 jury. For purposes of this subsection, a juror is unavailable if
 3-24 the juror is unable to participate fully in the duties of the grand
 3-25 jury because of the death of the juror, ~~[or]~~ a physical or mental
 3-26 illness of the juror, ~~or any other reason the court determines~~
 3-27 constitutes good cause for dismissing the juror.

3-28 SECTION 8. Article 19.30, Code of Criminal Procedure, is
 3-29 amended to read as follows:

3-30 Art. 19.30. CHALLENGE TO "ARRAY". A challenge to the
 3-31 "array" shall be made in writing for these causes only:

3-32 1. That those summoned as grand jurors are not in fact those
 3-33 selected by the method provided by Article 19.01 ~~[19.01(b) of this~~
~~chapter or by the jury commissioners]~~; and
 3-35 2. That ~~[In case of grand jurors summoned by order of the~~
 3-36 ~~court, that]~~ the officer who summoned ~~the grand jurors~~ ~~[them had]~~
 3-37 acted corruptly in summoning any one or more of them.

3-38 SECTION 9. Article 19.31, Code of Criminal Procedure, is
 3-39 amended to read as follows:

3-40 Art. 19.31. CHALLENGE TO JUROR. (a) A challenge to a
 3-41 particular grand juror may be made orally for any of the following
 3-42 causes ~~[only]~~:

3-43 1. That the juror is insane;
 3-44 2. That the juror has such defect in the organs of feeling or
 3-45 hearing, or such bodily or mental defect or disease as to render the
 3-46 juror unfit for jury service, or that the juror is legally blind and
 3-47 the court in its discretion is not satisfied that the juror is fit
 3-48 for jury service in that particular case;

3-49 3. That the juror is a witness in or a target of an
 3-50 investigation of a grand jury;

3-51 4. That the juror served on a petit jury in a former trial of
 3-52 the same alleged conduct or offense that the grand jury is
 3-53 investigating;

3-54 5. That the juror has a bias or prejudice in favor of or
 3-55 against the person accused or suspected of committing an offense
 3-56 that the grand jury is investigating;

3-57 6. That from hearsay, or otherwise, there is established in
 3-58 the mind of the juror such a conclusion as to the guilt or innocence
 3-59 of the person accused or suspected of committing an offense that the
 3-60 grand jury is investigating as would influence the juror's vote on
 3-61 the presentment of an indictment;

3-62 7. That the juror is related within the third degree by
 3-63 consanguinity or affinity, as determined under Chapter 573,
 3-64 Government Code, to a person accused or suspected of committing an
 3-65 offense that the grand jury is investigating or to a person who is a
 3-66 victim of an offense that the grand jury is investigating;

3-67 8. That the juror has a bias or prejudice against any phase
 3-68 of the law upon which the state is entitled to rely for an
 3-69 indictment;

4-1 9. That the juror [~~he~~] is not a qualified juror; and
4-2 10. [2.] That the juror [~~he~~] is the prosecutor upon an
4-3 accusation against the person making the challenge.

4-4 (b) A challenge under Subsection (a)(3) may be made ex parte
4-5 and shall be reviewed and ruled on in an in camera proceeding. The
4-6 court shall seal any record of the challenge.

4-7 (c) In this article, "legally blind" has the meaning
4-8 assigned by Article 35.16(a).

4-9 SECTION 10. Section 24.014(b), Government Code, is amended
4-10 to read as follows:

4-11 (b) The judge may impanel [~~appoint~~ jury ~~commissioners~~ who
4-12 ~~select and draw~~] grand and petit jurors as provided by law. The
4-13 jurors may be summoned to appear before the court at the time
4-14 designated by the judge.

4-15 SECTION 11. Section 24.135(c), Government Code, is amended
4-16 to read as follows:

4-17 (c) The judge of the 33rd District Court may [~~select~~ jury
4-18 ~~commissioners and~~] impanel grand juries in each county. The judge
4-19 of the 33rd District Court may alternate the drawing of grand juries
4-20 with the judge of any other district court in each county within the
4-21 33rd Judicial District and may order grand and petit juries to be
4-22 drawn for any term of the court as the judge determines is
4-23 necessary, by an order entered in the minutes of the
4-24 court. Indictments within each county may be returned to either
4-25 court within that county.

4-26 SECTION 12. Section 24.377(b), Government Code, is amended
4-27 to read as follows:

4-28 (b) The judge of the 198th District Court may [~~select~~ jury
4-29 ~~commissioners and~~] impanel grand juries in each county. The judge
4-30 of the 198th District Court may alternate the drawing of grand
4-31 juries with the judge of any other district court in each county
4-32 within the judge's district and may order grand and petit juries to
4-33 be drawn for any term of the judge's court as in the judge's judgment
4-34 is necessary, by an order entered in the minutes of the court.
4-35 Indictments within each county may be returned to either court
4-36 within that county.

4-37 SECTION 13. Section 24.396(b), Government Code, is amended
4-38 to read as follows:

4-39 (b) The judge of the 218th District Court may [~~select~~ grand
4-40 ~~jury~~ ~~commissioners and~~] impanel grand juries in each county in the
4-41 district but is not required to impanel a grand jury in any county
4-42 except when the judge [~~he~~] considers it necessary. The judge may
4-43 alternate the impaneling of grand juries in each county with the
4-44 judge of any other district court in that county, or the judges may
4-45 by agreement determine which one of the courts will impanel the
4-46 grand juries. Indictments within each county may be returned to any
4-47 district court within that county. All grand and petit juries drawn
4-48 for one district court in each county are interchangeable with any
4-49 other district court in that county as if the jury had been drawn
4-50 for the court in which it is used.

4-51 SECTION 14. Section 24.487(b), Government Code, is amended
4-52 to read as follows:

4-53 (b) The judge of the 341st District Court may [~~select~~ jury
4-54 ~~commissioners and~~] impanel grand juries in Webb County. The judge
4-55 of the 341st District Court may alternate the drawing of grand
4-56 juries with the judge of any other district court in the county. By
4-57 order entered on the minutes, for any term that the judge considers
4-58 it necessary, the judge may order grand and petit juries to be
4-59 drawn.

4-60 SECTION 15. Section 24.568(d), Government Code, is amended
4-61 to read as follows:

4-62 (d) The judge of the 424th District Court may [~~select~~ jury
4-63 ~~commissioners and~~] impanel grand juries in each county. The judge
4-64 of the 424th District Court may alternate the drawing of grand
4-65 juries with the judge of any other district court in each county
4-66 within the 424th Judicial District and may order grand and petit
4-67 juries to be drawn for any term of the court as the judge determines
4-68 is necessary, by an order entered in the minutes of the
4-69 court. Indictments within each county may be returned to either

5-1 court within that county.

5-2 SECTION 16. Section 24.596(b), Government Code, is amended
5-3 to read as follows:

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

5-9 SECTION 17. The heading to Section 402.024, Government
5-10 Code, is amended to read as follows:

5-11 Sec. 402.024. DEFENSE OF DISTRICT ATTORNEY[, GRAND JURY
5-12 COMMISSIONER,] OR GRAND JUROR.

5-13 SECTION 18. Section 402.024(b), Government Code, is amended
5-14 to read as follows:

5-15 (b) The attorney general shall defend a state [grand jury
5-16 commissioner or] grand juror who is a defendant in an action in any
5-17 court if:

5-18 (1) the suit involves an act of the person while in the
5-19 performance of duties as a [grand jury commissioner or] grand
5-20 juror; and

5-21 (2) the person requests the attorney general's
5-22 assistance in the defense.

5-23 SECTION 19. The following provisions are repealed:

5-24 (1) Articles 19.02, 19.03, 19.04, 19.05, 19.06, 19.09,
5-25 19.10, 19.11, 19.12, 19.13, 19.14, 19.15, and 19.17, Code of
5-26 Criminal Procedure; and

5-27 (2) Section 24.014(c), Government Code.

5-28 SECTION 20. Section 402.024(b), Government Code, as amended
5-29 by this Act, applies only to a court action arising from an act of a
5-30 person that occurs on or after the effective date of this Act. A
5-31 court action arising from an act of a person that occurred before
5-32 the effective date of this Act is governed by the law in effect on
5-33 the date the act occurred, and the former law is continued in effect
5-34 for that purpose.

5-35 SECTION 21. This Act takes effect September 1, 2015.

5-36 * * * * *