

1-1 By: Whitmire, Ellis S.B. No. 135
1-2 (In the Senate - Filed November 10, 2014; January 27, 2015,
1-3 read first time and referred to Committee on Criminal Justice;
1-4 March 16, 2015, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 7, Nays 0; March 16, 2015,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

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

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 135 By: Whitmire

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, he shall be asked:

2-57 1. Are you a citizen of this state and county, and qualified
2-58 to vote in this county, under the Constitution and laws of this
2-59 state?

2-60 2. Are you able to read and write?

2-61 3. Have you ever been convicted of misdemeanor theft or any
2-62 [~~a~~] felony?

2-63 4. Are you under indictment or other legal accusation for
2-64 misdemeanor theft or for any felony?

2-65 SECTION 7. Article 19.26, Code of Criminal Procedure, is
2-66 amended to read as follows:

2-67 Art. 19.26. JURY IMPANELED. (a) When at least fourteen
2-68 qualified jurors are found to be present, the court shall select
2-69 twelve fair and impartial persons to serve as grand jurors and two

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

3-5 (b) The court shall proceed to impanel the grand jury,
 3-6 unless a challenge is made, which may be to the array or to any
 3-7 particular person presented to serve as a grand juror or an
 3-8 alternate.

3-9 ~~[(b) The grand jury is composed of not more than twelve~~
 3-10 ~~qualified jurors.]~~ In addition, the court shall ~~[qualify and]~~
 3-11 impanel ~~[not more than]~~ two alternates to serve on disqualification
 3-12 or unavailability of a juror during the term of the grand jury. On
 3-13 learning that a grand juror has become disqualified or unavailable
 3-14 during the term of the grand jury, the attorney representing the
 3-15 state shall prepare an order for the court identifying the
 3-16 disqualified or unavailable juror, stating the basis for the
 3-17 disqualification or unavailability, dismissing the disqualified or
 3-18 unavailable juror from the grand jury, and naming one of the
 3-19 alternates as a member of the grand jury. The procedure established
 3-20 by this subsection may be used on disqualification or
 3-21 unavailability of a second grand juror during the term of the grand
 3-22 jury. For purposes of this subsection, a juror is unavailable if
 3-23 the juror is unable to participate fully in the duties of the grand
 3-24 jury because of the death of the juror, ~~[or]~~ a physical or mental
 3-25 illness of the juror, or any other reason the court determines
 3-26 constitutes good cause for dismissing the juror.

3-27 SECTION 8. Article 19.30, Code of Criminal Procedure, is
 3-28 amended to read as follows:

3-29 Art. 19.30. CHALLENGE TO "ARRAY". A challenge to the
 3-30 "array" shall be made in writing for these causes only:

3-31 1. That those summoned as grand jurors are not in fact those
 3-32 selected by the method provided by Article 19.01 ~~[19.01(b) of this~~
 3-33 ~~chapter or by the jury commissioners]; and~~

3-34 2. That ~~[In case of grand jurors summoned by order of the~~
 3-35 ~~court, that]~~ the officer who summoned the grand jurors ~~[them had]~~
 3-36 acted corruptly in summoning any one or more of them.

3-37 SECTION 9. Section 24.014(b), Government Code, is amended
 3-38 to read as follows:

3-39 (b) The judge may impanel ~~[appoint jury commissioners who~~
 3-40 ~~select and draw]~~ grand and petit jurors as provided by law. The
 3-41 jurors may be summoned to appear before the court at the time
 3-42 designated by the judge.

3-43 SECTION 10. Section 24.135(c), Government Code, is amended
 3-44 to read as follows:

3-45 (c) The judge of the 33rd District Court may ~~[select jury~~
 3-46 ~~commissioners and]~~ impanel grand juries in each county. The judge
 3-47 of the 33rd District Court may alternate the drawing of grand juries
 3-48 with the judge of any other district court in each county within the
 3-49 33rd Judicial District and may order grand and petit juries to be
 3-50 drawn for any term of the court as the judge determines is
 3-51 necessary, by an order entered in the minutes of the court.
 3-52 Indictments within each county may be returned to either court
 3-53 within that county.

3-54 SECTION 11. Section 24.377(b), Government Code, is amended
 3-55 to read as follows:

3-56 (b) The judge of the 198th District Court may ~~[select jury~~
 3-57 ~~commissioners and]~~ impanel grand juries in each county. The judge
 3-58 of the 198th District Court may alternate the drawing of grand
 3-59 juries with the judge of any other district court in each county
 3-60 within the judge's district and may order grand and petit juries to
 3-61 be drawn for any term of the judge's court as in the judge's judgment
 3-62 is necessary, by an order entered in the minutes of the court.
 3-63 Indictments within each county may be returned to either court
 3-64 within that county.

3-65 SECTION 12. Section 24.396(b), Government Code, is amended
 3-66 to read as follows:

3-67 (b) The judge of the 218th District Court may ~~[select grand~~
 3-68 ~~jury commissioners and]~~ impanel grand juries in each county in the
 3-69 district but is not required to impanel a grand jury in any county

4-1 except when the judge [~~he~~] considers it necessary. The judge may
4-2 alternate the impaneling of grand juries in each county with the
4-3 judge of any other district court in that county, or the judges may
4-4 by agreement determine which one of the courts will impanel the
4-5 grand juries. Indictments within each county may be returned to any
4-6 district court within that county. All grand and petit juries drawn
4-7 for one district court in each county are interchangeable with any
4-8 other district court in that county as if the jury had been drawn
4-9 for the court in which it is used.

4-10 SECTION 13. Section 24.487(b), Government Code, is amended
4-11 to read as follows:

4-12 (b) The judge of the 341st District Court may [~~select jury~~
4-13 ~~commissioners and~~] impanel grand juries in Webb County. The judge
4-14 of the 341st District Court may alternate the drawing of grand
4-15 juries with the judge of any other district court in the county. By
4-16 order entered on the minutes, for any term that the judge considers
4-17 it necessary, the judge may order grand and petit juries to be
4-18 drawn.

4-19 SECTION 14. Section 24.568(d), Government Code, is amended
4-20 to read as follows:

4-21 (d) The judge of the 424th District Court may [~~select jury~~
4-22 ~~commissioners and~~] impanel grand juries in each county. The judge
4-23 of the 424th District Court may alternate the drawing of grand
4-24 juries with the judge of any other district court in each county
4-25 within the 424th Judicial District and may order grand and petit
4-26 juries to be drawn for any term of the court as the judge determines
4-27 is necessary, by an order entered in the minutes of the court.
4-28 Indictments within each county may be returned to either court
4-29 within that county.

4-30 SECTION 15. Section 24.596(b), Government Code, is amended
4-31 to read as follows:

4-32 (b) The judge of the 452nd District Court may [~~select jury~~
4-33 ~~commissioners and~~] impanel grand juries in each county. The judge
4-34 of the 452nd District Court may order grand and petit juries to be
4-35 drawn for any term of the judge's court as in the judge's judgment is
4-36 necessary, by an order entered in the minutes of the court.

4-37 SECTION 16. The heading to Section 402.024, Government
4-38 Code, is amended to read as follows:

4-39 Sec. 402.024. DEFENSE OF DISTRICT ATTORNEY [~~, GRAND JURY~~
4-40 ~~COMMISSIONER,~~] OR GRAND JUROR.

4-41 SECTION 17. Section 402.024(b), Government Code, is amended
4-42 to read as follows:

4-43 (b) The attorney general shall defend a state [~~grand jury~~
4-44 ~~commissioner or~~] grand juror who is a defendant in an action in any
4-45 court if:

4-46 (1) the suit involves an act of the person while in the
4-47 performance of duties as a [~~grand jury commissioner or~~] grand
4-48 juror; and

4-49 (2) the person requests the attorney general's
4-50 assistance in the defense.

4-51 SECTION 18. The following provisions are repealed:

4-52 (1) Articles 19.02, 19.03, 19.04, 19.05, 19.06, 19.09,
4-53 19.10, 19.11, 19.12, 19.13, 19.14, 19.15, and 19.17, Code of
4-54 Criminal Procedure; and

4-55 (2) Section 24.014(c), Government Code.

4-56 SECTION 19. Section 402.024(b), Government Code, as amended
4-57 by this Act, applies only to a court action arising from an act of a
4-58 person that occurs on or after the effective date of this Act. A
4-59 court action arising from an act of a person that occurred before
4-60 the effective date of this Act is governed by the law in effect on
4-61 the date the act occurred, and the former law is continued in effect
4-62 for that purpose.

4-63 SECTION 20. This Act takes effect September 1, 2015.

4-64 * * * * *