

**SUBJECT:** Requiring the ability to read and write English for jury service

**COMMITTEE:** Judiciary and Civil Jurisprudence — favorable, without amendment

**VOTE:** 11 ayes — Jackson, Lewis, Bohac, Castro, S. Davis, Hartnett, Madden, Raymond, Scott, Thompson, Woolley

0 nays

**WITNESSES:** For — Patrick Sebesta

Against — None

**DIGEST:** HB 1633 would amend Government Code, sec. 62.102 to require the ability to read and write English as a general qualification for service on a trial jury. The requirement could be suspended if the court were unable to find the mandatory number of jurors within the county.

The bill also would amend Code of Criminal Procedure, art. 35.16 to allow a court to recognize a challenge for cause against a potential juror who was unable to read or write English.

The bill would eliminate current provisions to exempt a potential juror from service for the inability to comprehend English.

The bill would take effect September 1, 2011, and apply to a potential juror selected on or after this date.

**SUPPORTERS SAY:** HB 1633 would require individuals serving as trial jurors to be able to read and write English. Currently, a prospective juror must be able to read and write, but nothing in the law explicitly requires the individual to complete these tasks in English. The strength of our judicial system rests on the assumption that everyone is entitled to a fair trial. To achieve this, all jurors must be able to comprehend the complex materials brought up in Texas courts and be able to communicate with their peers during deliberations.

There have been numerous instances in which prejudice to a defendant resulted from a juror who was alleged to have limited English skills.

Similarly, there have been instances where cases involving violent offenders nearly resulted in a mistrial because a juror could not follow the court proceedings conducted in English. HB 1633 would prevent potential injustice from taking place in Texas courtrooms by ensuring that jurors were competent in English and understood the evidence presented to them.

HB 1633 would bring Texas courts in line with the federal system and more than 40 other states to ensure that jurors were able to participate fully in the process. This is the only area of the courts that this bill would address.

OPPONENTS  
SAY:

HB 1633 would violate principles of good governance because it would prohibit citizens with limited English abilities from fully participating in their government. Speaking English is not a requirement for citizenship of this country or state, and it should not be an explicit qualification for jury service. The bill would, in effect, make English the official language of the courts, which is impractical in a state that is experiencing rapid growth in the number of citizens who speak more than one language and where court proceedings sometimes are conducted in a language other than English.

Existing Texas law allows for the use of interpreters in court proceedings. Government Code, sec. 62.1041 allows for an interpreter to assist a juror who is deaf or hard of hearing during all proceedings and deliberations of a case. Other states (e.g., New Mexico) with a high proportion of non-English speakers have used interpreters for jurors with limited English skills. There also are many instances where translators are used in Texas courtrooms to assist defendants, plaintiffs, and witnesses. It would not be necessary to disqualify potential jurors with limited English skills if there is a precedent and system in place to accommodate them.

HB 1633 would impose a one-size-fits-all approach to juries, and it is unclear how the bill would be carried out in practice. The bill contains no language on the criteria that would be used to determine a potential juror's English skills. Current law allows Texas judges to make that call because they are in the best position to assess the situation. The uniform approach would negatively impact the number and diversity of people who were able to participate in the jury system. Juries are meant to be a representative sample of the people living within a community. Excluding citizens with limited English skills could have a damaging effect on jury make-up, particularly in parts of the state where large sections of the community do not use English as their primary language. This issue is

particularly concerning when counties across Texas struggle to attract jurors. It seems counterintuitive to disqualify citizens willing to serve when there is a clear shortage of willing participants.