

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1523
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Criminal Justice
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Committee Report (Substituted)

DIGEST

Currently, there are two ways that judges may select grand jurors. One method, known as the "key man" system, provides for the judge to appoint jury commissioners who, in turn, select the pool of prospective grand jurors. The second method employs the random "jury wheel" system commonly used for the selection of petit jury panels. The "key man" method of selecting grand juries allows jury commissioners to decide who they would like to be on the grand jury panel and is therefore susceptible to abuse by the commissioners. In addition, grand juries selected by the "key man" system do not always reflect a representative sample of the community at large. The "jury wheel" system provides a better sampling of citizens from a variety of backgrounds and ensures a fair and impartial grand jury is impaneled. This bill will eliminate the "key man" system of selecting grand juries, relying solely on the "jury wheel" system.

PURPOSE

As proposed, C.S.S.B. 1523 changes the regulations governing the manner in which grand jurors are selected in certain counties.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Part I, Code of Criminal Procedure, by adding Chapter 19A, as follows:

CHAPTER 19A. ORGANIZATION OF THE GRAND JURY IN CERTAIN COUNTIES

Art. 19A.01. **APPLICABILITY.** Provides that this chapter applies to counties that have a population of more than 250,000 but less than 575,000 that border the United Mexican States.

Art. 19A.02. **GRAND JURY POOL.** Requires the district judge, at or during any term of court, to direct that 20 to 75 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 under Chapter 62A, Government Code. Requires the judge to try the qualifications for and excuses from service as a grand juror and impanel the completed grand jury.

Art. 19A.03. **CLERK SHALL DELIVER LIST.** Authorizes the grand jury to be convened on the first or any subsequent day of the term. Requires the judge to designate the day on which the grand jury is to be impaneled and notify the clerk of such date; and within 30 days of such date, and not before, the clerk shall make out a copy of the names of the panel selected under Article 19A.02 of this chapter as prospective grand jurors, certify to it under the clerk's official seal, note thereon the day for which they are to be summoned, and deliver it to the sheriff.

Art. 19A.04. **SUMMONING.** Sets forth procedures for summoning the grand jury.

Art. 19A.05. RETURN OF OFFICER. Requires the officer executing such summons to return the list on or before the day on which the grand jury is to be impaneled, with a certificate thereon of the date and manner of service on each prospective juror. Requires the officer, if any of said prospective jurors have not been summoned, to also state in the certificate the reason for the failure of such summons.

Art. 19A.06. ABSENT PROSPECTIVE JUROR FINED. Sets forth regulations regarding the fining of an absent prospective juror.

Art. 19A.07. FAILURE TO SELECT. Authorizes the district judge to direct that a panel be selected and summoned as provided by Article 19A.02 of this chapter if for any reason a grand jury shall not be selected or summoned prior to the commencement of any term of court, or when none of those summoned shall attend.

Art. 19A.08. IF LESS THAN 12 ATTEND. Requires the court to order that such additional number of persons as may be deemed necessary to constitute a grand jury of 12 persons be selected and summoned when less than 12 of those summoned to serve as grand jurors are found to be in attendance and qualified to so serve.

Art. 19A.09. JURORS TO ATTEND FORTHWITH. Requires the prospective jurors provided for in Articles 19A.07 and 19A.08 to be summoned in person to attend before the court forthwith; unless the judge, at the judge's election, directs the sheriff to summon the prospective grand jurors by registered or certified mail.

Art. 19A.10. TO SUMMON QUALIFIED PERSONS. Requires the court, on directing that prospective jurors be selected and summoned, to instruct that no person be summoned to serve as grand juror who does not possess the qualifications prescribed by law.

Art. 19A.11. TO TEST QUALIFICATIONS. Requires the court to proceed to test their qualifications as such when as many as 12 persons summoned to serve as grand jurors are in attendance on the court.

Art. 19A.12. QUALIFICATIONS. Sets forth qualifications for grand jurors.

Art. 19A.13. INTERROGATED. Requires each person who is presented to serve as a grand juror, before being impaneled, to be interrogated on oath by the court, or under the court's direction, touching the person's qualifications.

Art. 19A.14. MODE OF TEST. Sets forth questions to be asked in trying the qualifications of any person to serve as a grand juror.

Art. 19A.15. QUALIFIED JUROR ACCEPTED. Requires the person, when, by the answer of the person, it appears to the court that the person is a qualified juror, to be accepted as such, unless it be shown that the person is not of sound mind or of good moral character, or unless it be shown that the person is in fact not qualified to serve as a grand juror.

Art. 19A.16. EXCUSES FROM SERVICE. Sets forth excuses from grand jury service.

Art. 19A.17. JURY IMPANELED. Requires the court, when 12 qualified jurors are found to be present, to proceed to impanel them as a 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.

Art. 19A.18. ANY PERSON MAY CHALLENGE. Sets forth regulations regarding challenges to the array of jurors or to any person presented as a grand juror.

Art. 19A.19. "ARRAY." Defines "array."

Art. 19A.20. "IMPANELED" AND "PANEL." Defines "impaneled" and "panel."

Art. 19A.21. CHALLENGE TO "ARRAY." Requires a challenge to the "array" to be made in writing for certain causes only.

Art. 19A.22. CHALLENGE TO JUROR. Authorizes a challenge to a particular grand juror to be made orally for certain causes only.

Art. 19A.23. SUMMARILY DECIDED. Requires the court, when a challenge to the array or to any individual has been made, to hear proof and decide in a summary manner whether the challenge be well-founded or not.

Art. 19A.24. OTHER JURORS SUMMONED. Requires the court to order another grand jury to be selected and summoned if the challenge to the array is sustained or order the panel to be completed if by challenge to any particular grand juror their number is reduced below 12.

Art. 19A.25. OATH OF GRAND JURORS. Sets forth the oath of the grand jurors.

Art. 19A.26. TO INSTRUCT JURY. Requires the court to instruct the grand jury as to their duty.

Art. 19A.27. BAILIFFS APPOINTED. Sets forth regulations regarding the appointment of bailiffs by the court and the district court.

Art. 19A.28. BAILIFF'S DUTIES. Sets forth the bailiff's duties.

Art. 19A.29. BAILIFF VIOLATING DUTY. Prohibits a bailiff from taking part in the discussions or deliberations of the grand jury or from being present when they are discussing or voting on a question. Requires the grand jury to report to the court any violation of duty by a bailiff and the court may punish the bailiff for such violations as for contempt.

Art. 19A.30. ANOTHER FOREMAN APPOINTED. Requires the court, if the foreman of the grand jury is from any cause absent or unable or disqualified to act, to appoint in the person's place some other member of the body.

Art. 19A.31. QUORUM. Requires nine members to be a quorum for the purpose discharging any duty or exercising any right properly belonging to the grand jury.

Art. 19A.32. REASSEMBLED. Authorizes a grand jury discharged by the court for the term to be reassembled by the court at any time during the term. Authorizes the court, if one or more of them fail to reassemble, to complete the panel by impaneling other persons in their stead in accordance with the rules provided in this chapter for completing the grand jury in the first instance.

Art. 19A.33. EXTENSION BEYOND TERM OF PERIOD FOR WHICH GRAND JURORS SHALL SIT. Sets forth regulations for extending the grand jury beyond the term of period for which grand jurors shall sit.

SECTION 2. Amends Chapter 19, Code of Criminal Procedure, by adding Article 19.42, as follows:

Sec. 19.42. APPLICABILITY. Provides that this chapter does not apply to the selection of grand jurors in counties to which Chapter 19A of this code applies.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 1997.

SECTION 5. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Deletes proposed SECTION 1. Adds Chapter 19A, Code of Criminal Procedure, regarding the organization of the grand jury in certain counties.

SECTION 2.

Amends Chapter 19, Code of Criminal Procedure, by adding Article 19.42, regarding the applicability of Chapter 19A. Redesignates subsequent SECTIONS.