

## BILL ANALYSIS

Senate Research Center

S.B. 1667  
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Jurisprudence  
4-22-97  
As Filed

### **DIGEST**

Currently, a jury has the power to refuse to convict if the jurors disapprove of the law or its application. However, there is currently no law which makes it possible for the jury to be told about this power of nullification. This bill will set forth a jury's role in criminal and certain civil cases.

### **PURPOSE**

As proposed, S.B. 1667 sets forth a jury's role in criminal and certain civil cases.

### **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 Article 36.13, Code of Criminal Procedure, as follows:

Art. 36.13. New heading: ROLE OF JURY. Provides that the jury is bound to receive the law from the court and be governed thereby, except if a jury determines that a defendant is guilty according to the law but that the law is unjust or unjustly applied to the defendant, the jury may determine not to apply the law to the defendant and find the defendant not guilty or guilty of a lesser included offense. Provides that the defendant has the right to inform the jury of the jury's power to judge the law and to vote on the verdict according to conscience. Prohibits the court or the state from infringing on this right. Provides that failure to allow the defendant to inform the jury of the jury's power is grounds for a mistrial. Requires the court, notwithstanding any other law, to allow the defendant to present to the jury, for its consideration, evidence and testimony relevant to the exercise of the jury's power under this article, including evidence and testimony relating to certain matters.

SECTION 2. Amends Title 2B, Civil Practice and Remedies Code, by adding Chapter 24, as follows:

### **CHAPTER 24. JURY POWERS IN CERTAIN GOVERNMENTAL PROCEEDINGS**

Sec. 24.001. DEFINITION. Defines "governmental agency."

Sec. 24.002. SCOPE OF CHAPTER. Provides that this chapter applies only to an action in which a governmental agency, as party to a civil action, seeks to collect or retain a civil or administrative penalty. Provides that this chapter applies only to an action tried to a jury under applicable law. Provides that this chapter does not create a right to a jury.

Sec. 24.003. ROLE OF JURY. Sets forth the role of a jury.

Sec. 24.004. EVIDENCE. Sets forth evidence that the court must allow any party to the trial to present.

Sec. 24.005. DISQUALIFICATION OF JUROR PROHIBITED. Prohibits a potential juror from being excused or disqualified from serving on a jury because the juror expresses a

willingness to exercise a power of the jury under this chapter.

Sec. 24.006. CONFLICT WITH TEXAS RULES OF CIVIL PROCEDURE. Prohibits the supreme court, notwithstanding Section 22.004, Government Code, from amending or adopting rules in conflict with this chapter.

SECTION 3. Amends Article 35.16, Code of Criminal Procedure, by amending Subsection (b) and adding Subsection (d), to make conforming changes.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 1997.

SECTION 6. Emergency clause.