

BILL ANALYSIS

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S.B. 1195
By: Rodriguez
Jurisprudence
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

El Paso County has 30 elected and 10 appointed judges who hear cases and hold jury trials. The El Paso Jury Selection Plan, which details the jury process and uses an electronic method to select names of persons for jury service, is contained in Section 62.011 (Electronic or Mechanical Method of Selection), Government Code, and Section 35.03 (Excuses), Code of Criminal Procedure, as well as the most recent civil and criminal court rules adopted by judges in El Paso County.

The El Paso Council of Judges created a jury duty court, which is attached to the presiding judge's court. This court currently operates under the 384th District Court and has a full-time senior judge presiding over it with three county employees who are assisted by four council of judges employees and four employees of the district clerk. The jury duty court oversees show cause hearings for jurors who fail to appear, excuses jurors, and grants exemptions and postponements of jury service. For those found in contempt for failure to appear for jury service, appropriate fines are ordered that can be paid on the same day or through a payment plan. Since instituting the show cause hearings, jury participation has risen to over 86 percent, the highest participation level anywhere in the United States. The El Paso jury duty court has been recognized as a model for other counties on how to administer jury duty service.

Currently, only the administrative judge or the jury duty court judge may authorize jury services postponement under the El Paso County Jury Selection Plan. When these two individuals are unavailable, then no one is able to authorize jury service postponements. Coordinating the availability of one or the other has become burdensome.

Additionally, the jury selection staff consists of employees of the district clerk and employees of the council of judges. Each group has been answering to the standards set by their respective employers, which are not necessarily the same. Judges have the final responsibility to see that jurors summoned to their courts consist of a fair cross-section of the community as required by the Sixth Amendment to the United States Constitution.

S.B. 1195 ensures the availability of an individual to address jury service postponement requests and to better serve the public. Placing the duty of granting postponements to an individual, who is subject to the supervision of the El Paso Council of Judges, will better assure that juries will consist of a fair cross-section of the community.

As proposed, S.B. 1195 amends current law relating to postponement of jury service in certain counties.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 62, Government Code, by adding Section 62.0147, as follows:

Sec. 62.0147. MEANS OF POSTPONEMENT OF JURY SERVICE IN CERTAIN COUNTIES. (a) Provides that this section applies only to a county that has:

- (1) a council of judges composed of the judges of the district courts and county courts at law; and
- (2) a designated jury duty court that addresses administrative matters related to jury service paid for by the county.

(b) Authorizes a person summoned for jury service to request a postponement of the person's initial appearance for jury service. Authorizes the person to request the postponement by contacting the council of judges' designee, in person, in writing, or by telephone before the date on which the person is summoned to appear.

(c) Requires, on receipt of a request under Subsection (b), the council of judges' designee to grant the person a postponement if:

- (1) the person has not been granted a postponement in that county since the date on which the jury wheel from which the person was selected to appear was most recently reconstituted; and
- (2) the designee and the person determine a substitute date on which the person will appear for jury service that is not later than six months after the date on which the person was originally summoned to appear.

(d) Authorizes a person who is granted a postponement under Subsection (c) to request additional postponements in the manner described by Subsection (b). Authorizes the council of judges' designee to grant an additional postponement if the designee and the person determine that the person has a legitimate reason for the postponement. Requires the designee and the person, before the designee may grant the additional postponement, to determine a date on which the person will appear for jury service that is not later than six months after the date on which the person was to appear after the later of the date of:

- (1) a postponement under Subsection (c); or
- (2) the last postponement granted under this subsection.

SECTION 2. Provides that the change in law made by this Act applies only to a person summoned to appear for jury service who is required to appear on or after the effective date of this Act. Provides that a person summoned to appear for jury service who is required to appear before the effective date of this Act is governed by the law in effect on the date the person is required to appear, and the former law is continued in effect for that purpose.

SECTION 3. Effective date: September 1, 2011.