

## **BILL ANALYSIS**

Senate Research Center  
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C.S.S.B. 1070  
By: Wentworth  
Jurisprudence  
4/3/2009  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The jury assembly and administration process needs reform to promote integrity in the process, require the use of technology to make jury administration more cost-effective and time-efficient, and to harmonize conflicting provisions in the current statute.

C.S.S.B. 1070 requires the secretary of state (SOS) to compile a master jury list and make it available to the counties using information obtained from the counties and the Department of Public Safety. This bill provides that the list be made available to counties quarterly rather than annually, and requires the exchange of information to be electronic. The bill requires the SOS to periodically update the master jury list by eliminating duplicate names, removing the names of convicted felons, deceased persons, persons who have served on a jury recently, and persons no longer residing in the county, and adding the names of persons qualified to serve as a petit juror that are not currently on the list. C.S.S.B. 1070 authorizes the Texas Supreme Court to adopt rules to govern the use of the major jury list, the administration of jury panels, and rules that allow for the adoption of a written jury plan for each county.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Supreme Court in SECTION 3 (Section 62.0011, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends the heading to Section 62.001, Government Code, to read as follows:

Sec. 62.001. JURY SOURCE; MASTER JURY LIST.

SECTION 2. Amends Section 62.001, by amending Subsections (a)-(g) and adding Subsection (f-1), Government Code, as follows:

(a) Requires the secretary of state (SOS) to compile a master jury list for each county using, rather than requiring the jury wheel to be reconstituted by using, as the source certain names, including all names on a current list to be furnished by the Department of Public Safety (DPS), subject to an agreement to use a different procedure as authorized by Subsection (f), showing the citizens of the county who meet certain requirements.

(b) Prohibits the names of persons listed on a register of persons exempt from jury service, notwithstanding Subsection (a), from being placed in the master jury list, rather than the jury wheel, as provided by Sections 62.108 (Permanent Exemption for the Elderly) and 62.109 (Exemption for Physical or Mental Impairment or Inability to Comprehend English).

(c) Requires the voter registrar, at the time the voter registrar of each county furnishes information to SOS to maintain the statewide computerized voter registration list as required by Section 18.061 (Statewide Computerized Voter Registration List), Election Code, to also furnish to SOS in an electronic, downloadable format, the current voter registration, rather than a current voter registration, list from all the precincts in the county that, except as provided by Subsection (d), includes certain voter information. Deletes existing text requiring the voter registrar of each county, each year not later than the third Tuesday in November or the date provided by Section 16.032 (Cancellation

Following End of Suspense List Period), Election Code, for the cancellation of voter registrations, whichever is earlier, to furnish to SOS certain information.

(d) Authorizes the current voter registration list from all the county precincts required by Subsection (c) to exclude, at the option of the voter registrar of each county, the names of persons on the suspense list maintained under Section 15.081 (Suspense List), Election Code.

(e) Requires the voter registrar to send a list of the names of persons excluded to SOS with the current voter registration list from all the county precincts required by Subsection (c).

(f) Requires DPS, unless DPS and SOS agree to a different procedure, to furnish a list to SOS that shows the names required under Subsection (a)(2) (relating to all names on a current list to be furnished to DPS showing certain voter information) and that contains any of the information enumerated in Subsection (c) that is available to DPS, including citizenship status and county of residence. Requires DPS to furnish the list to SOS on or before the first Monday in January, April, July, and October of each year. Makes a nonsubstantive change.

(f-1) Requires each county, each Monday, to send to SOS a list that includes the name of each person who has served as a petit juror in that county during the previous week and whose name should be removed from the master jury list. Requires SOS to remove each name from the master jury list under this section. Requires SOS to return the name to the list on the Monday following the second anniversary of the date the name was removed, except that the name is required to be returned to the master jury list earlier or later than that date, as appropriate, if the supreme court has approved a county plan authorizing a different amount of time for exemption from service as a petit juror in that county by a person who has previously served on a jury. Requires each county, for purposes of this section, to determine when a person is considered to have served on a jury.

(g) Requires SOS to accept the lists furnished as provided by Subsections (c) through (f-1), rather than Subsections (c) through (f). Requires SOS to combine the lists and update the master jury list by eliminating duplicate names, rather than eliminate duplicate names, removing the names of convicted felons, deceased persons, and persons no longer residing in the county, removing and returning names as required by Subsection (f-1), and adding the names of persons qualified to serve as a petit juror that are not currently on the list. Requires SOS to make the combined list available to each county in an electronic, downloadable format not later than the second Monday in January, April, July, and October of each year, rather than send the combined list to each county on or before December 31 of each year or as may be required under a plan developed in accordance with Section 62.011 (Electronic or Mechanical Method of Selection). Deletes existing text requiring the district clerk of a county that has adopted a plan under Section 62.011 to give SOS notice not later than the 90th day before the date the list is required. Requires that the master jury list be certified by SOS stating that the list contains the names required by Subsections (c) through (f-1), rather than requiring that the list furnished by the county be in a format, electronic or printed copy, as requested by the county and certified by SOS stating that the list contains the names required by Subsection (c) through (f), eliminating duplications.

SECTION 3. Amends Subchapter A, Chapter 62, Government Code, by adding Section 62.0011, as follows:

Sec. 62.0011. SUPREME COURT RULES. (a) Requires the supreme court to adopt rules to govern the use of the master jury list and the administration of jury panels, including procedures for obtaining the master jury list from SOS; the drawing of names for jury lists; the issuance of juror summonses; answering a juror summons; the scheduling and rescheduling of jurors, and the selection of a jury panel.

(b) Authorizes the supreme court to adopt rules that allow the adoption of a written jury plan for a county. Requires that the rules specify which procedures

specified by rules adopted under Subsection (a) are required to be uniform throughout this state, and which procedures are authorized to vary between counties based on a county's jury plan. Authorizes the rules to provide a timeline for approving county jury plans and that a county jury plan is approved if not rejected by the supreme court within a specified number of days.

(c) Prohibits a jury plan from being adopted by a county until the plan has been approved by the supreme court either explicitly or in accordance with rules adopted under Subsection (b)(2). Authorizes the jury plan to address, subject to Subsection (a):

- (1) the timing and frequency of the issuance of juror summonses;
- (2) the number of jurors authorized to be summoned;
- (3) the manner by which a juror is authorized to be rescheduled;
- (4) the manner by which the name of a rescheduled juror is mixed into a jury list;
- (5) the process by which panels are formed and assigned to courts;
- (6) whether jurors are authorized to be summoned to one central location or to individual courts;
- (7) the identity and number of persons responsible for juror orientation;
- (8) the procedure for juror orientation;
- (9) the identity and number of persons responsible for decisions on qualifications, exemptions, and rescheduling;
- (10) the procedure for making decisions on juror qualifications, exemptions, and rescheduling;
- (11) the procedure for enhancing the accuracy of the list of persons available for assignment to a jury list;
- (12) whether a juror is authorized to be assigned for more than one day or one trial, and the process for making that assignment;
- (13) whether a juror is authorized to immediately be reassigned to another trial after the juror has been eliminated due to a for-cause or peremptory challenge, and the process for making the assignment;
- (14) the manner in which the Internet is authorized to be used for juror communications and rescheduling;
- (15) special procedures for death-qualified capital cases;
- (16) whether justice of the peace or municipal courts are authorized to use jurors that have been summoned by the county;
- (17) when litigants or attorneys are authorized to be informed of who has been summoned for jury duty; and
- (18) any other matter the supreme court determines needs to be addressed by a county for the efficient administration of the jury assembly process.

SECTION 4. Amends Section 62.019(d), Government Code, to make a conforming change.

SECTION 5. Amends Section 62.106, Government Code, as follows:

Sec. 62.106. EXEMPTION FROM JURY SERVICE. Deletes existing text authorizing a person qualified to serve as a petit juror to establish an exemption from jury service if the person is summoned for service in a county with a population of at least 200,000, unless that county uses a jury plan under Section 62.011 and the period authorized under Section 62.011(b)(5) (relating to a plan for the selection of prospective jurors providing specifications for a certain method of selection) exceeds two years, and the person has served as a petit juror in the county during the 24-month period preceding the date the person is to appear for jury service; except as provided by Subsection (b), is summoned for service in a county with a population of at least 250,000 and the person has served as a petit juror in the county during the three-year period preceding the date the person is to appear for jury service. Deletes existing Subsection (b) (providing that Subsection (a)(8) does not apply if the jury wheel in the county has been reconstituted after the date the person served as a petit juror). Makes nonsubstantive changes.

SECTION 6. Amends Section 62.107(b), Government Code, to prohibit the name of a person who claims an exemption by filing the sworn statement from being placed on the master jury list, rather than in the jury wheel, for the ensuing year. Makes nonsubstantive changes.

SECTION 7. Amends Section 62.108(d), Government Code, to make conforming changes.

SECTION 8. Amends Section 62.109(d), Government Code, to make conforming changes.

SECTION 9. Amends Section 62.110(b), Government Code, to authorize the court's designee, pursuant to a plan approved by the commissioners court of the county, rather than in the same manner as a plan is approved for jury selection under Section 62.011, to perform certain actions. Makes a nonsubstantive change.

SECTION 10. Amends Sections 62.302(a) and (c), Government Code, as follows:

(a) Authorizes the county judge or a judge of a county court at law to order the drawing of names from the master jury list if the judge considers the number or prospective jurors already drawn to be insufficient or if an interchangeable general jury panel is not drawn as provided by rules adopted by the supreme court or as a jury plan approved by the supreme court, rather than as provided by Section 62.016 (Interchangeable Juries in Certain Counties), 62.017 (Interchangeable Jurors in Certain Other Counties), or 62.0175 (Interchangeable Jurors in Counties with a Single District Court and a Single County Court at Law with Concurrent Jurisdiction). Makes a conforming change.

(c) Provides that the county judge and a judge of a county court at law concurrently have the same power to determine and remedy a deficiency in the number of prospective jurors as the district judge designated to control a general jury panel as provided by rules adopted by the supreme court or a jury plan approved by the supreme court, rather than Section 62.016, 62.017, or 62.0175. Deletes existing text providing that, except as otherwise provided by this section, the applicable general provisions in Subchapter A (General Provisions) that govern the drawing of names of prospective jurors by the district judge govern the drawing of names under this section.

SECTION 11. Amends Sections 62.412(a) and (c), Government Code, as follows:

(a) Authorizes a county that uses interchangeable juries, rather than interchangeable juries under Section 62.016, to summon a prospective juror to report directly to a justice court in the precinct in which that person resides.

(c) Authorizes a justice of the peace to command the sheriff or constable to immediately summon additional persons for jury service in the justice court if the number of qualified jurors, rather than the number of qualified jurors including persons summoned under Section 62.016, is less than the number necessary for the justice court to conduct its proceedings.

SECTION 12. Amends Articles 34.02 and 34.03, Code of Criminal Procedures, as follows:

Art. 34.02. ADDITIONAL NAMES DRAWN. Makes conforming changes.

Art. 34.03. INSTRUCTIONS TO SHERIFF. Requires the court, when the sheriff is ordered by the court to summon persons upon a special venire whose names have not been selected under the master jury list, rather than the Jury Wheel Law, to, in every case, caution and direct the sheriff to summon such persons as have legal qualifications to serve on juries, informing him of what those qualifications are, and is required to direct him, as far as he may be able to summon persons of good character who can read and write, and such as are not prejudiced against the defendant or biased in his favor, if he knows of such bias or prejudice.

SECTION 13. (a) Repealer: Section 25.2422(k) (relating to a meeting of district judges in Webb County), Government Code.

Repealer: Section 62.001 (h) (relating to the furnishing of the county voter registration list), (i) (relating to the construction of the voter registration list), (j) (relating to the frequency of which certain persons are authorized to be maintained in the jury wheel), and (k) (relating to reconstituting the jury wheel), Government Code.

Repealer: Section 62.002 (Jury Wheel Cards), Government Code.

Repealer: Section 62.003 (Construction and Security of Jury Wheel), Government Code.

Repealer: Section 62.004 (Drawing Names for Jury Lists), Government Code.

Repealer: Section 62.005 (Observation of Drawing of Names), Government Code.

Repealer: Section 62.006 (Certification of Jury Lists), Government Code.

Repealer: Section 62.007 (Envelopes Containing Jury Lists; Oath), Government Code.

Repealer: Section 62.008 (Envelopes Containing Jury Wheel Cards), Government Code.

Repealer: Section 62.009 (Reuse of Jury Wheel Cards), Government Code.

Repealer: Section 62.010 (Refilling or Replacement of Jury Wheel), Government Code.

Repealer: Section 62.011 (Electronic or Mechanical Method of Selection), Government Code.

Repealer: Section 62.0111 (Computer or Telephone Response to Summons), Government Code.

Repealer: Section 62.012 (Use of Jury Lists), Government Code.

Repealer: Section 62.013 (Summons for Jury Service by Sheriff or Constable), Government Code.

Repealer: Section 62.014 (Summons for Jury Service by Bailiffs), Government Code.

Repealer: Section 62.0142 (Notice on Written Summons), Government Code.

Repealer: Section 62.0143 (Postponement of Jury Service), Government Code.

Repealer: Section 62.0144 (Postponement of Jury Service in Certain Counties), Government Code.

Repealer: Section 62.0145 (Removal of Certain Persons from Pool of Prospective Jurors), Government Code.

Repealer: Section 62.0146 (Updating Addresses of Certain Persons in Pool of Prospective Jurors), Government Code.

Repealer: Section 62.015 (Selection of Jury Panel), Government Code.

Repealer: Section 62.016 (Interchangeable Juries in Certain Counties), Government Code.

Repealer: Section 62.017 (Interchangeable Jurors in Certain Other Counties), Government Code.

Repealer: Section 62.0175 (Interchangeable Jurors in Counties with a Single District Court and a Single County Court at Law with Concurrent Jurisdiction), Government Code.

Repealer: Section 62.018 (Quarters for General Panels), Government Code.

Repealer: Section 62.021 (Dismissal of Juror Removed from Panel), Government Code.

(b) Repealer: Article 35.03 (Excuses), Criminal Procedure.

Repealer: Article 35.04 (Claiming Exemption), Code of Criminal Procedure.

Repealer: Article 35.05 (Excused by Consent), Code of Criminal Procedure.

Repealer: Article 35.11 (Preparation of List), Code of Criminal Procedure.

Repealer: Article 35.12 (Mode of Testing), Code of Criminal Procedure.

SECTION 14. Requires the Texas Supreme Court, not later than December 1, 2009, to adopt rules as required by Section 62.0011, Government Code, as added by this Act, to take effect January 1, 2010.

SECTION 15. Makes application of this Act prospective to January 1, 2010.

SECTION 16. Provides that a master jury list in use on the effective date of this Act continues in effect until the earlier of March 31, 2010; or the date a master jury list is compiled and made available to a county using procedures implemented as required by this Act.

SECTION 17. (a) Effective date, except as provided by Subsection (b) of this section: January 1, 2010.

(b) Effective date, Sections 3 and 14 of this Act and this section: September 1, 2009.