

- SUBJECT:** Requiring a six-person jury in a district court misdemeanor trial
- COMMITTEE:** Criminal Jurisprudence — favorable, without amendment
- VOTE:** 6 ayes — Keel, Riddle, Ellis, Hodge, Pena, Talton
0 nays
3 absent — Denny, Dunnam, P. Moreno
- WITNESSES:** None
- BACKGROUND:** Texas Constitution, Art. 5, sec. 13 establishes that grand and petit juries in district courts are composed of 12 people. In trials of civil cases and criminal misdemeanor cases, nine members of the 12-person jury may render a verdict, as long as every member of the jury signs it.
- Code of Criminal Procedure, art. 33.01, provides that in district court, the jury must consist of 12 qualified jurors. In county courts and inferior courts, the jury must consist of six qualified jurors.
- Code of Criminal Procedure, art. 4.05 gives district courts original jurisdiction in all felony cases, all misdemeanor cases involving official misconduct, and misdemeanor cases transferred to district court when a defendant pleads not guilty, in a county court of a judge who is not a licensed attorney, to an offense punishable by confinement in jail.
- Code of Criminal Procedure, art. 4.07 gives county courts original jurisdiction of all misdemeanors of which exclusive original jurisdiction is not given to the justice court, when the fine to be imposed exceeds \$500.
- DIGEST:** HJR 44 would amend the Constitution to specify that petit juries in criminal misdemeanor cases heard in district court must be composed of six people. It would delete language allowing nine members of a 12-person jury to render a verdict in misdemeanor cases heard in district court.

The proposal would be presented to voters at an election on Tuesday, November 4, 2003. The ballot proposal would read: "The constitutional amendment to permit a six-person jury in a district court misdemeanor trial."

**SUPPORTERS
SAY:**

HB 830 would bring uniformity to the law by requiring six-member juries to hear misdemeanor cases, regardless of whether they were tried in district or county court. In some small, rural counties, district courts regularly hear misdemeanor cases. This results in the anomaly of 12-person juries hearing misdemeanor cases. HB 830 would save counties money in jury fees by reducing the number of jurors required in misdemeanor cases heard in district court. This provision would not affect most of the state, because few district courts hear misdemeanor cases.

**OPPONENTS
SAY:**

HB 830 could have the unintended consequence of permitting a six-person jury in misdemeanor official misconduct cases. The Legislature gave district courts original jurisdiction over those cases for reasons that included ensuring the added procedural protection of a 12-person jury for a defendant charged with official misconduct. Public officials convicted of such a crime face the serious consequence of being removed from office.

NOTES:

HB 830 by Hughes, the enabling bill for HJR 44, is on today's General State Calendar.