

BILL ANALYSIS

Senate Research Center
78R6111 BDH-F

S.B. 802
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Jurisprudence
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As Filed

DIGEST AND PURPOSE

Currently, an impaneled grand jury consists of 12 qualified grand jurors and two qualified alternates. Alternate grand jurors may be used as permanent replacements upon the legal disqualification of one of the original 12 grand jurors but may not be used to replace those grand jurors who are unavailable due to other circumstances, such as illness or infirmity. Since a grand jury requires a quorum of nine of the original 12 members to conduct business, the unavailability of one or more grand jurors due to death, illness, infirmity, or other cause can make it impossible to carry out the duties of the grand jury, thereby causing delays in the administration of justice and increasing costs to local jurisdictions holding defendants in jail who are unable to make bail pending the resolution of their cases. As proposed, S.B. 802 allows alternate grand jurors to serve when a grand juror becomes unavailable due to death or the then-existing physical or mental illness or infirmity of the juror.

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 Article 19.26(b), Code of Criminal Procedure, to provide that the grand jury is composed of not more than twelve qualified jurors. Requires the court, in addition, to qualify and impanel not more than two alternates to serve on disqualification or unavailability of a juror during the term of the grand jury. Requires the attorney representing the state, on learning that a grand juror has become disqualified or unavailable during the term of the grand jury, to prepare an order for the court identifying the disqualified or unavailable juror, stating the basis for the disqualification or unavailability, dismissing the disqualified or unavailable juror from the grand jury, and naming one of the alternates as a member of the grand jury. Authorizes the procedure established by this subsection to be used on disqualification or unavailability of a second grand juror during the term of the grand jury. Provides that for purposes of this subsection, a juror is unavailable if the juror is unable to participate fully in the duties of the grand jury because of the death of the juror or a physical or mental illness of the juror.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2003.