

Information Regarding Citizenship of Prospective Jurors; Grand Juries; HB 2164

HB 2164 amends the law concerning juries. First, the bill requires a jury commissioner to submit to the Secretary of State information regarding citizenship received from a prospective juror or court that disqualifies or potentially disqualifies the prospective juror from service. The information is limited to the full name, current and prior addresses, age, telephone number, and, if available, the date of birth of the prospective juror. The bill requires the jury commissioner to submit the information in a form and manner approved by the Secretary of State and specifies the information will be used for maintaining voter registrations.

Additionally, the bill amends grand jury statutes to:

- Allow the district attorney or county attorney in such attorney's county to petition the chief judge or designee to summon a grand jury to consider any alleged felony violation;
- In any judicial district, allow the Attorney General to petition the chief judge or the chief judge's designee in such judicial district to consider any alleged felony violation if authorized by the district or county attorney in such judicial district, or if jurisdiction is otherwise authorized by law;
- Add a requirement that the district court, if it finds the petition is in proper form and orders a grand jury to be summoned, issue such order within 15 days after receipt of the petition;
- Clarify that grand jury members must be "qualified" in the same manner as petit jurors;
- Clarify that grand juries impaneled by petition of a county attorney, district attorney, or the Attorney General may not employ special counsel;
- Specify the following duties of the prosecuting attorney to grand juries impaneled by such attorney's petition:
 - Attend all sessions and inform the grand jury of all offenses liable to indictment and evidence to be presented;
 - Present and examine witnesses on all matters to be considered; and
 - Provide members of the grand jury with advice related to all questions as to the proper discharge of their duties;
- Revise the provision governing what matters a grand jury member, attorney, interpreter, reporter, or typist may disclose, to require a court order and permit disclosure only of:
 - Witness testimony to a defendant to determine consistency, only upon a showing of good cause;

- Evidentiary materials presented to one grand jury to a succeeding grand jury; and
- Grand jury testimony by a defendant to the defendant, but only in the criminal action resulting from such testimony;
- Allow a grand jury impaneled by petition of a prosecuting attorney to serve for a period of six months, which can be extended before expiration for another period of up to six months, for good cause shown by the grand jury; and
- Allow the court to order the amendment of an indictment with regard to non-substantive matters that would not prejudice the defendant on the merits, and allow the court to grant the defendant a continuance to prepare a defense upon such amendment.

Additionally, the bill amends provisions concerning grand juries summoned by petition, commonly referred to as citizens grand juries. The bill requires a petition to summon a grand jury to state the name, address, and phone number of the person filing the petition, the subject matter of the prospective grand jury, a reasonably specific identification of areas for inquiry, and sufficient general allegations to warrant a finding that such inquiry may lead to information, which, if true, would warrant a true bill of indictment.

After a prosecutor has conducted an examination of the prospective grand jurors, the bill requires the court to approve and submit to the clerk of the county a list of all remaining legally qualified grand jurors for a second drawing of grand juror names. Upon receipt of the list, the clerk will draw for a second time 15 names of persons to serve as grand jurors from that list. If the county has an alternate method for securing jury panels directly from the computer, the clerk must use the computer to generate 15 names of persons to serve as grand jurors from that list.

After a citizens grand jury is summoned, but before it begins its deliberations, the bill requires the judge or judges of the district court of the county in which the petition is presented to provide instructions to the grand jury regarding its conduct and deliberations. The bill lists those instructions required to be presented, but states the instructions given are not limited to the instructions listed in the bill.

The bill also requires the person filing the petition to be the first witness called by the grand jury for the purpose of presenting evidence and testimony as to the subject matter and allegations of the petition. The bill allows the grand jury to investigate any concerns associated with the petition and to select any special counsel or investigator employed by the grand jury by majority vote after hearing testimony from the person filing the petition. The bill also allows any person to file with the prosecuting attorney or with the foreman of the grand jury a written request to testify or retestify in an inquiry before a grand jury or to appear before a grand jury. The written request includes a summary of that person's written testimony.

Upon a majority vote of the grand jury, the bill allows the grand jury to seek the removal of the assigned judge pursuant to existing law that provides for removal if a party or party's attorney believe the judge to whom an action is assigned cannot afford that person a fair trial in the action.

Finally, the bill makes a variety of non-substantive, technical changes to update and restructure the statutes.