

2016 Regular Session

SENATE BILL NO. 334

BY SENATOR CLAITOR

CRIMINAL PROCEDURE. Repeals certain provisions of the Code of Criminal Procedure declared unconstitutional. (8/1/16)

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AN ACT

To amend and reenact Code of Criminal Procedure Articles 413(B) and 414(B), and to repeal Code of Criminal Procedure Articles 412 and 414(C), relative to grand juries; to provide for jury venire and subpoena; to provide for impaneling of grand juries; to provide for time for impaneling grand juries; to provide for removal of unconstitutional provisions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Articles 413(B) and 414(B) are hereby amended and reenacted read as follows:

Art. 413. Method of impaneling of grand jury; selection of foreman

* * *

B. The sheriff or his designee, or the clerk or a deputy clerk of court, or ~~in Orleans Parish~~ the jury commissioner shall draw indiscriminately and by lot from the envelope containing the remaining names on the grand jury venire a sufficient number of names to complete the grand jury. The envelope containing the remaining names shall be replaced into the grand jury box for use in filling vacancies as provided in Article 415. The court shall cause a random selection to be made of one

1 person from the impaneled grand jury to serve as foreman of the grand jury.

2 * * *

3 Art. 414. Time for impaneling grand juries; period of service

4 * * *

5 B. ~~In parishes other than Orleans, the~~ **The** court shall fix the time at which
6 a grand jury shall be impaneled, but no grand jury shall be impaneled for more than
7 eight months, nor less than four months, except in the parish of Cameron in which
8 the grand jury may be impaneled for a year.

9 * * *

10 Section 2. Code of Criminal Procedure Articles 412 and 414(C) are hereby repealed
11 in their entirety.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Tim Prather.

DIGEST

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Present law provided for drawing grand jury venire and subpoena of veniremen in Orleans Parish. Present law provides that in Orleans Parish, upon order of the court, the commission shall draw the grand jury venire pursuant to the provisions present law. Present law provides that the commission shall prepare and certify a list containing the names so drawn, and the list shall be delivered to the judge who ordered the drawing. Present law provides that the court may direct the jury commission to prepare subpoenas directed to the persons on the grand jury venire, ordering their appearance in court on the date set by the court for the selection of the grand jury, and the jury commission shall then cause the subpoenas to be served in accordance with the provisions of present law as directed by the court.

Proposed law removes present law held unconstitutional by *State v. Dilosa*, 848 So. 2d 546, 551 (La.2003).

Present law provides for the method of impaneling of grand jury and the selection of a foreman. The sheriff or his designee, or the clerk or a deputy clerk of court, or in Orleans Parish the jury commissioner shall draw indiscriminately and by lot from the envelope containing the remaining names on the grand jury venire a sufficient number of names to complete the grand jury. Present law provides that the envelope containing the remaining names shall be replaced into the grand jury box for use in filling vacancies as provided in present law. The court shall cause a random selection to be made of one person from the impaneled grand jury to serve as foreman of the grand jury.

Proposed law removes any reference to Orleans Parish in present law as per *State v. Dilosa*, 848 So. 2d 546, 551 (La.2003).

Present law provides for the time for impaneling grand juries. Present law provided that in parishes other than Orleans, the court shall fix the time at which a grand jury shall be impaneled, but no grand jury shall be impaneled for more than eight months, nor less than four months.

Proposed law removes any reference to Orleans in present law as per *State v. Dilosa*, 848 So. 2d 546, 551 (La.2003).

Present law provided that in Orleans Parish, a grand jury venire shall be drawn by the jury commission on the date set by the presiding judge. Present law provides on the next legal day following the drawing, the jury commission shall submit the grand jury venire to the presiding judge, who shall impanel the grand jury. Present law provides that a grand jury in Orleans Parish shall be impaneled on the first Wednesday of March and September of each year.

Proposed law removes present law held unconstitutional by *State v. Dilosa*, 848 So. 2d 546, 551 (La.2003).

Effective August 1, 2016

(Amends C.Cr.P. Arts. 413(B) and 414(B); repeals C.Cr.P. Arts. 412 and 414(C))