

## CHAPTER 751

H.B. No. 65

AN ACT

relating to the peremptory challenge of prospective jurors on racial grounds.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Chapter 35, Code of Criminal Procedure, is amended by adding Article 35.261 to read as follows:

*Art. 35.261. PEREMPTORY CHALLENGES BASED ON RACE PROHIBITED. (a) After the parties have delivered their lists to the clerk under Article 35.26 of this code and before the court has impanelled the jury, the defendant may request the court to dismiss the array and call a new array in the case. The court shall grant the motion of a defendant for dismissal of the array if the court determines that the defendant is a member of an identifiable racial group, that the attorney representing the state exercised peremptory challenges for the purpose of excluding persons from the jury on the basis of their race, and that the defendant has offered evidence of relevant facts that tend to show that challenges made by the attorney representing the state were made for reasons based on race. If the defendant establishes a prima facie case, the burden then shifts to the attorney representing the state to give a racially neutral explanation for the challenges. The burden of persuasion remains with the defendant to establish purposeful discrimination.*

*(b) If the court determines that the attorney representing the state challenged prospective jurors on the basis of race, the court shall call a new array in the case.*

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on May 13, 1987, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 65 on May 31, 1987, by a non-record vote. Passed by the Senate, with amendments, on May 30, 1987, by a viva-voce vote.

Approved June 19, 1987.

Effective Aug. 31, 1987, 90 days after date of adjournment.