

AMENDED IN SENATE APRIL 28, 2015

SENATE BILL

No. 213

Introduced by Senator Block

February 11, 2015

An act to amend, repeal, and add Section 231 of the Code of Civil Procedure, relating to juries.

LEGISLATIVE COUNSEL'S DIGEST

SB 213, as amended, Block. Juries: criminal trials: peremptory challenges.

Existing law provides that in a criminal case when the offense charged is punishable by a maximum term of imprisonment that is more than 90 days, but is not punishable by death or imprisonment in the state prison for life, the defendant and the state are each entitled to 10 peremptory challenges. Existing law also provides that in those circumstances, when 2 or more defendants are jointly tried, their challenges shall be exercised jointly, but each defendant is entitled to 5 additional peremptory challenges that may be exercised separately, and the state is entitled to additional challenges equal to the number of additional challenges allowed to the defendants.

Existing law provides that in a criminal case when the offense charged is punishable with a maximum term of imprisonment of 90 days or less, the defendant and the state are each entitled to 6 peremptory challenges. Existing law also provides that in those circumstances, when 2 or more defendants are jointly tried, their challenges shall be exercised jointly, but each defendant is entitled to 4 additional challenges that may be exercised separately, and the state is entitled to additional challenges equal to the number of additional challenges allowed to the defendants.

This bill would instead, until January 1, 2021, reduce the number of peremptory challenges for some criminal cases by providing that in a criminal case when the offense charged is punishable with a maximum term of imprisonment of one year or less, the defendant and the state would be entitled to 6 peremptory challenges. The bill would provide that in those circumstances, when 2 or more defendants are jointly tried, their challenges would be exercised jointly, but each defendant would be entitled to 2 additional challenges that may be exercised separately, and the state would be entitled to additional challenges equal to the number of additional challenges allowed to the defendants. *The bill would require the Judicial Council to conduct a study, and on or before January 1, 2020, to submit a report to the public safety committees of both houses of the Legislature, on the reductions in peremptory challenges resulting from the enactment of the bill, as specified.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 231 of the Code of Civil Procedure is
2 amended to read:

3 231. (a) In criminal cases, if the offense charged is punishable
4 with death, or with imprisonment in the state prison for life, the
5 defendant is entitled to 20 and the people to 20 peremptory
6 challenges. Except as provided in subdivision (b), in a trial for any
7 other offense, the defendant is entitled to 10 and the state to 10
8 peremptory challenges. When two or more defendants are jointly
9 tried, their challenges shall be exercised jointly, but each defendant
10 shall also be entitled to five additional challenges which may be
11 exercised separately, and the people shall also be entitled to
12 additional challenges equal to the number of all the additional
13 separate challenges allowed the defendants.

14 (b) If the offense charged is punishable with a maximum term
15 of imprisonment of one year or less, the defendant is entitled to
16 six and the state to six peremptory challenges. When two or more
17 defendants are jointly tried, their challenges shall be exercised
18 jointly, but each defendant shall also be entitled to two additional
19 challenges which may be exercised separately, and the state shall
20 also be entitled to additional challenges equal to the number of all
21 the additional separate challenges allowed the defendants.

1 (c) In civil cases, each party shall be entitled to six peremptory
2 challenges. If there are more than two parties, the court shall, for
3 the purpose of allotting peremptory challenges, divide the parties
4 into two or more sides according to their respective interests in
5 the issues. Each side shall be entitled to eight peremptory
6 challenges. If there are several parties on a side, the court shall
7 divide the challenges among them as nearly equally as possible.
8 If there are more than two sides, the court shall grant such
9 additional peremptory challenges to a side as the interests of justice
10 may require, provided that the peremptory challenges of one side
11 shall not exceed the aggregate number of peremptory challenges
12 of all other sides. If any party on a side does not use his or her full
13 share of peremptory challenges, the unused challenges may be
14 used by the other party or parties on the same side.

15 (d) Peremptory challenges shall be taken or passed by the sides
16 alternately, commencing with the plaintiff or people, and each
17 party shall be entitled to have the panel full before exercising any
18 peremptory challenge. When each side passes consecutively, the
19 jury shall then be sworn, unless the court, for good cause, shall
20 otherwise order. The number of peremptory challenges remaining
21 with a side shall not be diminished by any passing of a peremptory
22 challenge.

23 (e) If all the parties on both sides pass consecutively, the jury
24 shall then be sworn, unless the court, for good cause, shall
25 otherwise order. The number of peremptory challenges remaining
26 with a side shall not be diminished by any passing of a peremptory
27 challenge.

28 (f) *The Judicial Council shall conduct a study, and on or before*
29 *January 1, 2020, shall submit a report to the public safety*
30 *committees of both houses of the Legislature, on the reductions in*
31 *peremptory challenges resulting from the enactment of the act*
32 *adding this subdivision. The study shall include, but not be limited*
33 *to, an examination of the number of peremptory challenges used*
34 *by the defendant and the state in misdemeanor jury trials, a*
35 *representative sample of the types of cases that go to jury trial,*
36 *and the resulting cost savings to the courts. A report to be*
37 *submitted pursuant to this subdivision shall be submitted in*
38 *compliance with Section 9795 of the Government Code.*

39 (f)

1 (g) This section shall remain in effect only until January 1, 2021,
2 and as of that date is repealed, unless a later enacted statute, that
3 is enacted before January 1, 2021, deletes or extends that date.

4 SEC. 2. Section 231 is added to the Code of Civil Procedure,
5 to read:

6 231. (a) In criminal cases, if the offense charged is punishable
7 with death, or with imprisonment in the state prison for life, the
8 defendant is entitled to 20 and the people to 20 peremptory
9 challenges. Except as provided in subdivision (b), in a trial for any
10 other offense, the defendant is entitled to 10 and the state to 10
11 peremptory challenges. When two or more defendants are jointly
12 tried, their challenges shall be exercised jointly, but each defendant
13 shall also be entitled to five additional challenges which may be
14 exercised separately, and the people shall also be entitled to
15 additional challenges equal to the number of all the additional
16 separate challenges allowed the defendants.

17 (b) If the offense charged is punishable with a maximum term
18 of imprisonment of 90 days or less, the defendant is entitled to six
19 and the state to six peremptory challenges. When two or more
20 defendants are jointly tried, their challenges shall be exercised
21 jointly, but each defendant shall also be entitled to four additional
22 challenges which may be exercised separately, and the state shall
23 also be entitled to additional challenges equal to the number of all
24 the additional separate challenges allowed the defendants.

25 (c) In civil cases, each party shall be entitled to six peremptory
26 challenges. If there are more than two parties, the court shall, for
27 the purpose of allotting peremptory challenges, divide the parties
28 into two or more sides according to their respective interests in
29 the issues. Each side shall be entitled to eight peremptory
30 challenges. If there are several parties on a side, the court shall
31 divide the challenges among them as nearly equally as possible.
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34 may require, provided that the peremptory challenges of one side
35 shall not exceed the aggregate number of peremptory challenges
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37 share of peremptory challenges, the unused challenges may be
38 used by the other party or parties on the same side.

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40 alternately, commencing with the plaintiff or people, and each

1 party shall be entitled to have the panel full before exercising any
2 peremptory challenge. When each side passes consecutively, the
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4 otherwise order. The number of peremptory challenges remaining
5 with a side shall not be diminished by any passing of a peremptory
6 challenge.

7 (e) If all the parties on both sides pass consecutively, the jury
8 shall then be sworn, unless the court, for good cause, shall
9 otherwise order. The number of peremptory challenges remaining
10 with a side shall not be diminished by any passing of a peremptory
11 challenge.

12 (f) This section shall become operative on January 1, 2021.