

AMENDED IN ASSEMBLY MARCH 30, 2016  
AMENDED IN ASSEMBLY FEBRUARY 29, 2016  
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1766**

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**Introduced by Assembly Member Mark Stone**

February 3, 2016

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An act to amend Sections 222.5 and 223 of the Code of Civil Procedure, relating to jurors.

LEGISLATIVE COUNSEL'S DIGEST

AB 1766, as amended, Mark Stone. Examination of prospective jurors.

**In**

(1) *In* civil trials, existing law requires a trial judge to examine prospective jurors, and, upon completion of the judge's examination, grants counsel for each party the right to examine, by oral and direct questioning, any prospective juror in order to enable counsel to intelligently exercise peremptory challenges and challenges for cause. Existing law provides that the judge in civil trials should provide the parties with both the alphabetical list and the list of prospective jurors in the order in which they will be called.

*This bill would make nonsubstantive changes to these provisions.*

**Under**

(2) *Under* existing law, which was enacted by initiative measure, in a criminal case, the court is required to conduct the examination of prospective jurors, except that the court may permit the parties, upon a showing of good cause, to conduct a further inquiry. The initiative

measure provides that it may be amended by a measure enacted by a  $\frac{2}{3}$   $\frac{2}{3}$  vote of each house.

This bill would, in criminal trials, require the court to provide the complete names of prospective jurors to counsel for each party, as specified. The bill would also, ~~in civil and criminal trials,~~ require the court and counsel for each party to address a prospective juror using a number assigned by the ~~court or court,~~ by the prospective juror’s first name and ~~last initial.~~ *first initial of his or her last name, or by his or her title and last name, as determined by the court in each criminal trial.* The bill would also make nonsubstantive changes to these provisions.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: no.  
 State-mandated local program: no.

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

1 SECTION 1. Section 222.5 of the Code of Civil Procedure is  
 2 amended to read:

3 222.5. (a) To select a fair and impartial jury in civil jury trials,  
 4 the court shall examine the prospective jurors. Upon completion  
 5 of the court’s initial examination, counsel for each party shall have  
 6 the right to examine, by oral and direct questioning, any of the  
 7 prospective jurors so that counsel may intelligently exercise both  
 8 peremptory challenges and challenges for cause. During any  
 9 examination conducted by counsel for the parties, the court should  
 10 permit liberal and probing examination calculated to discover bias  
 11 or prejudice with regard to the circumstances of the particular case.  
 12 The fact that a topic has been included in the court’s examination  
 13 ~~shall~~ *should* not preclude additional nonrepetitive or nonduplicative  
 14 questioning in the same area by counsel.

15 (b) To help facilitate the jury selection process, the court in civil  
 16 trials ~~shall~~ *should* provide to counsel for each party the complete  
 17 names of the prospective jurors, both alphabetically and in the  
 18 order in which they will be called. ~~However, a prospective juror~~  
 19 ~~shall be addressed by the court and counsel for each party by a~~  
 20 ~~number assigned by the court or by the prospective juror’s first~~  
 21 ~~name and last initial.~~

22 (c) The court should allow a brief opening statement by counsel  
 23 for each party before the commencement of the oral questioning  
 24 phase of the voir dire process.

1 (d) The scope of the examination conducted by counsel shall  
2 be within reasonable limits prescribed by the court in the court's  
3 sound discretion. In exercising its sound discretion as to the form  
4 and subject matter of voir dire questions, the court should consider,  
5 among other criteria, any unique or complex elements, legal or  
6 factual, in the case and the individual responses or conduct of  
7 jurors that may evince attitudes inconsistent with suitability to  
8 serve as a fair and impartial juror in the particular case. Specific  
9 unreasonable or arbitrary time limits shall not be imposed in any  
10 case. The court shall not establish a blanket policy of a time limit  
11 for voir dire.

12 (e) The court should permit counsel to conduct voir dire  
13 examination without requiring prior submission of the questions  
14 unless a particular counsel engages in improper questioning. For  
15 purposes of this section, an "improper question" is any question  
16 that, as its dominant purpose, attempts to precondition the  
17 prospective jurors to a particular result, indoctrinate the jury, or  
18 question the prospective jurors concerning the pleadings or the  
19 applicable law. A court shall not arbitrarily or unreasonably refuse  
20 to submit reasonable written questionnaires, the contents of which  
21 are determined by the court in its sound discretion, when requested  
22 by counsel. If a questionnaire is used, the parties should be given  
23 reasonable time to evaluate the responses to the questionnaires  
24 before oral questioning commences.

25 (f) In civil cases, the court may, upon stipulation by counsel for  
26 all the parties appearing in the action, permit counsel to examine  
27 the prospective jurors outside the court's presence.

28 SEC. 2. Section 223 of the Code of Civil Procedure is amended  
29 to read:

30 223. (a) In a criminal case, the court shall conduct an initial  
31 examination of prospective jurors. The court may submit to the  
32 prospective jurors additional questions requested by the parties as  
33 it deems proper.

34 (b) The court shall provide to counsel for each party the  
35 complete names of the prospective jurors, both alphabetically and  
36 in the order in which they will be called. However, ~~a~~ *the court, in*  
37 *each criminal trial, shall determine a uniform manner by which*  
38 *each prospective juror shall be addressed by the court and counsel*  
39 ~~for each party by a number assigned by the court or by the~~

1 ~~prospective juror's first name and last initial.~~ party, according to  
2 one of the following:

3 (1) An identification number assigned by the court.

4 ~~(e)~~

5 (2) The prospective juror's first name and the first initial of his  
6 or her last name.

7 (3) The prospective juror's title and last name.

8 (c) Before examining prospective jurors, the court shall advise  
9 them that, in accordance with state law, the court and counsel for  
10 each party are prohibited, in all criminal cases, from addressing  
11 prospective jurors by their full names during jury selection, and  
12 are required to address each prospective juror by an identification  
13 number, by his or her first name and the first initial of his or her  
14 last name, or by his or her title and last name.

15 (d) Upon completion of the court's initial examination, counsel  
16 for each party shall have the right to examine, by oral and direct  
17 questioning, any or all of the prospective jurors. The court may,  
18 in the exercise of its discretion, limit the oral and direct questioning  
19 of prospective jurors by counsel. The court may specify the  
20 maximum amount of time that counsel for each party may question  
21 an individual juror, or may specify an aggregate amount of time  
22 for each party, which can then be allocated among the prospective  
23 jurors by counsel.

24 ~~(e)~~

25 (e) Voir dire of prospective jurors shall, where practicable, occur  
26 in the presence of the other jurors in all criminal cases, including  
27 death penalty cases. Examination of prospective jurors shall be  
28 conducted only in aid of the exercise of challenges for cause.

29 ~~(e)~~

30 (f) The court's exercise of its discretion in the manner in which  
31 voir dire is conducted, including any limitation on the time which  
32 will be allowed for direct questioning of prospective jurors by  
33 counsel and any determination that a question is not in aid of the  
34 exercise of challenges for cause, shall not cause any conviction to  
35 be reversed unless the exercise of that discretion has resulted in a  
36 miscarriage of justice, as specified in Section 13 of Article VI of  
37 the California Constitution.

- 1     (g) *This section does not limit public access to juror information,*
- 2     *as provided for under Section 237.*

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