

Introduced by Senator BlockFebruary 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 introduced, 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.

Vote: majority. 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 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 ~~90 days~~ *one year* or less, the defendant is
16 entitled to six and the state to six peremptory challenges. When
17 two or more defendants are jointly tried, their challenges shall be
18 exercised jointly, but each defendant shall also be entitled to ~~four~~
19 *two* additional challenges which may be exercised separately, and
20 the state shall also be entitled to additional challenges equal to the
21 number of all the additional separate challenges allowed the
22 defendants.

23 (c) In civil cases, each party shall be entitled to six peremptory
24 challenges. If there are more than two parties, the court shall, for
25 the purpose of allotting peremptory challenges, divide the parties
26 into two or more sides according to their respective interests in
27 the issues. Each side shall be entitled to eight peremptory
28 challenges. If there are several parties on a side, the court shall

1 divide the challenges among them as nearly equally as possible.
2 If there are more than two sides, the court shall grant such
3 additional peremptory challenges to a side as the interests of justice
4 may ~~require~~; *require*, provided that the peremptory challenges of
5 one side shall not exceed the aggregate number of peremptory
6 challenges of all other sides. If any party on a side does not use
7 his or her full share of peremptory challenges, the unused
8 challenges may be used by the other party or parties on the same
9 side.

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

18 (e) If all the parties on both sides pass consecutively, the jury
19 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 (f) *This section shall remain in effect only until January 1, 2021,*
24 *and as of that date is repealed, unless a later enacted statute, that*
25 *is enacted before January 1, 2021, deletes or extends that date.*

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

28 231. (a) In criminal cases, if the offense charged is punishable
29 with death, or with imprisonment in the state prison for life, the
30 defendant is entitled to 20 and the people to 20 peremptory
31 challenges. Except as provided in subdivision (b), in a trial for any
32 other offense, the defendant is entitled to 10 and the state to 10
33 peremptory challenges. When two or more defendants are jointly
34 tried, their challenges shall be exercised jointly, but each defendant
35 shall also be entitled to five additional challenges which may be
36 exercised separately, and the people shall also be entitled to
37 additional challenges equal to the number of all the additional
38 separate challenges allowed the defendants.

39 (b) If the offense charged is punishable with a maximum term
40 of imprisonment of 90 days or less, the defendant is entitled to six

1 and the state to six peremptory challenges. When two or more
2 defendants are jointly tried, their challenges shall be exercised
3 jointly, but each defendant shall also be entitled to four additional
4 challenges which may be exercised separately, and the state shall
5 also be entitled to additional challenges equal to the number of all
6 the additional separate challenges allowed the defendants.

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

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

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

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