

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

1

SENATE BILL 1045

Short Title: Expedite Jury Selection.

(Public)

Sponsors: Senator Wellons. (By Request)

Referred to: Judiciary.

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO PROVIDE MORE EXPEDITIOUS METHODS OF SELECTING JURORS IN CIVIL AND CRIMINAL CASES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-1214 reads as rewritten:

"§ 15A-1214. Selection of jurors; procedure.

(a) Judge to Choose Method of Jury Selection. – Before the commencement of jury selection, the presiding judge shall, in the judge's discretion, choose the method of jury selection either under subsection (b) of this section or the method of jury selection under subsection (c) of this section, but not both, and shall notify the parties accordingly.

(b) Strike and Replace Method of Jury Selection. – The Strike and Replace Method of Jury Selection shall be conducted as follows:

(1) The clerk, under the supervision of the presiding judge, must call jurors from the panel by a system of random selection which that precludes advance knowledge of the identity of the next juror to be called. When a juror is called and he is assigned to the jury box, he the juror retains the seat assigned until excused.

(2) The judge must inform the prospective jurors of the case in accordance with G.S. 15A-1213. He The judge may briefly question the prospective jurors individually or as a group concerning general their

1 fitness and competency to determine whether there is cause why they
2 should not serve as jurors in the ~~ease-~~case, and the judge may, in the
3 judge's discretion, excuse any of these jurors.

4 (e) (3) The prosecutor and the defense counsel, or the defendant if
5 not represented by counsel, may personally question prospective
6 jurors individually concerning their fitness and competency to serve
7 as jurors in the case to determine whether there is a basis for a
8 challenge for cause or whether to exercise a peremptory challenge.
9 ~~The prosecution or defense is not foreclosed from asking a question merely~~
10 ~~because the court has previously asked the same or similar question.~~ Prior
11 to the questioning, the judge may reasonably limit the time available
12 for examination of the prospective jurors. During the questioning, the
13 judge may limit or terminate the examination if the judge determines
14 that an examination is unduly repetitious, irrelevant, unreasonably
15 lengthy, abusive, or otherwise improper.

16 (d) (4) The prosecutor must conduct ~~his-~~the examination of the first
17 12 jurors seated and make ~~his-~~challenges for cause and exercise ~~his~~
18 peremptory challenges. If the judge allows a challenge for cause, or if
19 a peremptory challenge is exercised, the clerk must immediately call a
20 replacement into the box. When the prosecutor is satisfied with the 12
21 in the box, they must then be tendered to the defendant. Until the
22 prosecutor indicates ~~his satisfaction,~~ he satisfaction with the jurors, the
23 prosecutor may make a challenge for cause or exercise a peremptory
24 challenge to strike any juror, whether an original or replacement juror.

25 (e) (5) Each defendant must then conduct ~~his-~~examination of the
26 jurors tendered ~~him,~~ the defendant, making ~~his-~~challenges for cause
27 and ~~his-~~exercising any peremptory challenges. If a juror is excused, no
28 replacement may be called until all defendants have indicated
29 satisfaction with those remaining, at which time the clerk must call
30 replacements for the jurors excused. The judge ~~in his discretion must~~
31 must, in the judge's discretion, determine the order of examination
32 among multiple defendants.

33 (f) (6) Upon the calling of replacement jurors, the prosecutor must
34 examine the replacement jurors and indicate satisfaction with a
35 completed panel of 12 before the replacement jurors are tendered to a
36 defendant. Only replacement jurors may be examined and challenged.
37 This procedure is repeated until all parties have accepted 12 jurors.

38 (c) Struck Jury Method of Jury Selection. – The Struck Jury Method of Jury
39 Selection shall be conducted as follows:

40 (1) The clerk, under the supervision of the presiding judge, must call jurors
41 from the panel by a system of random selection that precludes advance
42 knowledge of the identity of the next juror to be called. When a juror is
43 called and assigned to the jury box, the juror retains the seat assigned

1 until excused. The clerk must call the number of jurors that are needed
2 to try the case plus that additional number that will allow for all
3 peremptory challenges permitted and will allow for the number of
4 alternate jurors to be seated in the case; unless the judge, in the judge's
5 discretion, directs the clerk to call either of the following:

6 a. A greater number of jurors to accommodate possible challenges
7 for cause.

8 b. A fewer number of jurors if the courtroom cannot reasonably
9 accommodate that number of jurors or if some other justifiable
10 reason for calling a fewer number of jurors exists.

11 (2) The judge must inform the prospective jurors of the case in accordance
12 with G.S. 15A-1213. The judge may question the prospective jurors
13 concerning their fitness and competency to determine whether there is
14 cause why they should not serve as jurors in the case, and the judge
15 may, in the judge's discretion, excuse any of these jurors.

16 (3) The prosecutor and the defense counsel, or the defendant if not
17 represented by counsel, may personally question prospective jurors
18 individually concerning their fitness and competency to serve as jurors
19 in the case to determine whether there is a basis for a challenge for
20 cause or whether to exercise a peremptory challenge. Prior to the
21 questioning, the judge may reasonably limit the time available for
22 examination of the prospective jurors. During the questioning, the
23 judge may limit or terminate the examination if the judge determines
24 that an examination is unduly repetitious, irrelevant, unreasonably
25 lengthy, abusive, or otherwise improper.

26 (4) The prosecutor must conduct the examination of all jurors called by the
27 clerk, and then the defendant must conduct the examination. The
28 prosecutor and the defendant must together exercise challenges for
29 cause and their peremptory challenges, with the prosecutor going first,
30 in a manner such that the jurors are unaware of which party has
31 challenged them. Then the clerk must swear the remaining jurors, or
32 that number of the remaining jurors, in the order called, that make up
33 the number fixed to try the case, including alternate jurors, and these
34 constitute the jury and alternate jurors; unless the number of jurors
35 remaining is insufficient to satisfy that number needed for the jury and
36 alternates, in which case the clerk must call replacement jurors. The
37 same process must be used for examinations, challenges for cause, and
38 peremptory challenges for any such needed replacement jurors. When
39 the number of jurors fixed to try the case, including alternate jurors, is
40 reached after challenges for cause and peremptory challenges have been
41 made, the clerk must swear the remaining jurors, with the first 12 jurors
42 in the order called to serve as the trial jurors and the remaining jurors in
43 the order called to serve as the alternate jurors. If there are more

1 remaining jurors than are needed to serve as alternate jurors, those
2 remaining jurors who are not needed as alternate jurors must be excused
3 from service for this trial.

4 (d), (e), and (f) Reserved.

5 (g) If at any time after a juror has been accepted by a party, and before the jury is
6 impaneled, it is discovered that the juror has made an incorrect statement during voir dire
7 or that some other good reason exists:

8 (1) The judge may examine, or permit counsel to examine, the juror to
9 determine whether there is a basis for challenge for cause.

10 (2) If the judge determines there is a basis for challenge for cause, ~~he~~the
11 judge must excuse the juror or sustain any challenge for cause that has
12 been made.

13 (3) If the judge determines there is no basis for challenge for cause, any
14 party who has not exhausted ~~his~~the party's peremptory challenges may
15 challenge the juror.

16 Any replacement juror called is subject to examination, challenge for cause, and
17 peremptory challenge as any other unaccepted juror.

18 (h) In order for a defendant to seek reversal of the case on appeal on the ground
19 that the judge refused to allow a challenge made for cause, ~~he~~the defendant must ~~have~~
20 have satisfied all of the following:

21 (1) Exhausted the peremptory challenges available to ~~him~~the defendant.

22 (2) Renewed ~~his~~the challenge as provided in subsection (i) of this ~~section;~~
23 ~~and section.~~

24 (3) Had ~~his~~the renewal motion denied as to the juror in question.

25 (i) A party who has exhausted ~~his~~that party's peremptory challenges may move
26 orally or in writing to renew a challenge for cause previously denied if the party ~~either~~
27 satisfies either one of the following:

28 (1) ~~Had~~That party had peremptorily challenged the ~~juror; or~~ juror.

29 (2) ~~States~~That party states in the motion that ~~he~~the party would have
30 challenged that juror peremptorily had ~~his~~the challenges not been
31 exhausted.

32 The judge may reconsider ~~his~~the denial of the challenge for cause, reconsidering facts
33 and arguments previously adduced or taking cognizance of additional facts and
34 arguments presented. If upon ~~reconsideration~~reconsideration, the judge determines that
35 the juror should have been excused for cause, ~~he~~the judge must allow the party an
36 additional peremptory challenge.

37 (j) In capital cases the trial judge for good cause shown may direct that jurors be
38 selected one at a time, in which case each juror must first be passed by the State. These
39 jurors may be sequestered before and after selection."

40 Section 2. G.S. 9-15 reads as rewritten:

41 "**§ 9-15. ~~Questioning jurors without challenge; challenges for cause~~Selection of**
42 **jurors in civil cases; procedure.**

1 (a) The court, and any party to an action, or his counsel of record shall be allowed,
2 in selecting the jury, to make direct oral inquiry of any prospective juror as to the fitness
3 and competency of any person to serve as a juror, without having such inquiry treated as
4 a challenge of such person, and it shall not be considered by the court that any person is
5 challenged as a juror until the party shall formally state that such person is so challenged.

6 (a) Judge to Choose Method of Jury Selection. – Before the commencement of
7 jury selection, the presiding judge shall, in the judge's discretion, choose the method of
8 jury selection either under subsection (a1) of this section or the method of jury selection
9 under subsection (a2) of this section, but not both, and shall notify the parties
10 accordingly.

11 (a1) Strike and Replace Method of Jury Selection. – The Strike and Replace
12 Method of Jury Selection shall be conducted as follows:

13 (1) The clerk, under the supervision of the presiding judge, must call jurors
14 from the panel by a system of random selection that precludes advance
15 knowledge of the identity of the next juror to be called. When a juror is
16 called and assigned to the jury box, the juror retains the seat assigned
17 until excused.

18 (2) The judge must inform the prospective jurors of the case. The judge
19 may question the prospective jurors concerning their fitness and
20 competency to determine whether there is cause why they should not
21 serve as jurors in the case, and the judge may, in the judge's discretion,
22 excuse any of these jurors.

23 (3) The parties' attorneys, or any party if not represented by counsel, may
24 personally question prospective jurors individually concerning their
25 fitness and competency to serve as jurors in the case to determine
26 whether there is a basis for a challenge for cause or whether to exercise
27 a peremptory challenge. Prior to the questioning, the judge may
28 reasonably limit the time available for examination of the prospective
29 jurors. During the questioning, the judge may limit or terminate the
30 examination if the judge determines that an examination is unduly
31 repetitious, irrelevant, unreasonably lengthy, abusive, or otherwise
32 improper.

33 (4) The plaintiff's attorney, or the plaintiff if not represented by counsel,
34 must conduct the examination of the first 12 jurors seated and make
35 challenges for cause and exercise peremptory challenges. If the judge
36 allows a challenge for cause, or if a peremptory challenge is exercised,
37 the clerk must immediately call a replacement into the box. When the
38 plaintiff's attorney, or the plaintiff if not represented by counsel, is
39 satisfied with the 12 in the box, they must then be tendered to the
40 defendant. Until the plaintiff's attorney, or the plaintiff if not represented
41 by counsel, indicates satisfaction with the jurors, the plaintiff's attorney,
42 or the plaintiff if not represented by counsel, may make a challenge for

1 cause or exercise a peremptory challenge to strike any juror, whether an
2 original or replacement juror.

3 (5) The defendant's attorney, or the defendant if not represented by counsel,
4 must then conduct the examination of the jurors tendered the defendant,
5 making challenges for cause and exercising any peremptory challenges.
6 If a juror is excused, no replacement may be called until the defendant's
7 attorney, or the defendant if not represented by counsel, has indicated
8 satisfaction with those remaining, at which time the clerk must call
9 replacements for the jurors excused. The judge must, in the judge's
10 discretion, determine the order of examination among multiple
11 defendants.

12 (6) Upon the calling of replacement jurors, the parties, in the order
13 determined by the judge, must examine the replacement jurors and
14 indicate satisfaction with a completed panel of 12 before the
15 replacement jurors are tendered to the other party. Only replacement
16 jurors may be examined and challenged. This procedure is repeated until
17 all parties have accepted 12 jurors.

18 (a2) Struck Jury Method of Jury Selection. – The Struck Jury Method of Jury
19 Selection shall be conducted as follows:

20 (1) The clerk, under the supervision of the presiding judge, must call jurors
21 from the panel by a system of random selection that precludes advance
22 knowledge of the identity of the next juror to be called. When a juror is
23 called and assigned to the jury box, the juror retains the seat assigned
24 until excused. The clerk must call the number of jurors that are needed
25 to try the case plus that additional number that will allow for all
26 peremptory challenges permitted and will allow for the number of
27 alternate jurors to be seated in the case; unless the judge, in the judge's
28 discretion, directs the clerk to call either of the following:

29 a. A greater number of jurors to accommodate possible challenges
30 for cause.

31 b. A fewer number of jurors if the courtroom cannot reasonably
32 accommodate that number of jurors or if some other justifiable
33 reason for calling a fewer number of jurors exists.

34 (2) The judge must inform the prospective jurors of the case. The judge
35 may question the prospective jurors concerning their fitness and
36 competency to determine whether there is cause why they should not
37 serve as jurors in the case, and the judge may, in the judge's discretion,
38 excuse any of these jurors.

39 (3) The parties' attorneys, or any party if not represented by counsel, may
40 personally question prospective jurors individually concerning their
41 fitness and competency to serve as jurors in the case to determine
42 whether there is a basis for a challenge for cause or whether to exercise
43 a peremptory challenge. Prior to the questioning, the judge may

1 reasonably limit the time available for examination of the prospective
2 jurors. During the questioning, the judge may limit or terminate the
3 examination if the judge determines that an examination is unduly
4 repetitious, irrelevant, unreasonably lengthy, abusive, or otherwise
5 improper.

6 (4) The plaintiff must conduct the examination of all jurors called by the
7 clerk, and then the defendant must conduct the examination. The parties
8 must together exercise challenges for cause and their peremptory
9 challenges, with the plaintiff going first, in a manner such that the jurors
10 are unaware of which party has challenged them. Then the clerk must
11 swear the remaining jurors, or that number of the remaining jurors, in
12 the order called, that make up the number fixed to try the case, including
13 alternate jurors, and these constitute the jury and alternate jurors; unless
14 the number of jurors remaining is insufficient to satisfy that number
15 needed for the jury and alternates, in which case the clerk shall call
16 replacement jurors. The same process must be used for examinations,
17 challenges for cause, and peremptory challenges for any such needed
18 replacement jurors. When the number of jurors fixed to try the case,
19 including alternate jurors, is reached after challenges for cause and
20 peremptory challenges have been made, the clerk must swear the
21 remaining jurors, with the first 12 jurors in the order called to serve as
22 the trial jurors and the remaining jurors in the order called to serve as
23 the alternate jurors. If there are more remaining jurors than are needed
24 to serve as alternate jurors, those remaining jurors who are not needed
25 as alternate jurors must be excused from service for this trial.

26 (b) It shall not be a valid cause for challenge that any juror, ~~regular or supplemental,~~
27 juror is not a freeholder or has not paid the taxes assessed against ~~him-~~ the juror.

28 (c) ~~In civil cases-~~ any civil case, if ~~any-~~ a juror has a suit pending and at issue in the
29 court in which ~~he-~~ the juror is serving, ~~he-~~ the juror may be challenged for cause, and ~~he-~~ the
30 juror shall be withdrawn from the trial ~~panel,~~ panel and may be withdrawn from the
31 venire in the discretion of the presiding judge.

32 (d) In criminal cases challenges are governed by Article ~~72,~~ Selecting and
33 Impaneling the Jury, ~~72~~ of Chapter 15A of the General Statutes. ~~Statutes, Selecting and~~
34 Impaneling the Jury."

35 Section 3. This act becomes effective December 1, 1997, and applies to
36 offenses committed on or after that date and to causes of action filed on or after that date.