

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 799
Judiciary

(Delegate Dumais)

Criminal Trials - Peremptory Challenges

This bill alters the number of peremptory challenges permitted to defendants from 20 to 10 in cases in which the defendant is subject to a sentence of life imprisonment; from 10 to 5 in cases in which the defendant is subject to a sentence of 20 years or more; and from 4 to 5, for both parties in all other cases.

Fiscal Summary

State Effect: None. The changes would not materially affect governmental operations or expenditures.

Local Effect: None – see above.

Small Business Effect: None.

Analysis

Current Law: The number of peremptory challenges permitted to the State and the defendant varies depending upon the defendant's potential sentence.

Exhibit 1
State and Defense Peremptory Challenges

Sentence	State Challenges	Defense Challenges
Death	10	20
Life Imprisonment	10	20
20+ Years	5	10
All Other Cases	4	4

The clerk of the court must provide a sufficient number of prospective jurors to allow the parties to exercise the permitted peremptory challenges.

Background: A peremptory challenge is the right of the plaintiff and the defendant in a jury trial to have a juror dismissed before trial without stating a reason. This challenge is distinguished from a “challenge for cause” (reason) based on the potential juror admitting bias, acquaintanceship with one of the parties or their attorney, personal knowledge about the facts, or some other basis for believing the juror might not be impartial. The number of peremptory challenges for each side differs based on state law, the number of parties to a case, and whether it is a civil or criminal trial. **Exhibit 2** shows the number of peremptory challenges available in five surrounding jurisdictions.

Exhibit 2
Peremptory Challenges in Surrounding Jurisdictions

<i>Jurisdiction</i>	<i>Capital</i>		<i>Felony</i>		<i>Misdemeanor</i>	
	<i>State</i>	<i>Defense</i>	<i>State</i>	<i>Defense</i>	<i>State</i>	<i>Defense</i>
Delaware	12	20	6	6	6	6
DC	--	--	10	10	3	3
New Jersey	12	20	12	20	10	10
Pennsylvania	20	20	7	7	5	5
Virginia	4	4	4	4	3	3

Additional Information

Prior Introductions: None.

Cross File: SB 582 (Senator Garagiola, *et al.*) – Judicial Proceedings.

Information Source(s): State's Attorneys' Association, Judiciary (Administrative Office of the Courts), Office of the Public Defender, U.S. Department of Justice (Bureau of Justice Statistics), Department of Legislative Services

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