

Department of Legislative Services  
Maryland General Assembly  
2009 Session

FISCAL AND POLICY NOTE

House Bill 407  
Judiciary

(Delegate McConkey, *et al.*)

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Criminal Procedure - Jurors - Peremptory Challenges

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This bill reduces the number of peremptory challenges permitted to parties from four to two in criminal cases in which a defendant is not subject to a sentence of 20 years or more on any single count.

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Fiscal Summary

**State Effect:** None. Reducing the number of peremptory challenges does not materially affect governmental operations or expenditures.

**Local Effect:** None. Reducing the number of peremptory challenges does not materially affect local government operations or expenditures.

**Small Business Effect:** None.

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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**).

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**Exhibit 1**  
**State and Defense Peremptory Challenges – Criminal Trials**

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

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The clerk of the court must provide a sufficient number of prospective jurors to allow the parties to exercise the permitted peremptory challenges. (*See Courts and Judicial Proceedings, § 8-310.*)

**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 his/her 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 for criminal trials in five surrounding jurisdictions.

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**Exhibit 2**  
**Peremptory Challenges in Surrounding Jurisdictions – Criminal Trials**

<u>Jurisdiction</u>	<u>Capital</u>		<u>Felony</u>		<u>Misdemeanor</u>	
	<u>State</u>	<u>Defense</u>	<u>State</u>	<u>Defense</u>	<u>State</u>	<u>Defense</u>
Delaware	12	20	6	6	6	6
District of Columbia	--	--	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

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## Additional Information

**Prior Introductions:** None.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - February 6, 2009  
mlm/kdm

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