

REFERENCE TITLE: **peremptory challenges; criminal actions**

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HB 2887

Introduced by
Representatives Heap: Biasiucci, Parker J

AN ACT

**AMENDING TITLE 21, CHAPTER 3, ARTICLE 2, ARIZONA REVISED STATUTES, BY
ADDING SECTION 21-316; RELATING TO FORMATION OF JURIES.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 21, chapter 3, article 2, Arizona Revised
3 Statutes, is amended by adding section 21-316, to read:

4 21-316. Peremptory challenges in criminal actions; avowal;
5 judicial determination

6 A. IN A CRIMINAL ACTION, UNLESS THE PARTIES AGREE TO FEWER
7 CHALLENGES, EACH PARTY IS ENTITLED TO THE FOLLOWING PEREMPTORY CHALLENGES:

8 1. IF THE OFFENSE CHARGED IS PUNISHABLE BY DEATH, SIX.

9 2. IF THE OFFENSE CHARGED IS NOT PUNISHABLE BY DEATH AND THE CASE
10 IS TRIED IN:

11 (a) THE SUPERIOR COURT, FOUR.

12 (b) A LIMITED JURISDICTION COURT, ONE.

13 B. IF A PARTY EXERCISES A PEREMPTORY CHALLENGE, THE COURT, BEFORE
14 DISMISSING THE JUROR, SHALL REQUIRE THE PARTY TO AVOW THAT THE PEREMPTORY
15 CHALLENGE WAS NOT BASED ON THE INDIVIDUAL'S RACE, COLOR, RELIGION, SEX,
16 AGE, NATIONAL ORIGIN OR DISABILITY. THE COURT SHALL ACCEPT OR REJECT THE
17 PARTY'S AVOWAL AND MAY CONSIDER ANY RELEVANT EVIDENCE IN MAKING THIS
18 DETERMINATION. IF THE COURT REJECTS THE PARTY'S AVOWAL, THE JUROR SHALL BE
19 REINSTATED TO THE PROSPECTIVE PANEL UNLESS DISMISSED FOR OTHER REASONS.

20 Sec. 2. Legislative findings

21 A. The legislature finds and declares the following:

22 1. The Arizona supreme court accurately stated in State v.
23 Thompson, 68 Ariz. 386 (1949), that peremptory challenges involve a
24 "substantial rather than a mere procedural or technical right and should
25 be fully enforced as an aid in securing an impartial jury."

26 2. Consistent with the Arizona supreme court's statement in
27 Thompson, in 1989, the Arizona Legislature codified the right to a
28 peremptory challenge in section 26-1041, Arizona Revised Statutes, for
29 parties in a court martial.

30 3. The Arizona supreme court's elimination of peremptory challenges
31 in jury selection in criminal trials on August 30, 2021 through rule
32 petition no. R-21-0020 has resulted in an increase of hung juries in
33 criminal cases throughout Arizona and caused the state and the criminal
34 justice system to incur unjustified and substantial costs.

35 B. Based on the findings in subsection A of this section, the
36 legislature intends to restore a limited number of peremptory strikes in
37 criminal actions to facilitate a defendant's constitutional right to a
38 fair and impartial jury, retain the protections of Batson v. Kentucky, 476
39 U.S. 79 (1986), and require the avowal and finding prescribed by section
40 21-316, Arizona Revised Statutes, as added by this act, without regard to
41 whether a Batson challenge has been raised.