

## HOUSE BILL No. 2741

By Committee on Federal and State Affairs

2-26

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1 AN ACT concerning courts; relating to jurors; amending K.S.A. 2013  
2 Supp. 22-3412 and repealing the existing section.

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4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. K.S.A. 2013 Supp. 22-3412 is hereby amended to read as  
6 follows: 22-3412. (a) (1) For crimes committed before July 1, 1993,  
7 peremptory challenges shall be allowed as follows:

8 (A) Each defendant charged with a class A felony shall be allowed 12  
9 peremptory challenges.

10 (B) Each defendant charged with a class B felony shall be allowed  
11 eight peremptory challenges.

12 (C) Each defendant charged with a felony other than class A or class  
13 B felony shall be allowed six peremptory challenges.

14 (D) Each defendant charged with a misdemeanor shall be allowed  
15 three peremptory challenges.

16 (E) Additional peremptory challenges shall not be allowed on account  
17 of separate counts charged in the complaint, information or indictment.

18 (F) The prosecution shall be allowed the same number of peremptory  
19 challenges as all the defendants.

20 (2) For crimes committed on or after July 1, 1993, peremptory  
21 challenges shall be allowed as follows:

22 (A) Each defendant charged with an off-grid felony, a nondrug felony  
23 ranked at severity level 1, or a drug felony ranked at severity level 1 or 2,  
24 shall be allowed 12 peremptory challenges.

25 (B) Each defendant charged with a nondrug felony ranked at severity  
26 level 2, 3, 4, 5 or 6, or a drug felony ranked at severity level 3 or 4, shall  
27 be allowed 8 peremptory challenges.

28 (C) Each defendant charged with an unclassified felony, a nondrug  
29 severity level 7, 8, 9 or 10, or a drug severity level 5 felony, shall be  
30 allowed six peremptory challenges.

31 (D) Each defendant charged with a misdemeanor shall be allowed  
32 three peremptory challenges.

33 (E) The prosecution shall be allowed the same number of peremptory  
34 challenges as all defendants.

35 (F) The most serious penalty offense charged against each defendant  
36 furnishes the criterion for determining the allowed number of peremptory

1 challenges for that defendant.

2 (G) Additional peremptory challenges shall not be allowed when  
3 separate counts are charged in the complaint, information or indictment.

4 (H) Except as otherwise provided in this subsection, the provisions of  
5 this section shall apply. In applying the provisions of this section, the trial  
6 court may determine the number of peremptory challenges to allow by  
7 reviewing the classification for the crime charged, or nearest comparable  
8 felony, as it was classified under the criminal law in effect prior to July 1,  
9 1993. If the severity level of the most serious crime charged raises the  
10 potential penalty above that of another crime which was classified higher  
11 under the criminal law in effect prior to July 1, 1993, the defendant shall  
12 be allowed the number of peremptory challenges as for that higher  
13 classified crime under the prior system.

14 (I) The trial court shall resolve any conflicts with a liberal  
15 construction in favor of allowing the greater number of peremptory  
16 challenges.

17 (b) After the parties have interposed all of their challenges to jurors,  
18 or have waived further challenges, the jury shall be sworn to try the case.

19 (c) A trial judge may empanel one or more alternate or additional  
20 jurors whenever, in the judge's discretion, the judge believes it advisable  
21 to have such jurors available to replace jurors who, prior to the time the jury  
22 retires to consider its verdict, become or are found to be unable to perform  
23 their duties. Such jurors shall be selected in the same manner, have the  
24 same qualifications, and be subject to the same examination and  
25 challenges and take the same oath and have the same functions, powers  
26 and privileges as the regular jurors. Such jurors may be selected at the  
27 same time as the regular jurors or after the jury has been empaneled and  
28 sworn, in the judge's discretion. Each party shall be entitled to one  
29 peremptory challenge to such alternate jurors. Such alternate jurors shall  
30 be seated near the other jurors, with equal power and facilities for seeing  
31 and hearing the proceedings in the case, and they must attend at all times  
32 upon the trial of the cause in company with the other jurors. They shall  
33 obey the orders of and be bound by the admonition of the court upon each  
34 adjournment, but if the regular jurors are ordered to be kept in custody  
35 during the trial of the cause, such alternate jurors also shall be kept in  
36 confinement with the other jurors. Upon final submission of the case to the  
37 jury, the alternate jurors may be discharged or they may be retained  
38 separately and not discharged until the final decision of the jury. If the  
39 alternate jurors are not discharged on final submission of the case and if  
40 any regular juror shall be discharged from jury service in any such action  
41 prior to the jury reaching its verdict, the court shall draw the name of an  
42 alternate juror who shall replace the juror so discharged and be subject to  
43 the same rules and regulations as though such juror had been selected as

1 one of the original jurors.

2 *(d) Jurors shall be instructed by the court that they may take notes*  
3 *for personal use during the trial. The court shall provide suitable*  
4 *materials for this purpose. Any materials used by a juror to take notes for*  
5 *personal use shall be kept in the juror's possession in the courtroom. A*  
6 *juror shall not share any notes with any other juror. All notes and*  
7 *materials used to take notes shall be collected and held by the bailiff*  
8 *during any recess. During deliberation, a juror shall not share or read*  
9 *verbatim such juror's notes for personal use, but may review or reference*  
10 *such notes if needed. After verdict, the bailiff shall collect all notes and*  
11 *notetaking materials and the court shall immediately order destruction of*  
12 *all notes.*

13 Sec. 2. K.S.A. 2013 Supp. 22-3412 is hereby repealed.

14 Sec. 3. This act shall take effect and be in force from and after its  
15 publication in the statute book.