

## Appendix A

### Arizona Rule of Criminal Procedure 18.4: Challenges

**(a) Challenge to the Panel.** *No change.*

**(b) Challenge for Cause.** ~~On motion or on its own, the court must~~ **THE COURT, ON MOTION OR ON ITS OWN, MUST** excuse a prospective juror or jurors from service in the case if there is a reasonable ground to believe that the juror or jurors cannot render a fair and impartial verdict. A challenge for cause may be made at any time, but the court may deny a challenge if the party was not diligent in making it.

**(c) Peremptory Challenges.**

~~(1) Generally. The court must allow both parties the following number of peremptory challenges:~~

~~(A) 10, if the offense charged is punishable by death;~~

~~(B) 6, in all other cases tried in superior court; and~~

~~(C) two, in all cases tried in limited jurisdiction courts.~~

~~(2) If Several Defendants Are Tried Jointly. If there is more than one defendant, each defendant is allowed one half the number of peremptory challenges allowed to one defendant. The State is not entitled to any additional peremptory challenges.~~

~~(3) Agreement Between the Parties. The parties may agree to exercise fewer than the allowable number of peremptory challenges.~~

**Arizona Rule of Criminal Procedure 18.5: Procedure for Jury Selection**

**(a) Swearing the Jury Panel.** *No change.*

**(b) Calling Jurors for Examination.** The court may call to the jury box a number of prospective jurors equal to the number to serve plus the number of alternates ~~plus the number of peremptory challenges that the parties are permitted~~. Alternatively, and at the court's discretion, all members of the panel may be examined.

**(c) Inquiry by the Court; Brief Opening Statements.** *No change.*

**(d) Voir Dire Examination.** *No change.*

**(e) Scope of Examination.** The court must ensure the reasonable protection of the prospective jurors' privacy. Questioning must be limited to inquiries designed to elicit information relevant to asserting a possible challenge for cause ~~or enabling a party to intelligently exercise the party's peremptory challenges~~.

**(f) Challenge for Cause.** Challenges for cause must be on the record and made out of the hearing of the prospective jurors. THE PARTY CHALLENGING A JUROR FOR CAUSE HAS THE BURDEN TO ESTABLISH BY A PREPONDERANCE OF THE EVIDENCE THAT THE JUROR CANNOT RENDER A FAIR AND IMPARTIAL VERDICT. If the court grants a challenge for cause, it must excuse the affected prospective juror. If insufficient prospective jurors remain on the list, the court must add a prospective juror from a new panel. ~~All challenges for cause must be made and decided before the court may call on the parties to exercise their peremptory challenges.~~

**(g) STIPULATION TO REMOVE A PROSPECTIVE JUROR. THE PARTIES MAY STIPULATE TO THE REMOVAL OF A JUROR. Exercise of Peremptory Challenges.** After examining the prospective jurors and completing all challenges for cause, the parties must exercise their peremptory challenges on the list of prospective jurors by alternating strikes, beginning with the State, until the peremptory challenges are exhausted or a party elects not to exercise further challenges. Failure of a party to exercise a challenge in turn operates as a waiver of the party's remaining challenges,

~~but it does not deprive the other party of that party's full number of challenges. If the parties fail to exercise the full number of allowed challenges, the court will strike the jurors on the bottom of the list of prospective jurors until only the number to serve, plus alternates, remain.~~

**(h) Selection of Jury; Alternate Jurors.**

(1) *Trial Jurors.* After ~~the completion of the procedures in (g)~~ **RESOLVING ANY CHALLENGES FOR CAUSE**, the prospective jurors remaining in the jury box or on the list of prospective jurors constitute the trial jurors.

(2) *Selection of Alternates and Instruction.* No change.

(3) *Replacing a Deliberating Juror.* No change.

**(i) Deliberations in a Capital Case.** No change.

**Arizona Rule of Civil Procedure 47: Jury Selection; Voir Dire; Challenges**

- (a) Jury Selection.** *No change.*
- (b) Juror Information.** *No change.*
- (c) Voir Dire Oath and Procedure.** *No change.*
- (d) Challenges for Cause.** *No change.*
- (e) Peremptory Challenges.**

~~(1) Procedure.~~ When the voir dire is finished and the court has ruled on all challenges for cause, the clerk will give the parties a list of the remaining prospective jurors for the exercise of peremptory challenges. The parties must exercise their challenges by alternate strikes, beginning with the plaintiff, until each party's peremptory challenges are exhausted or waived. If a party fails to exercise a peremptory challenge, it waives any remaining challenges, but it does not affect the right of other parties to exercise their remaining challenges.

~~(2) Number.~~ Each side is entitled to 4 peremptory challenges. For this rule's purposes, each action—whether a single action or two or more actions consolidated for trial—must be treated as having only two sides. If it appears that two or more parties on a side have adverse or hostile interests, the court may allow them to have additional peremptory challenges, but each side must have an equal number of peremptory challenges. If the parties on a side are unable to agree on how to allocate peremptory challenges among them, the court must determine the allocation.

- (f) Alternate Jurors.**

~~(1) Generally.~~ The court may order that up to 6 additional jurors be called and impaneled in the same manner as other jurors under this rule, to allow the court to later designate some of the jurors as alternates.

(2) *Instructions.* The court should explain to the jury why alternate jurors are needed and how they will be selected at the end of trial.

(3) *Selecting and Excusing an Alternate Juror.* The court will determine the identities of the alternate jurors by a drawing held in open court after closing arguments and final jury instructions are given but before deliberations begin. If an alternate juror is excused, the court must instruct him or her to continue to observe the juror admonitions until a verdict is returned or the jury is discharged.

(4) *Substituting an Alternate Juror.* If a deliberating juror is disqualified or unable to perform the required duties, the court may substitute an alternate juror in the juror's place. If an alternate juror joins the deliberations, the court must instruct the jury to start over in its deliberations.

(5) *Additional Peremptory Challenges.* ~~In addition to the peremptory challenges otherwise allowed by law, each side is entitled to one peremptory challenge if one or two alternate jurors will be impaneled, two peremptory challenges if 3 or 4 alternate jurors will be impaneled, and 3 peremptory challenges if 5 or 6 alternate jurors will be impaneled.~~