

AMENDED IN ASSEMBLY MAY 30, 2017
AMENDED IN ASSEMBLY MAY 10, 2017
AMENDED IN ASSEMBLY APRIL 24, 2017
AMENDED IN ASSEMBLY MARCH 27, 2017
CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 1541

Introduced by Assembly Member Kalra

February 17, 2017

An act to ~~amend~~ *repeal and add* Section 223 of the Code of Civil Procedure, relating to jurors.

LEGISLATIVE COUNSEL'S DIGEST

AB 1541, as amended, Kalra. Examination of prospective jurors.

Existing law requires the court, in a criminal case, to conduct an initial examination of prospective jurors. Upon completion of this initial examination, existing law grants counsel for each party the right to examine any of the prospective jurors, as specified. Existing law authorizes the court to limit the oral and direct questioning of prospective jurors, as specified.

This bill would ~~require the court to utilize, as part of voir dire in a criminal case, a written questionnaire that is to be completed by all prospective jurors who are not excused for hardship and to be provided to each party prior to oral questioning on voir dire. The bill would also~~ require the court to permit counsel for each party to conduct a jury examination that is calculated to discover bias or prejudice with regard to the circumstances of a particular ~~case. case or the parties before the court. The bill would require the scope of the examination conducted~~

by counsel to be within reasonable limits prescribed by the trial judge in his or her sound discretion, as specified. The bill would also require the judge to permit supplemental time for questioning based on specified factors. The bill would require the judge to, in his or her sound discretion, consider the use of reasonable written questionnaires for jury examination when requested by counsel. The bill would also require the judge to provide the parties with the list of prospective jurors in the order in which they will be called to help facilitate the jury selection process.

Vote: majority. Appropriation: no. Fiscal committee: no.
 State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 223 of the Code of Civil Procedure is
 2 repealed.
 3 223. ~~In a criminal case, the court shall conduct an initial~~
 4 ~~examination of prospective jurors. The court may submit to the~~
 5 ~~prospective jurors additional questions requested by the parties as~~
 6 ~~it deems proper. Upon completion of the court's initial~~
 7 ~~examination, counsel for each party shall have the right to examine,~~
 8 ~~by oral and direct questioning, any or all of the prospective jurors.~~
 9 ~~The court may, in the exercise of its discretion, limit the oral and~~
 10 ~~direct questioning of prospective jurors by counsel. The court may~~
 11 ~~specify the maximum amount of time that counsel for each party~~
 12 ~~may question an individual juror, or may specify an aggregate~~
 13 ~~amount of time for each party, which can then be allocated among~~
 14 ~~the prospective jurors by counsel. Voir dire of any prospective~~
 15 ~~jurors shall, where practicable, occur in the presence of the other~~
 16 ~~jurors in all criminal cases, including death penalty cases.~~
 17 ~~Examination of prospective jurors shall be conducted only in aid~~
 18 ~~of the exercise of challenges for cause.~~
 19 The trial court's exercise of its discretion in the manner in which
 20 voir dire is conducted, including any limitation on the time which
 21 will be allowed for direct questioning of prospective jurors by
 22 counsel and any determination that a question is not in aid of the
 23 exercise of challenges for cause, shall not cause any conviction to
 24 be reversed unless the exercise of that discretion has resulted in a
 25 miscarriage of justice, as specified in Section 13 of Article VI of
 26 the California Constitution.

1 *SEC. 2. Section 223 is added to the Code of Civil Procedure,*
2 *to read:*

3 223. (a) *To select a fair and impartial jury in a criminal jury*
4 *trial, the court shall conduct an initial examination of prospective*
5 *jurors. The court may submit to the prospective jurors additional*
6 *questions requested by the parties as it deems proper. Upon*
7 *completion of the judge's initial examination, counsel for each*
8 *party shall have the right to examine, by oral and direct*
9 *questioning, any of the prospective jurors in order to enable*
10 *counsel to intelligently exercise challenges for cause. During any*
11 *examination conducted by counsel for the parties, the trial judge*
12 *shall permit liberal and probing examination calculated to discover*
13 *bias or prejudice with regard to the circumstances of the particular*
14 *case or the parties before the court. The fact that a topic has been*
15 *included in the judge's examination shall not preclude appropriate*
16 *questioning in the same area by counsel.*

17 (b) (1) *The scope of the examination conducted by counsel shall*
18 *be within reasonable limits prescribed by the trial judge in the*
19 *judge's sound discretion subject to the provisions of this chapter.*
20 *At the first practical opportunity before voir dire, the trial judge*
21 *shall consider the form and subject matter of voir dire questions.*
22 *The trial judge shall not impose specific unreasonable or arbitrary*
23 *time limits or establish an inflexible time limit policy for voir dire.*
24 *Voir dire of any prospective jurors shall, where practicable, occur*
25 *in the presence of the other jurors in all criminal cases, including*
26 *death penalty cases. Examination of prospective jurors shall be*
27 *conducted only in aid of the exercise of challenges for cause. In*
28 *exercising his or her sound discretion, the trial judge shall give*
29 *due consideration to all of the following:*

- 30 (A) *The amount of time requested by trial counsel.*
31 (B) *Any unique or complex legal or factual elements in the case.*
32 (C) *The length of the trial.*
33 (D) *The number of parties.*
34 (E) *The number of witnesses.*

35 (2) *As voir dire proceeds, the judge shall permit supplemental*
36 *time for questioning based on any of the following:*

- 37 (A) *Individual responses or conduct of jurors that may evince*
38 *attitudes inconsistent with suitability to serve as a fair and*
39 *impartial juror in the particular case.*
40 (B) *The composition of the jury panel.*

1 (C) An unusual number of for cause challenges.

2 (c) The trial judge should permit counsel to conduct voir dire
3 examination without requiring prior submission of the questions
4 unless a particular counsel engages in improper questioning. For
5 purposes of this section, an “improper question” is any question
6 that, as its dominant purpose, attempts to precondition the
7 prospective jurors to a particular result or indoctrinate the jury.
8 A court shall, in its sound discretion, consider reasonable written
9 questionnaires when requested by counsel. If a questionnaire is
10 utilized, the parties shall be given reasonable time to evaluate the
11 responses to the questionnaires before oral questioning
12 commences. To help facilitate the jury selection process, the judge
13 in a criminal trial shall provide the parties with the list of
14 prospective jurors in the order in which they will be called.

15 (d) The trial court’s exercise of its discretion in the manner in
16 which voir dire is conducted, including any limitation on the time
17 which will be allowed for direct questioning of prospective jurors
18 by counsel and any determination that a question is not in aid of
19 the exercise of challenges for cause, is not cause for a conviction
20 to be reversed, unless the exercise of that discretion results in a
21 miscarriage of justice, as specified in Section 13 of Article VI of
22 the California Constitution.

23 ~~SECTION 1. Section 223 of the Code of Civil Procedure is~~
24 ~~amended to read:~~

25 ~~223. (a) In a criminal case, the court shall conduct an initial~~
26 ~~examination of prospective jurors.~~

27 ~~(b) As part of voir dire, the court shall utilize a written~~
28 ~~questionnaire, that may include questions approved by the Judicial~~
29 ~~Council, which shall be completed by each prospective juror who~~
30 ~~is not excused for hardship. This subdivision does not prevent the~~
31 ~~court from using the written juror questionnaire for expedited jury~~
32 ~~trials, such as MC-003 prepared by the Judicial Council, or any~~
33 ~~other similarly written questionnaire.~~

34 ~~(c) Each party shall be provided a copy of the completed~~
35 ~~questionnaire prior to oral questioning on voir dire. The court may~~
36 ~~submit to the prospective jurors additional questions requested by~~
37 ~~the parties as it deems proper.~~

38 ~~(d) Upon completion of the court’s initial examination, counsel~~
39 ~~for each party shall have the right to examine, by oral and direct~~
40 ~~questioning, any or all of the prospective jurors. The court may,~~

1 in the exercise of its discretion, limit the oral and direct questioning
2 of prospective jurors by counsel. The court may specify the
3 maximum amount of time that counsel for each party may question
4 an individual juror, or may specify an aggregate amount of time
5 for each party, which can then be allocated among the prospective
6 jurors by counsel. However, the court shall permit liberal and
7 probing examination by counsel for each party that is calculated
8 to discover bias or prejudice with regard to the circumstances of
9 the particular case. The fact that a topic has been included in the
10 court's examination shall not preclude appropriate questioning in
11 the same area by counsel.

12 (e) ~~Voir dire of any prospective jurors shall, where practicable,~~
13 ~~occur in the presence of the other jurors in all criminal cases,~~
14 ~~including death penalty cases. Examination of prospective jurors~~
15 ~~shall be conducted only in aid of the exercise of challenges for~~
16 ~~cause.~~

17 (f) ~~The trial court's exercise of its discretion in the manner in~~
18 ~~which voir dire is conducted, including any limitation on the time~~
19 ~~which will be allowed for direct questioning of prospective jurors~~
20 ~~by counsel and any determination that a question is not in aid of~~
21 ~~the exercise of challenges for cause, is not cause for a conviction~~
22 ~~to be reversed, unless the exercise of that discretion results in a~~
23 ~~miscarriage of justice, as specified in Section 13 of Article VI of~~
24 ~~the California Constitution.~~