~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 4, 2020

**S. 1002**

Introduced by Senators Rankin, Malloy, Young, McElveen, Kimpson, M.B. Matthews, Senn, Harpootlian, Sabb, Campsen, Hutto, Setzler, Hembree, Talley and Davis

S. Printed 3/4/20--S.

Read the first time January 14, 2020.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 1002) to amend Section 14‑7-1050, Code of Laws of South Carolina, 1976, relating to jury voir dire, so as to provide for attorney conducted jury voir, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, starting on page 2, by striking lines 12 through 43 on page 2 and lines 1 through 14 on page 3, in Section 14-7-1050, as contained in SECTION 1, and inserting therein the following:

/ (C) Upon motion, by either party, to propose oral and direct voir dire questions to a jury panel, the parties shall prepare their proposed questions in writing and exchange the questions at least seven days before the selection of the trial jury. Any objections to the voir dire questions must be ruled upon by the trial judge who shall give final approval of the questions. Each party is allotted no more than thirty minutes to ask questions. If there is more than one plaintiff or one defendant with divergent interests between the plaintiff parties or defendant parties, the trial judge shall allocate an even amount of time between the parties to voir dire the jury panel. Upon motion, by either party, the thirty-minute time limit may be extended by the judge after consideration of the amount of time requested by the moving party, the length of the trial, the number of parties, the number of witnesses, the amount of damages in question, and any unique or complex legal or factual issues.

(D) After swearing in of the jury venire, a list of jurors, the number of which will be determined by the trial judge, will be prepared to participate in voir dire. Attorneys for the plaintiff shall begin voir dire by asking their approved questions. Attorneys for the defendant will then proceed with their approved questions. Additional questions may be asked in a manner in which the trial judge deems proper and within the scope set forth by the trial judge.

(E) A party may not ask the following questions without showing, to the satisfaction of the trial judge, that the question is relevant to the issue or would affect the juror’s impartiality:

(1) Questions about the juror’s political views, voting patterns, or political party preferences; or

(2) Questions about the juror’s religious beliefs or religious affiliations;

(F) The following questions are prohibited:

(1) Questions that seek to commit a juror to a result, including, but not limited to, questions about what evidence would cause the juror to find for one party over the other party;

(2) Questions that have no purpose other than to argue a party’s case or to persuade the juror to find for one party over the other party; and

(3) Questions about the outcome of previous trials on which the person served as a juror, including, but not limited to, the vote of the juror or the verdict of the jury.

(G) After voir dire by all parties, the trial judge shall hear, outside of the presence of the jury, any challenges for cause as to any juror.

(H) After any challenges for cause have been ruled upon, the parties shall exercise peremptory challenges for the jurors remaining on the list. The plaintiff shall proceed first with a peremptory challenge, followed by the defendant, and the plaintiff and defendant shall alternate challenges until all challenges have been exhausted. After the parties have used all of their peremptory challenges, the remaining jurors will be impaneled and sworn as the trial jury.” /

Renumber sections to conform.

Amend title to conform.

LUKE A. RANKIN for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Introduced on January 14, 2020**

**State Expenditure**

This bill would change how a jury is selected in common pleas courts and in equity cases in the courts. Among other things, the parties must prepare and exchange proposed voir dire questions five days prior to selection. The bill also gives the judge the discretion to determine the number of jurors in the jury panel rather than prescribing the number of people to serve on the panel. Each party is required to ask its approved questions and must be given at least thirty minutes to do so, though the judge may extend the time limit under certain conditions. There currently is no minimum time that must be provided for the parties to ask the questions. The bill prohibits questions on matters such as political views and religious beliefs. Once all initial questions have been asked, the plaintiff will proceed with a peremptory challenge, followed by the defendant, and the two shall alternate challenges until all challenges have been exhausted. Remaining jurors will be impaneled and sworn as the trial jury. If passed, the bill will take effect on January 1, 2021.

**Judicial Department.** The department indicates that implementation of the bill would lengthen the jury selection process since there are additional issues to consider, which would impact the common pleas court dockets. However, there is no data with which to predict the number of hearings that may be impacted nor the amount of extra time that may be required to conduct the hearings. The department expects to absorb any costs associated with lengthened case time using general funds.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 14‑7-1050, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO JURY VOIR DIRE, SO AS TO PROVIDE FOR ATTORNEY CONDUCTED JURY VOIR DIRE BY ORAL AND DIRECT QUESTIONING; TO AMEND SECTION 14‑7‑1060, RELATING TO THE DRAWING OF A JURY PANEL, SO AS TO PROVIDE THAT THE NUMBER OF JURORS TO BE DRAWN IS WITHIN THE DISCRETION OF THE TRIAL JUDGE; AND TO AMEND SECTION 14-7-1080, RELATING TO THE DRAWING OF A SECOND JURY PANEL, SO AS TO DELETE THE REQUIREMENT THAT THE PANEL MUST BE MADE UP OF TWENTY JURORS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 14-7-1050 of the 1976 Code is amended to read:

“Section 14-7-1050. ~~In the trial of all actions at law in the courts of common pleas and issues ordered to be framed by the judge in equity cases in the courts, the clerk in the manner provided by Section 14‑7‑1060 shall furnish the parties or their attorneys with a list of twenty jurors from the whole number of jurors who are in attendance, the names on the list to be numbered from one to twenty, and be stricken off by numbers in the same manner as the regular panels of jurors in those courts have been formed. From this list the parties or their attorneys shall alternatively strike, until there are but twelve left, which shall constitute the jury to try the case or issue. In all cases the plaintiff shall have the first strike and in all civil cases any party shall have the right to demand a panel of twenty competent and impartial jurors from which to strike a jury.~~ (A) In the trial of all actions in the courts of common pleas and issues ordered to be framed by the judge in equity cases in the courts, the parties have the right to conduct voir dire, by oral and direct questioning, of the jury panel from which the trial jury is to be selected. The voir dire must be conducted after the administration of a preliminary oath, the swearing in of the jury panel, and a short, non‑argumentative statement of the case by the trial judge.

(B)(1) The scope of the voir dire is within the limits set forth by the trial judge.

(2) The purpose of the voir dire is to discover any inclinations, leanings, or bias which the jurors might have with regard to the circumstances of the case.

(C) Upon motion, by either party, to propose oral and direct voir dire questions to a jury panel, the parties shall prepare their proposed questions in writing and exchange the questions at least five days before the selection of the trial jury. Any objections to the voir dire questions must be ruled upon by the trial judge who shall give final approval of the questions. Each party is allotted at least thirty minutes to ask questions. If there is more than one plaintiff or one defendant with divergent interests between the plaintiff parties or defendant parties, the trial judge shall allocate an even amount of time between the parties to voir dire the jury panel. Upon motion, by either party, the time limit may be extended by the judge after consideration of the amount of time requested by the moving party, the length of the trial, the number of parties, the number of witnesses, and any unique or complex legal or factual issues.

(D) After swearing in of the jury venire, a list of jurors, the number of which will be determined by the trial judge, will be prepared to participate in voir dire. Attorneys for the plaintiff shall begin voir dire by asking their approvedquestions. Attorneys for the defendant will then proceed with their approved questions. Additional questions may be asked in a manner in which the trial judge deems proper and within the scope set forth by the trial judge.

(E) The following questions are prohibited:

(1) Questions that seek to commit a juror to a result, including, but not limited to, questions about what evidence would cause the juror to find for one party over the other party;

(2) Questions about the juror’s political views, voting patterns, or political party preferences;

(3) Questions about the juror’s religious beliefs or religious affiliations;

(4) Questions that have no purpose other than to argue a party’s case or to persuade the juror to find for one party over the other party; and

(5) Questions about the outcome of previous trials on which the person served as a juror, including, but not limited to, the vote of the juror or the verdict of the jury.

(F) After voir dire by all parties, the trial judge shall hear, outside of the presence of the jury, any challenges for cause as to any juror.

(G) After any challenges for cause have been ruled upon, the parties shall exercise peremptory challenges for the jurors remaining on the list. The plaintiff shall proceed first with a peremptory challenge, followed by the defendant, and the plaintiff and defendant shall alternate challenges until all challenges have been exhausted. After the parties have used all of their peremptory challenges, the remaining jurors will be impaneled and sworn as the trial jury.”

SECTION 2. Section 14-7-1060 of the 1976 Code is amended to read:

“Section 14-7-1060. If a computer is not used for the drawing of jurors pursuant to the provisions of Section 14‑7‑140, the clerk shall write or cause the names of the jurors in attendance to be written, each on a separate paper or ballot which must be white and plain, which must resemble each other as much as possible, and which must be so folded that the name written thereon is not visible on the outside. The clerk shall place each of the ballots or separate papers in a separate, small opaque capsule or container, which must be as uniform in size, shape, and color as possible at the time of original purchase or repurchase of the capsules or containers. Whenever a jury panel ~~of twenty~~ is to be drawn, these capsules or containers must be placed in a small rotating drum, cylindrical in shape, having a handle at the end thereof and resting on such supports that it can be turned by means of the handle, the drum, capsules, and other equipment to be furnished by the jury commissioners and approved by the resident judge. When the containers or capsules have been placed in the drum, it must be completely closed and securely fastened and rotated by means of the handle for a sufficient length of time necessary for a complete mixing of the containers or capsules and ~~the required number of~~ jurors, the number of which will be determined by the trial judge, must then be drawn, one by one, by a responsible and impartial person designated by the clerk of court, with the approval of the presiding judge. The names of the jurors so drawn must be returned to the capsules and replaced in the drum when the jurors are no longer actually engaged in service on a trial jury.”

SECTION 3. Section 14‑7‑1080 of the 1976 Code is amended to read:

“Section 14-7-1080 Should the jury charged with any case be delayed in rendering its verdict so that it could not be present to be drawn from in making the list to form a second jury, then the clerk shall present to the parties or their attorneys a list containing the names of ~~twenty~~ jurors to be drawn by the clerk from the remaining jurors in the manner provided in Section 14‑7‑1050, from which list the parties or their attorneys shall alternately strike, as provided in Section 14‑7‑1050 until twelve are left who shall constitute the jury.”

SECTION 4. This act takes effect January 1, 2021.

‑‑‑‑XX‑‑‑‑