

IC 35-37

ARTICLE 37. TRIAL PROCEDURE

IC 35-37-1

Chapter 1. Jury Selection

IC 35-37-1-1

Venire called; number of jurors

Sec. 1. (a) The jury venire called by a court may be used in civil or criminal cases.

(b) If a defendant is charged with:

(1) murder or a Level 1, Level 2, Level 3, Level 4, or Level 5 felony, the jury shall consist of twelve (12) qualified jurors unless the defendant and prosecuting attorney agree to a lesser number; or

(2) any other crime, the jury shall consist of six (6) qualified jurors.

As added by Acts 1981, P.L.298, SEC.6. Amended by P.L.158-2013, SEC.391.

IC 35-37-1-2

Trial by court or jury

Sec. 2. The defendant and prosecuting attorney, with the assent of the court, may submit the trial to the court. All other trials must be by jury.

As added by Acts 1981, P.L.298, SEC.6.

IC 35-37-1-3

Peremptory challenges by defendant

Sec. 3. (a) In prosecutions for murder where the death penalty is sought, the defendant may challenge, peremptorily, twenty (20) jurors.

(b) In prosecutions for murder, where the death penalty is not sought, and Level 1, Level 2, Level 3, Level 4, or Level 5 felonies, the defendant may challenge, peremptorily, ten (10) jurors.

(c) In prosecutions for all other crimes, the defendant may challenge, peremptorily, five (5) jurors.

(d) When several defendants are tried together, they must join in their challenges.

As added by Acts 1981, P.L.298, SEC.6. Amended by Acts 1982, P.L.204, SEC.32; P.L.158-2013, SEC.392.

IC 35-37-1-4

Peremptory challenges of prosecuting attorney

Sec. 4. The prosecuting attorney shall have the same number of peremptory challenges as the defendant has in like cases.

As added by Acts 1981, P.L.298, SEC.6.

IC 35-37-1-5

Good causes for challenge; opinion on guilt or innocence

Sec. 5. (a) The following are good causes for challenge to any person called as a juror in any criminal trial:

- (1) That the person was a member of the grand jury that found the indictment.
- (2) That the person has formed or expressed an opinion as to the guilt or innocence of the defendant. However, such an opinion is subject to subsection (b).
- (3) If the state is seeking a death sentence, that the person entertains such conscientious opinions as would preclude the person from recommending that the death penalty be imposed.
- (4) That the person is related within the fifth degree to the person alleged to be the victim of the offense charged, to the person on whose complaint the prosecution was instituted, or to the defendant.
- (5) That the person has served on a trial jury which was sworn in the same case against the same defendant, and which jury was discharged after hearing the evidence, or rendered a verdict which was set aside.
- (6) That the person served as a juror in a civil case brought against the defendant for the same act.
- (7) That the person has been subpoenaed in good faith as a witness in the case.
- (8) That the person is a mentally incompetent person.
- (9) That the person is an alien.
- (10) That the person has been called to sit on the jury at the person's own solicitation or that of another.
- (11) That the person is biased or prejudiced for or against the defendant.
- (12) That the person does not have the qualifications for a juror prescribed by law.
- (13) That, from defective sight or hearing, ignorance of the English language, or other cause, the person is unable to comprehend the evidence and the instructions of the court.
- (14) That the person has a personal interest in the result of the trial.
- (15) If the person is not a member of the regular panel, that the person has served on a jury within twelve (12) months immediately preceding the trial.

(b) If a person called as a juror states that the person has formed or expressed an opinion as to the guilt or innocence of the defendant, the court or the parties shall proceed to examine the juror on oath as to the grounds of the juror's opinion. If the juror's opinion appears to have been founded upon reading newspaper statements, communications, comments, reports, rumors, or hearsay, and if:

- (1) the juror's opinion appears not to have been founded upon:
 - (A) conversation with a witness of the transaction;
 - (B) reading reports of a witness' testimony; or
 - (C) hearing a witness testify;
- (2) the juror states on oath that the juror feels able, notwithstanding the juror's opinion, to render an impartial

verdict upon the law and evidence; and

(3) the court is satisfied that the juror will render an impartial verdict;

the court may admit the juror as competent to serve in the case.

As added by Acts 1981, P.L.298, SEC.6. Amended by P.L.169-1988, SEC.7; P.L.33-1989, SEC.125.

IC 35-37-1-6

Challenges for cause; time; summary trial

Sec. 6. All challenges for cause shall be made before the jury is sworn to try the cause, and shall be summarily tried by the court on the oath of the party challenged or other evidence.

As added by Acts 1981, P.L.298, SEC.6.

IC 35-37-1-7

Repealed

(Repealed by P.L.118-2007, SEC.38.)