

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1045

Introduced by Cavanaugh, J., 9.

Read first time January 08, 2024

Committee:

1 A BILL FOR AN ACT relating to juries; to amend section 25-1645, Revised
2 Statutes Cumulative Supplement, 2022; to change provisions relating
3 to legislative intent regarding juries; to state legislative intent;
4 to prohibit the use of peremptory challenges against jurors based on
5 their membership in certain groups; to provide duties for courts and
6 court reporters; and to repeal the original section.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 25-1645, Revised Statutes Cumulative Supplement,
2 2022, is amended to read:

3 25-1645 The Legislature hereby declares that it is the intent and
4 purpose of the Jury Selection Act to create a jury system which will
5 ensure that:

6 (1) All persons selected for jury service are selected at random
7 from a fair cross section of the population of the area served by the
8 court;

9 (2) All qualified citizens have the opportunity to be considered for
10 jury service;

11 (3) All qualified citizens fulfill their obligation to serve as
12 jurors when summoned for that purpose; and

13 (4) No citizen is excluded from jury service in this state as a
14 result of discrimination based upon race, ethnicity, color, religion,
15 sex, gender identity, sexual orientation, national origin, or economic
16 status or for such citizen's perceived membership in any such group.

17 Sec. 2. (1) The Legislature finds that while peremptory challenges
18 may be used to unfairly exclude jurors on the basis of their race,
19 ethnicity, color, religion, sex, gender identity, sexual orientation,
20 national origin, or economic status or their perceived membership in any
21 of such groups, there is also an effective means of eliminating such
22 discriminatory and unfair exclusion.

23 (2) This section shall be broadly construed to further the purpose
24 of eliminating the use of group stereotypes and discrimination, whether
25 based on implicit, conscious, or unconscious bias, in the exercise of
26 peremptory challenges.

27 (3) A party shall not use a peremptory challenge to remove a
28 prospective juror on the basis of the prospective juror's race,
29 ethnicity, color, religion, sex, gender identity, sexual orientation,
30 national origin, or economic status or perceived membership in any of
31 such groups.

1 (4)(a) A party, or the court on its own motion, may object to the
2 use of a peremptory challenge on the grounds that such use is prohibited
3 by subsection (3) of this section. After the objection is made, any
4 further discussion shall be conducted outside the presence of the
5 prospective or seated jurors.

6 (b) Such objection shall be made before the jury is impaneled,
7 unless information becomes known that could not have reasonably been
8 known before the jury was impaneled.

9 (5) Upon objection to the use of a peremptory challenge pursuant to
10 this section, the party which used the peremptory challenge shall state
11 the reasons for such peremptory challenge. The court shall evaluate the
12 proffered reasons in light of the totality of the circumstances. The
13 court shall consider only the reasons actually given and shall not
14 speculate on, or assume the existence of, other possible justifications
15 for the peremptory challenge.

16 (6)(a) If the court determines there is a substantial likelihood
17 that an objectively reasonable person would view a juror's race,
18 ethnicity, color, religion, sex, gender identity, sexual orientation,
19 national origin, or economic status, or the juror's perceived membership
20 in any of such groups, as a factor in the use of the peremptory
21 challenge, then the objection shall be sustained.

22 (b) For purposes of this section, an objectively reasonable person
23 is deemed to be aware that implicit and unconscious biases, in addition
24 to purposeful discrimination, have resulted in the unfair exclusion of
25 potential jurors in Nebraska. The court need not find purposeful
26 discrimination to sustain the objection.

27 (c) The court shall explain the reasons for its ruling on the
28 record, including whatever factual findings are appropriate for
29 sustaining or overruling the objection.

30 (7) An objection made under this section shall be deemed a
31 sufficient presentation of any claim asserting the discriminatory

1 exclusion of jurors in violation of the Constitution of the United States
2 and the Constitution of Nebraska.

3 Sec. 3. In all criminal trials in which a jury will be impaneled,
4 the court shall cause the voir dire to be transcribed in its entirety,
5 including argument of the attorneys as to any objection made and any
6 colloquy conducted by the court out of the presence of the jurors.

7 Sec. 4. Original section 25-1645, Revised Statutes Cumulative
8 Supplement, 2022, is repealed.