

## **Pending Legislation to Change the Administration of Peremptory Challenges**

### **BACKGROUND**

On May 12, [S-1981/A-2715](#) (Adler/Roberts ), which provides that the **New Jersey Supreme Court shall have the authority to establish the number of juror challenges through its rulemaking process**, was introduced and released by the Assembly Judiciary Committee, and is moving quickly through the State Legislature.

**NJSBA strongly opposes the bill**, and we urge you to write to the bill sponsors and your local legislator to express your opposition. (See sample letter)

This bill was reviewed by the Association's Board of Trustees, Legislative Committee and referred to virtually every section and committee within the Association, given its far-reaching implications for the Bar.

The NJSBA has played a critical role in New Jersey's Supreme Court Committee on Jury Voir Dire and Peremptory Challenges, chaired by Honorable Joseph Lisa. NJSBA Representative, John C. Eastlack Jr., Esq. continues to serve on the Supreme Court Committee charged with studying this matter, and former NJSBA Trustee and retired Superior Court Judge C. Judson Hamlin also served on the Committee on behalf of the Trial Attorneys of New Jersey. We welcome the opportunity to continue to engage in dialogue with the New Jersey Supreme Court; however, we have several concerns about [S-1981/A-2715](#).

### **NJSBA OBJECTIONS TO THIS BILL**

First, the model jury selection procedure has only been in place for approximately twenty (20) months, and there have been changes made by the Administrative Office of the Courts, through directives, that have modified certain of the procedures. This is an evolving process, as the original Supreme Court Committee intended that it should be. There is simply insufficient data and analysis of the effect of the more intensive voir dire, open-ended questions, and attorney participation, to determine whether peremptories should be altered or reduced. This uncertainty, we understand, contributed to the Supreme Court Committee's original decision not to seek reduction in the number and scope of peremptory challenges.

Second, the NJSBA opposes the reduction in peremptory challenges. While some modification may be required in order to address certain outdated provisions regarding the number of peremptories (particularly with regard to certain criminal charges), reductions in the number of peremptories is unwarranted. Despite the Court's apparent objective of promoting expeditious trials and minimizing backlogs, those goals should be in harmony with the need to safeguard the interests of the parties and the interests of justice in selecting jurors, which is a vital consideration in the administration of justice.

Third, the State Legislature and State statutes play an important role regarding the selection of a jury, as with the Rules of Evidence. In these areas, both the Legislature through its authority by

statute, and the Court, through its rulemaking authority, has an important and recognized role to ensure that the interests of justice are met.

I respectfully urge you to join the NJSBA to contact the [bill sponsors](#) and [your local legislators](#) to voice your opposition to the bill.



# NEW JERSEY STATE BAR ASSOCIATION

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## **NEW JERSEY STATE BAR ASSOCIATION POSITION ON SENATE 1981 / ASSEMBLY 2715 (ADLER/ROBERTS), WHICH AUTHORIZES THE NEW JERSEY SUPREME COURT TO ESTABLISH THE NUMBER OF JUROR CHALLENGES THROUGH ITS RULEMAKING PROCESS.**

The New Jersey State Bar Association strongly opposes S-1981/A-2715 (Adler/Roberts ), which provides that the New Jersey Supreme Court shall have the authority to establish the number of juror challenges through its rulemaking process.

This bill was reviewed by the Association's Board of Trustees, Legislative Committee and referred to virtually every section and committee within the Association, given its far-reaching implications for the Bar.

The NJSBA has played a critical role in New Jersey's Supreme Court Committee on Jury Voir Dire and Peremptory Challenges, chaired by Honorable Joseph Lisa. NJSBA Representative, John C. Eastlack Jr., Esq. continues to serve on the Supreme Court Committee charged with studying this matter, and former NJSBA Trustee and retired Superior Court Judge C. Judson Hamlin also served on the Committee on behalf of the Trial Attorneys of New Jersey. We welcome the opportunity to continue to engage in dialogue with the New Jersey Supreme Court; however, we have several concerns about [S-1981/A-2715](#).

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Third, the State Legislature and State statutes play an important role regarding the selection of a jury, as with the Rules of Evidence. In these areas, both the Legislature through its authority by statute, and the Court, through its rulemaking authority, has an important and recognized role to ensure that the interests of justice are met.

Accordingly, we respectfully urge the Legislature to vote "NO" on S-1981/A-2715.