STATE OF NEW YORK

5574

2023-2024 Regular Sessions

IN SENATE

March 8, 2023

Introduced by Sen. GOUNARDES -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to prohibiting peremptory challenges of prospective jurors based on race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability, or sexual orientation

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 1 of section 270.25 of the criminal procedure law is amended to read as follows:

1. A peremptory challenge is an objection to a prospective juror for which no reason need be assigned. Upon any **lawful** peremptory challenge, the court must exclude the person challenged from service.

§ 2. Section 270.25 of the criminal procedure law is amended to add a new subdivision 4 to read as follows:

4. (a) A party shall not use a peremptory challenge to remove a prospective juror on the basis of such juror's race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability, or sexual orientation.

(b) A party may object to the improper use of a peremptory challenge if such party believes that such challenge was made on an unlawful basis in violation of paragraph (a) of this subdivision. After such objection is made, any further discussion shall be conducted outside the presence of the panel. The objection shall be made before the jury is impaneled, unless information becomes known that could not have reasonably been known before the jury was impaneled.

(c) Upon the objection made pursuant to paragraph (b) of this subdivision, the party exercising the peremptory challenge shall state the reasons for exercising such challenge to the court.

(d) The court shall evaluate the reasons given to justify the peremptory challenge in light of the totality of the circumstances. The court

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD10065-01-3

shall consider only the reasons actually given and shall not speculate on, or assume the existence of, other possible justifications for the use of the peremptory challenge. If the court determines that, in the view of a reasonable person, the race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability, or sexual orientation of a juror was a factor in the exercise of the peremptory challenge, then the objection shall be sustained and the peremptory challenge shall be defeated. The court need not find purposeful discrimination to sustain such objection. The court shall explain the reasons for its ruling on the record.

§ 3. This act shall take effect on the one hundred eightieth day after it shall have become a law and shall apply to all jury selections commenced on or after such date.