

RULE 3.350 | PEREMPTORY CHALLENGES

(a) Number. Each party shall be allowed the following number of peremptory challenges:

(1) Felonies Punishable by Death or Imprisonment for Life. Ten, if the offense charged is punishable by death or imprisonment for life.

(2) All Other Felonies. Six, if the offense charged is a felony not punishable by death or imprisonment for life.

(3) Misdemeanors. Three, if the offense charged is a misdemeanor.

(b) Codefendants. If 2 or more defendants are jointly tried, each defendant shall be allowed the number of peremptory challenges specified above, and in such case the state shall be allowed as many challenges as are allowed to all of the defendants.

(c) Multiple Counts and Multiple Charging Documents. If an indictment or information contains 2 or more counts or if 2 or more indictments or informations are consolidated for trial, the defendant shall be allowed the number of peremptory challenges that would be permissible in a single case, but in the interest of justice the judge may use judicial discretion in extenuating circumstances to grant additional challenges to the accumulated maximum based on the number of charges or cases included when it appears that there is a possibility that the state or the defendant may be prejudiced. The state and the defendant shall be allowed an equal number of challenges.

(d) Alternate Jurors. If 1 or 2 alternate jurors are called, each party is entitled to 1 peremptory challenge, in addition to those otherwise allowed by law, for each alternate juror so called. The additional peremptory challenge may be used only against the alternate juror and the other peremptory challenges allowed by law shall not be used against the alternate juror.

(e) Additional Challenges. The trial judge may exercise discretion to allow additional peremptory challenges when appropriate.



Committee Notes

1968 Adoption. The suggested rule is a transcription of section 913.08, Florida Statutes, excluding subdivision (5), which is lifted from section 913.10(2), Florida Statutes, and included since the several provisions relate to peremptory challenges. The question was raised regarding multiple counts or consolidation in their relation to the number of challenges. It was decided not to imply approval of multiple counts or consolidation. The standing committee on Florida court rules raised the question as to whether or not this rule is procedural or substantive and directed the subcommittee to call this fact to the attention of the supreme court.

1972 Amendment. Substantially same as prior rule; introductory language modernized.

1977 Amendment. This proposed rule amends rule 3.350(e) to allow the defendant and the state an equal number of peremptory challenges and to permit the court to grant additional challenges to both parties where it appears that the state would otherwise be prejudiced.

1992 Amendment. The amendment adds (e) that specifically sets out the trial court's discretion to allow peremptory challenges in addition to those provided for in the rule. This amendment was one of several proposed by the jury management committee that provided for a reduction in the number of peremptory challenges allowed by the rule. The majority of the criminal procedure rules committee, while recommending against adoption of the remaining proposals of the jury management committee, nevertheless felt it would be appropriate to add (e) to clarify that the trial court's discretion is not limited to those situations set out in (c) of the rule (i.e., multiple counts or informations or indictments consolidated for trial).

