

77-10a-8 Challenge of prospective grand jurors -- Failure to comply in selection of jurors -- Remedies.

- (1) The attorney general, county attorney, district attorney, or special prosecutor may challenge:
 - (a) the array of grand jurors on the ground the grand jury was not selected, drawn, or summoned in accordance with law; and
 - (b) an individual juror on the ground the juror is not legally qualified.
- (2) Challenges shall be made before the administration of the oath to the jurors and shall be tried to the court managing the grand jury.
- (3) A motion to dismiss the indictment may be based on objections to the array or on the lack of legal qualification of an individual juror, if not previously determined upon challenge.
- (4) In criminal cases the defendant or attorney for the state may move to dismiss the indictment or stay the proceedings on the ground of substantial failure to comply with this chapter in selecting the grand jury. However, he must do so before the voir dire examination begins or within seven days after the defendant or attorney for the state discovered or could have discovered the grounds by the exercise of diligence, whichever is earlier, or the motion is considered waived.
- (5)
 - (a) Any motion filed under Subsection (1), (3), or (4) must contain a sworn statement of facts which, if true, would constitute a substantial failure to comply with the provisions of this chapter. The moving party may present in support of the motion the testimony of the clerk if he is available, any relevant records and papers used by the clerk that were not made public or otherwise available, and any other relevant evidence.
 - (b) If the managing judge determines there has been a substantial failure to comply with the provisions of this chapter in selecting the grand jury, he shall stay the proceedings pending the selection of a grand jury in conformity with this chapter or dismiss the indictment, whichever is appropriate.
- (6)
 - (a) The procedures prescribed by this section are the exclusive means by which a party accused of a crime or an attorney for the state may challenge any grand jury on the ground it was not selected in conformity with this chapter.
 - (b) An indictment may not be dismissed in any case on the ground that one or more members of the grand jury that returned the indictment were not legally qualified if it appears from the record kept by the grand jury that eight or more jurors, after deducting the number not qualified, concurred in finding the indictment.

Amended by Chapter 38, 1993 General Session